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| City%20Seal2 | **Haverhill** |
| License Commission, Room 118  Phone: 978-374-2312 Fax: 978-373-8490  cityclerk@cityofhaverhill.com |

The Haverhill License Commission held a **Meeting** on

**Thursday March 4 2021 at 6:00 p.m. Virtually and in Person**

*Attendees: Chairman Edwards, and Commissioner Carter, Commissioner Angus (arrived later)*

*Clerk Linda Koutoulas, Lic Comm Clerk Rebecca Ambra*

1. **Pledge of Allegiance**
2. **Approval of the Minutes:**
3. **Approval of Regular Meeting minutes of Feb 4 2020**

Motion to approve made by Commissioner Carter, seconded by Chairman Edwards. No public Comment, Vote Unanimous.

1. **Continued Business**
2. **Miscellaneous Applications/Requests**
3. **One Day Applications**
4. **Entertainment Applications**
   1. **Triana’s Real Mexican Kitchen**

**30 emerson st.**

**Finshley Fanor and Triana Valente, Managers**

Application for New Entertainment License for Radio, Television, Amplifiers, Karaoke, DJ, Performances, Comedy Shows, Dancing, Amplified Music, Movies

*– see comm victualler approval*

* 1. **River Street Café**

**558 River st**

**Kelly DiFazio, Manager**

Application for New Entertainment License for radio, performance, amplified music.

Chairman Edwards brought up Entertainment license first and asked about live performance. Kelly said they would like to have small groups, acoustic performers (no zoning issue here).

* *see comm victualler approval*

1. **Common Victualler Applications**
   1. **Triana’s Real Mexican Kitchen , 30 Emerson St**

**Finshley Fanor and Triana Valente, Managers**--- appeared on behalf of themselves for Common Victualler and entertainment license. Chairman Edwards asked about the entertainment license. It was brought to the Commission’s attention that this restaurant is located in a zone that does not permit live entertainment so the license was amended to exclude those activities. If they want to pursue live entertainment they would have to go to Board of Appeals. Entertainment license - RADIO, TELEVISION, AMPLIFIERS, AMPLIFIED MUSIC, MOVIES

Motion made by Commissioner Carter to approve both licenses. Seconded by Chairman Edwards. No public Comment. Vote unanimous.

1. **River Street Café**

**558 River st**

**Kelly DiFazio, Manager**

Kelly DiFazio and Partner Brenna appeared on their own behalf in application for

Entertainment and Common Victualler licenses.

Chairman Edwards brought up Entertainment license first and asked about live performance. Kelly said they would like to have small groups, acoustic performers (no zoning issue here). They then discussed their comm victualler experience and the menu

Comm Carter made motion to approve entertainment and comm victualler license. Second by Chairman Edwards. No public comment – vote unanimous.

1. **Outdoor Dining Applications**
   1. **Peddler’s Daughter**

**45 Wingate St**

**Margaret Conneely, Manager**

*No one appeared for applicant*

Chairman Edwards brought up issue of crosswalk at location of outdoor dining. He would like to approve pending approval of engineer and all other departments.

Commissioner Carter made motion to approve outdoor dining pending all department approvals. Chairman Edwards seconded. No public comment. Vote unanimous.

1. **Alcohol/ABCC Applications**
   1. **WICKED AXE**

**721 S Main St**

**Barbara and Shawn Gliklich, Managers**

*Amend conditions on license*

Seeking to change license to allow 18 yrs old and up to participate in ax throwing. They would do ID checks. Barbara talked about banding system (like hospital bands) which Capt Pistone said would be fine. She had spoken about having patrons younger than 18 but that the current request is for 18 +. She will revisit the younger than 18 y.o. later. Captain Pistone is fine with 18 up with 2 band color process. They would like to expand their hours. Captain Pistone says Police Department has no objections to 7 day/week for 18 and older.

Commissioner Carter made motion to approve to allow 18 up with color coded bands for 21 and older and under 21.

Chairman Edwards seconded. No public comment. Votes, 2 yeas, 1 abstain (Comm. Angus).

*(Commissioner Angus arrived at this time)*

1. **Motor Vehicle Applications**
2. **Carry In License Applications**
3. **Item For Discussion**
4. **Show Cause Hearing**
   1. **Oriental Gardens**

**400 Lowell ave**

**Ivan Yee, Manager**

*Overserving*

Ivan Yee, Manager and Jillian Byra, bartender on duty that night, appeared for Oriental Garden. Captain Robert Pistone, Officer Conor Rogier, reporting officer, and Sgt Taylor Anderson appeared for HPD

Show Cause Hearing: Alleged Violation of 204 CMR 2.05(2) Permitting an illegality on the licensed premises, to wit: (2) No licensee for the sale of alcoholic beverages shall permit any disorder, disturbance, or illegality of any kind to the place in or on the licensed premises. The licensee shall be responsible therefor, whether present or not – Overserving

Incident on February 4 2021 at approximately 19:21:00

Jillian was working behind the bar on night of event. She directly served patrons. Lindsay was waitress who served them in the dining room.

Jillian served guest at 2:58 PM – she was the second person to serve patron.

Captain Pistone read report into the record.

Officer Rogier presented his report.

Commissioner Carter had questions about receipts. One receipt has 2 drinks and the other 11 drinks – the receipts only list 1 guest.

Off Rogier said there were 3 patrons, daughter mother and patron’s mother.

Comm Angus stated there were 3 patrons but only 2 could drink (daughter is underage) and that these 2 guests had 14 drinks between the 2 of them in less than 4 hours.

Comm Carter had issue with 3 drinks being served at the same time at different times to the 2 patrons. This brings up question if underaged person being served.

Comm Angus asked of patron’s mother and daughter appeared inebriated – Off Rogier stated only patron appeared intoxicated. Daughter told him mother going through personal issues and that she may have had too much to drink.

Comm Carter questioned number of drinks in short amount of time. Chair Edwards listed the drinks.

Sgt Taylor spoke – she talked to family outside. She did not speak with patron. She also stated that the family she spoke with did not appear intoxicated.

Ivan Yee appeared along with Jillian Byra. Chairman Edwards had them sworn in.

Mr Yee questioned the information provided to comm. He explained the receipts. They do not usually put number of people at table – system defaults to 1. Jillian stated that the daughter of patron did not arrive until minutes before police arrived. Also, that there were 3 people, patron, her mother and man. The unidentified male was with them the entire time including when the EMTs and police arrived. He was the person to start the check.

Comm Angus brought up that with all the drinks, there was only an order of buffalo chicken rangoon on receipts. Jillian said that was correct. Chairman Edwards said on the other receipt there was no food.

Comm Angus mentioned that under COVID regulations, there is a requirement of serving food.

Jillian stated that when people order takeout, she serves them drinks while they wait. She said, though, that she can’t speak for the tab with drinks only as she did not serve that party. She also stated patrons can have 1 drink per hour.

Comm Edwards asked about the male patron. Off Rogier did not speak with a man – says he may or may not have been there. Chair Edwards asked about receipt and # of guests listed – Mr Yee stated for sake of efficiency it defaults to 1. Chair Edwards stated this is an inaccurate receipt. Jillian then stated that there was only 1 person at table when receipt was initiated and cannot change number after receipt has been started. Then she stated that she believed the patron had been there earlier that day before she arrived for her shift. Jillian said she arrived a little after 2PM. She then said the woman arrived about 2:30PM.

Comm Angus – The patron was in earlier and ordered 2 drinks with no food- 1:17 and 2:58 and that she had 2 Blue Hawaiis. She ordered no food which is required under COVID rules.

Mr Yee stated that when people are in bar area they can order French fries or a little food while waiting.

Comm Angus – she had 5 drinks in 6 hours with no food – Rangoon is not a meal.

The party started the second tab at 3 pm (the first being the drinks ordered by the woman alone) and ended at 7:20 with arrival of EMTs and police.

Comm Carter asked Mr. Yee if this seems usual for this many people have this many drinks in that period of time. Mr Yee stated it was a drink an hour – 1 oz alcohol per hour.

Comm Carter and Comm Angus questioned that- that for those drinks isn’t it more like 2 oz alcohol?

Chair Edwards asked if they had pourers on bottles that shut off at 1 oz. Mr Yee affirmed this, may 1 ¼ oz. Chair Edwards then asked how many oz of alcohol in Mai Tai, Mr. Yee said 1 oz of Dark Rum and low proofage Triple Sec (15 proof). Chair Edwards asked if Mr Yee was present that afternoon – he said not and that Heather P was manager that day.

Chair Angus asked Jillian about patron and if she appeared intoxicated. Jillian said that when she arrived to meet male patron she was fine. Comm Angus then questioned about that patron as having left and came back. Jillian said that was her understanding and only realized this looking at the receipts. The male had 3 mai tais and 1 vodka mai tai and was there for about 4 hours. Beers on the tab were for the mother of patron. The 3 blue hawaiis and 1 fireball was for the patron. Jillian said patron ordered 1 vodka mai tai but didn’t drink it as she didn’t like it.

Mr Yee said he didn’t think the commission heard what Jillian had just said about the 1 vodka mai tai that was not consumed.

**Motion made By Comm Angus 2 weekends closed Friday and Saturday night (closing alcohol service at 6 PM on Friday) with 1 year probationary period. Start March 5 and 6 and the following weekend March 12 and 13, starting at 6PM. Seconded by Comm Carter.**

Mr Yee did mention that the Commission did not ask if servers were following TIPS training. Chair Edwards reminded Mr Yee he could appeal decision to ABCC in Boston. He also told Mr Yee to put the accurate number of guests at the table on receipt.

Comm Carter said this is a good learning experience, there is no way the License Commission can do nothing about this situation.

Chair Edwards reminded Mr Yee that he has been before the commission many times before.

Jillian said she has been serving 14 years in industry and has TIPS certification. Says she evaluated the patron after every drink – the 4 drinks she served her in 4 hours (not the 2 from earlier). The last drink served was at 6:30PM - shot of Fireball- at that point mother met her. Then patron went to restroom. The mother said she was fine and that she would be right back, then patron went to bathroom again. She stated that when patron went to bathroom first time, she was coherent. Comm Angus stated that with last fireball, patron was served 4 drinks in 3 hours.

**Vote 3 yeas, 0 nays.**

1. **Communications**
   1. **Communication from Friendly’s Restaurants Co LLC has acquired Friendly’s Restaurants LLC** – License Commission determinedthey will need to transfer common victualler license to new business entity.
2. **Public Participation**
3. **Other Business**

DISCUSSION - Com Victualler Application process. Currently, those applying for common victualler license need to obtain certain sign offs for their license. These sign offs are the same as those obtained through cert of bus occupancy process. Rather than obtain these sign offs again, the license comm should accept those signoffs obtained for Cert of Occupancy as being sufficient. Also, in order to avoid zoning issues, entertainment license will now require sign off from Building department. Motion to streamline process and inform Bldg Dept with entertainment applications made by Comm Angus, Seconded by Comm Carter. No public comment – vote unanimous.

17. **Adjourn**

Motion to adjourn by Comm Carter, seconded by Comm Angus. Vote unanimous

Meeting adjourned at 7:25PM