

**Woburn License Commission
Woburn City Hall
Committee Room – 5:30 p.m.
January 18, 2018**

Voting Members: Chairman Paul Medeiros, Commissioner David I. Gilgun, Commissioner Thomas Skeffington; Absent: None

Also attending: Woburn Police Capt. John Murphy, liaison to the License Commission

Chairman Medeiros convened the meeting at 5:30 p.m.

Moment of Silence: Chairman Medeiros requested a moment of silence in honor of former License Commission member and municipal employee Douglas Murphy, who died unexpectedly on January 7. Chairman Medeiros offered condolences to Mr. Murphy's family and said he will be missed by all his friends.

Annunciation of the Virgin Mary Greek Orthodox Church, 70 Montvale Ave., application for special 1-day liquor license for a dinner-dance on January 20, 2018, from 7-11 p.m.:

Appearing for the petitioner was Wilma Thomas, 3 Independence Drive, Woburn, who said the event is expected to draw about 100 people. Chairman Medeiros asked if anyone in the audience wished to address the Commission about the petition. There were no respondents. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to grant the special 1-day license; approved, 3-0. Commissioner Gilgun said she appreciates Ms. Thomas forwarding to the Commission a list of Tips-certified bartenders who will be working at the Greek Church. Ms. Thomas noted she submitted more names of bartenders to the Clerk of the Commission.

St. Barbara's Church, 138 Cambridge Road, application for special 1-day liquor license for a Lenten fish dinner on March 16, 2018, from 6:30-10 p.m., with liquor storage on March 15, 2018, from 3-9 p.m.: Appearing for the petitioner was MaryAnn Chorlton, 312 Lexington Street. Chairman Medeiros asked Ms. Chorlton about a request she made to the Commission for a letter stating alcohol at all events under the auspices of 1-day liquor licenses has to be provided by approved distributors. Ms. Chorlton replied she wants to have the letter in hand in case one of the organizers of an event at St. Barbara's want to bring in their own alcohol and she can tell them it is not allowed. Chairman Medeiros asked if anyone in the audience wished to address the Commission about the petition. There were no respondents. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to grant the special 1-day license and waive the \$50 application fee; approved, 3-0.

Woburn Recreation Dept., 10 Common Street, application for special 1-day liquor license for the Woburn Backyard Classic ice hockey tournament at Leland Park from 12-8 p.m. on Saturday, January 27, 2018.: Motion made by Commissioner Skeffington and seconded by Member Gilgun to table the matter; approved, 3-0.

North Woburn Package Store, 2 Elm Street, transfer of retail package store license: Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to take the matter

[Type here]

from the table from the December 20 meeting; approved, 3-0. Representing the petitioner was Attorney Joseph R. Tarby III, Murtha Cullina, 700 Unicorn Park Drive, Woburn. Chairman Medeiros acknowledged receipt of a letter from Attorney Tarby requesting to withdraw the petition. Chairman Medeiros asked if anyone in the audience wished to address the Commission about the petition. There were no respondents. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to grant the petitioner leave to withdraw without prejudice; approved, 3-0.

Shallots, 920 Main Street, alteration of premises: Representing the petitioner was Veasna Nong, 248 Kings Hill Drive, Lynn. Clerk of the Commission explained the petition was approved by the Commission in November but was sent back to the Commission by the ABCC for notification of abutters, which has since taken place. Commissioner Skeffington asked how many seats are in the restaurant. Ms. Nong said there are 102. Chairman Medeiros told Ms. Nong the number of seats can never get below 100. Chairman Medeiros asked if anyone in the audience wished to address the Commission about the petition. There were no respondents. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to grant the petition for alteration of premises as indicated on the plan on file with the Commission; approved, 3-0.

Scoreboard, Crowne Plaza Boston-Woburn, 15 Middlesex Canal Park Drive, alteration of premises: Clerk of the Commission explained the petition was approved by the Commission in November but was sent back to the Commission by the ABCC for notification of abutters, which has since taken place. Chairman Medeiros asked if anyone in the audience wished to address the Commission about the petition. There were no respondents. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to grant the petition for alteration of premises as indicated on the plan on file with the Commission; approved, 3-0.

Scoreboard, Crowne Plaza Boston Woburn, 15 Middlesex Canal Park Drive, altercation on November 24, 2017: Representing the petitioner was Attorney Joseph Tarby, Murtha Cullina, 700 Unicorn Park Drive, Woburn. Capt. Murphy said there was an incident at Scoreboard on November 24, 2017, that involved a 20-year-old man who was being hostile, belligerent and violent to Woburn Police Lt. Steven Marshall, who was working a detail at Scoreboard that night. Capt. Murphy noted entry to Scoreboard at the time of day the incident occurred is limited to patrons who are at least 21-years-old. Capt. Murphy said there is video surveillance footage of the 20-year-old man being asked for identification as he entered the premises. Capt. Murphy said there was an altercation during which the person became very violent and ended up being charged with assault and battery, disorderly conduct and malicious destruction of property after he kicked a window while he was being escorted from the premises. Capt. Murphy said the suspect has reached a plea agreement that will involve the case being continued without a finding if the suspect commits no further offenses. Commissioner Skeffington asked if the suspect was wearing a wristband, which Scoreboard issues to its of-age patrons while they are in the bar area. Attorney Tarby asked for permission to present testimony on behalf of Scoreboard in response to the allegations before the Commission. Chairman Medeiros asked if the suspect was able to enter the premises by using a fake identification card and if there is any surveillance video of him consuming alcohol. Capt. Murphy said there is no video which shows the suspect consuming alcohol nor did Lt. Marshall observe him consuming alcohol. Capt. Murphy said if Lt. Marshall

[Type here]

had seen the suspect drinking alcohol, he would have charged him with an underage drinking offense as well. Chairman Medeiros said it is fortunate no one was hurt, especially Lt. Marshall, during the affray. Capt. Murphy said Lt. Marshall has 30-plus years of experience on the force and knows how to handle difficult situations. Attorney Tarby disputed the notion the suspect was intoxicated and said he would like the Commission to hear from Scoreboard general manager Catherine Stevens, Executive Vice-President of Operations/Acquisitions Frank Vento and Scoreboard manager Shawn Donovan. He said there is no evidence Scoreboard served liquor to an intoxicated person nor did it knowingly admit an underage patron, as the suspect apparently entered the premises with a fake ID card. Attorney Tarby said he hopes the Commission concludes that Scoreboard personnel exercised reasonable judgment during the incident. Mr. Donovan said he is the director of day-to-day operations at Scoreboard and is involved in hiring of staff among other duties. He has worked in that capacity for two years and has 12-15 years of experience working at restaurants in the Boston area. Mr. Donovan said all bartenders at Scoreboard are Tips-certified and each employee is presented with and must sign a guest service policy that includes a section covering responsible service of alcoholic beverages. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to receive and place on file a copy of the document entitled “Crowne Plaza Boston-Woburn Scoreboard Sports Bar and Grill – Guest Service, Responsible Serving of Alcoholic Beverage and Cash Handling Policy;” approved, 3-0. At Attorney Tarby’s request, Mr. Donovan recited the following passages from the policy: “All associates must hold the safety of our guests and co-workers in the highest regard. Responsible service of alcoholic beverage and following the letter of the law, all state and local laws are at the heart of our core values;” and “When it comes to serving alcohol, however, our staff has an unwavering responsibility to not serve alcohol to patrons to the point of intoxication or who are already intoxicated;” and “Do not serve patrons to the point of intoxication (monitor your service and observe for signs of intoxication).” Attorney Tarby noted all employees at Scoreboard are required to sign off on the policy. Mr. Donovan corroborated every server and bartender must sign the policy. Mr. Donovan said he was working on November 24. Attorney Tarby said he would like to show the Commission to portion of the surveillance video from November 24 that includes the ruckus that caused Lt. Marshall to intervene. Mr. Donovan said there were three security guards as well as Lt. Marshall working in the bar that night. He said he remembers the suspect was wearing a red t-shirt and he did not appear to be intoxicated. At approximately 11:10-11:15 p.m., Mr. Donovan said his eyes were drawn to the hostess area where Lt. Marshall usually stands. He said he then saw Lt. Marshall enter a crowd of people. He said he also entered the crowd of people and helped Lt. Marshall escort the suspect out of the restaurant after some type of disturbance occurred. On his way out of the exit, the suspect kicked a glass door, spider-webbing it. Mr. Donovan said the suspect did not appear to be intoxicated at all. Mr. Vento said he has been working for Scoreboard’s parent company for nine years and has been involved in the restaurant business since he was 19. He said the policy at Scoreboard is to have a police detail on Friday and Saturday nights, as well as security at each point of entry. Identification is required for every patron who enters the bar area after 7 p.m., and no one is allowed to enter after 11:30 p.m. After 9 p.m., wristbands are issued to patrons who are of legal drinking age so they can be identified by bartenders and other staff. Ms. Stevens said she has been the general manager of Scoreboard for about 18 months and she has 15 years of previous experience in the hospitality industry. Ms. Stevens said all bartenders are Tips-

[Type here]

certified and must sign the alcohol service policy every year, and the goal is to maintain responsible service of alcohol. Since, the incident in November, Scoreboard has acquired two electronic ID scanners which cost \$1,500 each, Ms. Stevens said. Ms. Stevens demonstrated the scanner on Attorney Tarby's driver's license. The scanner also provides the operator with other information about the patron, such as whether he or she has been banned from the property. Ms. Stevens said the video surveillance shows the suspect coming into the premises. There is also footage of the incident and the suspect's ejection from the premises. Attorney Tarby noted the suspect's ID card was checked at the entrance. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to allow Ms. Stevens to show the video from Scoreboard on November 24, 2017. Ms. Stevens was unable to show the video due to a computer malfunction. Attorney Tarby reiterated Mr. Donovan's testimony indicates the suspect did show identification at the door and it was checked by staff. Attorney Tarby said if the suspect presented a false identification card, the License Commission cannot hold Scoreboard liable for violating the state law that prevents alcohol service to underage patrons. He said there is no evidence suggesting the suspect was confused, disoriented or combative, and thus Scoreboard cannot be cited for serving alcohol to an intoxicated person. Attorney Tarby told the Commission that Scoreboard exercised due diligence and good judgment. Chairman Medeiros asked if the suspect was wearing a wristband. Ms. Stevens said all guests in the bar are issued wristbands. Chairman Medeiros asked if the suspect could have entered the bar from another entrance that is not monitored by security. Ms. Stevens said there are security guards stationed at all the entrances to Scoreboard. Commissioner Skeffington thanked Capt. Murphy for the Woburn Police for their efficient handling of the incident and subsequent investigation. Commissioner Skeffington said it is apparent the suspect used a fake ID to enter Scoreboard, and he praised Scoreboard management for obtaining the scanners in a timely manner, so similar incidents won't happen again. Commissioner Gilgun said it is clear Scoreboard acted responsibly by hiring a police detail and made a good faith effort to prevent disturbances. Chairman Medeiros said Scoreboard is a good corporate citizen in the city and management has stepped forward to take remedial measures to ensure similar incidents won't happen again. Commissioner Gilgun said he's not sure what else the management at Scoreboard could have done. Capt. Murphy noted Scoreboard staff was very cooperative with Det. Michael Wells while he performed an investigation. Heather Maguire, Executive Director of the Woburn Business Association, said Scoreboard is a family-oriented establishment that takes very seriously responsibilities for alcohol service. Ms. Maguire noted Scoreboard has taken measures to ensure underage patrons are unable to enter the establishment. Chairman Medeiros suggested the Commission issue a written warning for the first offense. He noted the Commission is able to issue a maximum penalty of a 6-day license suspension. Commissioner Skeffington suggested placing the matter on file. Chairman Medeiros asked if that means there will be no written warning. Commissioner Skeffington said he does not know what else Scoreboard could have done to prevent the incident. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to place the matter on file with no written warning; approved, 2-1, with Chairman Medeiros opposed.

Waxy O'Connor's, 1 Rainin Road, incidents on November 11, 2017 and November 12, 2017: Representing Waxy O'Connor's were Paul McKenna, a member of the LLC that operates Waxy O'Connor's, and Richard Lambiase, Director of Culinary Operations at Waxy O'Connor's. Capt. Murphy said Woburn PD investigated a couple of incidents that occurred on

[Type here]

November 11, 2017, and November 12, 2017, with a followup investigation by Det. Jeffrey Carreau on November 17, 2017. Capt. Murphy said both incidents involved the same patron who appeared to be very belligerent. Capt. Murphy said there are allegations that staff at Waxy's served buckets of beer to the patron. Capt. Murphy said each bucket contained five bottles of beer, in violation on serving more than two drinks at a time to a patron. Capt. Murphy said the report indicates the patron was intoxicated. Chairman Medeiros said the police report indicates the patron was in the bar from 1 p.m. until at least 11:23 p.m. Capt. Murphy said a red flag should have gone up when a patron is in the bar for 10-11 hours. Capt. Murphy reiterated it is illegal to sell beer at a discounted price and that the biggest issue is police response was required. Chairman Medeiros said the incidents are disturbing. He said one of the more straightforward rules is that no patron can be served more than two drinks at a time, and it makes no sense to him how a Tips-certified bartender could serve buckets of beer not once but twice to a patron. Chairman Medeiros said it would have been a good idea to bring to the hearing the employees who worked at Waxy's on the nights of the disturbances. Mr. McKenna said the matter came to his attention only after correspondence from the Clerk of the License Commission was forwarded to him on January 11. Mr. McKenna said Lindsay Curran, the manager of Waxy's on November 11-12, has left the company. He said he was very surprised to learn of the incidents because the state law limiting liquor service to two drinks at a time is well-known and something Waxy's enforces. He said Waxy's policy states buckets of beer have to be sold to groups of at least five people. Chairman Medeiros asked why Mr. McKenna didn't bring in other employees who were at Waxy's on the nights of the disturbances. Mr. McKenna said the bartender who sold the buckets of beer to the patron has been let go. He said he tried to obtain CCTV footage of the nights in question but the system has been off-line, something he only found out two days ago. Commissioner Gilgun asked what the Commission has to do to get video cameras working and said the situation is totally out of control. Capt. Murphy said there is no state law that requires video surveillance. Commissioner Gilgun said the lack of video surveillance equipment is a joke. Chairman Medeiros suggested the city could add video surveillance to the list of requirements for renewal of liquor licenses. Capt. Murphy said the inspection could fall under his purview since he has to sign off on the applications anyway. Commissioner Skeffington said it could also fall under the purview of the Building Dept. Mr. McKenna said he thinks requiring video surveillance might be a good idea for all eight of the establishments of which he is a partner. Commissioner Skeffington said he found it hard to believe Mr. McKenna had not been apprised of the events on November 11-12 until two days before the meeting. Mr. McKenna said he had not been made aware until he received the letter about the hearing. Commissioner Skeffington asked why there was no meeting with staff even after there was a fight in the parking lot. Commissioner Skeffington asked what kind of training the bartenders have at Waxy's, because it is alarming that they allowed a patron to remain at the bar for 11 hours. Commissioner Skeffington said it is also concerning that the only way the staff knew how much the man had to drink was by pulling the credit card receipts. Mr. McKenna said there is a system that involves the bartenders recording how much liquor is served to a particular customer. Commissioner Skeffington replied the system obviously isn't working because there is no way a customer should be allowed to order 13 bottles of beer, especially at a discounted price. He said is it evident Mr. McKenna is an absentee owner who does not closely monitor what is taking place at his establishment. Mr. McKenna said that in addition to the manager, the director of restaurant of

[Type here]

operations and the general manger have also left the company and he is somewhat in the dark. He added Ms. Curran also left the company on Monday night. Commissioner Skeffington said he does not blame Ms. Curran for leaving and said he wouldn't want to work at Waxy's either. Chairman Medeiros suggested Mr. McKenna ought to spend more time in his restaurant. Mr. McKenna responded his job requires a lot of travel and time is an issue. He said he hopes Mr. Lambiase is able to step out of the kitchen and adequately manage the restaurant. Commissioner Skeffington asked how much a bucket of beer costs at Waxy's. Mr. McKenna did not respond. Commissioner Skeffington said he called Waxy's this afternoon and was told a bucket of beer costs \$14.96. Capt. Murphy said he is under the impression Waxy's was no longer selling buckets of beer. Commissioner Skeffington said he called at 2:20 p.m. that afternoon. Mr. Lambiase said there is an effort to make Waxy's more food-centric. He said he worked at Joe's American Bar & Grill for awhile and if he does decide to get more involved with the operations at Waxy's the bartenders will be re-trained. Commissioner Skeffington asked if Waxy's still has outposts where it serves beer. Mr. McKenna said the outposts have not been used for two years. Commissioner Skeffington said when Waxy's came to town the Commission was told there would be surveillance cameras, and there are none. Then there was an issue with the patio, he said, and the problems at Waxy's keep compounding. Mr. McKenna said Waxy's no longer uses the patio. Commissioner Gilgun said Waxy's is in a great location and it can be a gold mine if it's run well. Chairman Medeiros said the Commission was excited at first to have Waxy O'Connor's in the city. He said the concept was new and fresh. Chairman Medeiros said it seems the enthusiasm is not returned by Waxy's, however, and there seems to be a lack of training and knowledge among the staff. He cited Scoreboard's written policies and procedures and said Waxy's should have a similar document. Chairman Medeiros said the Commission does not like to penalize the establishments in town but it seems to be the only way to get Waxy's to listen. He said he hopes Mr. Lambiase will bring a new attitude to the restaurant. Mr. McKenna said a lot of times Waxy's ownership relies on people who don't have the skill to manage a restaurant. Commissioner Gilgun said the Commission has the option to shut down liquor service at Waxy's for up to six days. He suggested suspending the license for three days – February 5, February 12 and February 19 – three Mondays in February, which are slow days. Commissioner Skeffington said the restaurant has to stay open but cannot serve liquor during those three days. Motion made by Commissioner Gilgun and seconded by Commissioner Skeffington to suspend alcohol service at Waxy O'Connor's on February 5, February 12, and February 19. Chairman Medeiros asked if anyone in the audience wished to address the Commission about the Waxy's matter. There were no respondents. Mr. McKenna asked if the restaurant has to stay open. Commissioner Gilgun said it does and Waxy's can't pour for three days. Mr. Lambiase asked if all alcohol has to be taken off the bar. Commissioner Gilgun said no one can operate the bar. Chairman Medeiros read the section of the License Commission's rules and regulations that refers to license suspension. Chairman Medeiros cited the following violations as grounds for suspension: violation of M.G.L. c. 138 §69 on November 11 and 12, 2017 to wit: sale or delivery of an alcoholic beverage to an intoxicated person; 204 CMR 4.03 (1.b), delivering more than two drinks to one person at a time; and 204 CMR 2.05 (2), allowing disorder or a disturbance on the licensed premises. Motion approved, 3-0. Chairman Medeiros said he hopes he doesn't see Waxy's again under similar circumstances. Commissioner Gilgun advised Mr. McKenna police will be checking to see if Waxy's is serving alcohol on the days the license is suspended.

[Type here]

Chairman Medeiros said Waxy's will be allowed to serve any beverages that do not contain alcohol.

Approval of Minutes from the Commission's meeting on December 14, 2017: Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to approve the minutes as submitted; approved, 3-0.

Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to take from the table an application from the Woburn Recreation Dept. for a 1-day liquor license for the Woburn Backyard Classic ice hockey tournament at Leland Park from 12-8 p.m. on Saturday, January 27, 2018; approved, 3-0: Appearing on behalf of the petitioner was Mayor Scott Galvin, who said the license is for service of beer at an outdoor hockey tournament. Chairman Medeiros asked if any alcohol storage will be required. Mayor Galvin said there will be none. Chairman Medeiros asked if there is a makeup date in case of inclement weather. Mayor Galvin said the makeup date is February 10, 2018. Chairman Medeiros asked if anyone in the audience wished to address the Commission about the petition. There were no respondents. Capt. Murphy said the Woburn Police Dept. supports the issuance of the 1-day liquor license for the hockey tournament. Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to grant the license with the inclusion of an inclement weather makeup date of February 10, 2018; approved, 3-0.

Other matters before the Commission: Chairman Medeiros said he asked the Clerk of the Commission to contact Sons of Italy manager David Blouin about the status of the sale of the building and invite him to the Commission meeting. Clerk reported he contacted Mr. Blouin who said he has a work conflict and could not attend the meeting. Clerk reported Mr. Blouin said the sale of the building was supposed to take place in December but was delayed until later in January. Commissioner Skeffington said the building has been sold and they are waiting for a signoff with another Sons of Italy in the area. Chairman Medeiros said the premises is licensed and legally operational.

Motion made by Commissioner Skeffington and seconded by Commissioner Gilgun to adjourn; approved, 3-0. Chairman Medeiros adjourned the meeting at 6:51 p.m.

A TRUE RECORD

Gordon Vincent
Clerk of Committees

[Type here]