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MEETING MINUTES

A meeting of the Salem Licensing Board was held on Monday, **March 13, 2017** at 6:45 p.m., at City Hall Annex, 120 Washington Street in the third-floor meeting room. In attendance: Chairman Bob St. Pierre, members Rick Lee and Paul Flores, Clerk of the Board, Melissa Pagliaro, Special Investigator, Det. Sgt. Gaudet and City Solicitor, Elizabeth Rennard.

1. Application for a One Day All Alcohol Liquor License. Applicant: NS Bartending for an event for and at Hamilton Hall, a non-profit, for 150 guests on April 8th from 6:30 p.m. - 1:00 a.m. for a Hamilton Hall Resistance Ball.

George McCabe presented the application for the event. He stated that serving alcohol is actually from 8:30pm-12:30am. He said it is a full bar and a detail officer is all set. Mr. Lee motioned to approve and waive the fee. Mr. Flores seconded. Motion carried.

2. Application for a One Day Wine and Malt Liquor License. Applicant: Salem State University for an outdoor Concert Alumni Event on June 3 from 6:00 p.m. - 9:00 p.m. for 400 people on the North Campus Quad.

Brenna Ruchala presented the application. She said this is for their 3rd Annual alumni event which will be held outside on the campus for about 400 people. She said there will be some food trucks, music and Wine & Malt and they will use their own campus police. Mr. Flores motioned to approve and waive the fee. Mr. Lee seconded. Motion carried.

3. Application for a Conversion of a Seasonal Wine & Malt License to an Annual Wine & Malt License authorized by a Special Act of the Legislature (Home Rule). Applicant: Bonchon, Essex Street.

Peter Ahn, co-owner of BonChon on Essex Street said they went through the process of obtaining a conversion of their license from a Seasonal All Alcohol to an Annual All Alcohol through the Home Rule process. The Special Act of the Legislature was signed by the Governor and he has made his online application to the ABCC. He said he is here now for the Boards approval so that the ABCC can start their review process. Ms. Pagliaro noted that he application was complete. Mr. Flores motioned to approve. Mr. Lee seconded. Motion carried.

4. Application for a renewal of s Store Fortunetelling License for Enchanted at 98 Wharf Street and 2 (two) sub licensees, Mark Hammesfahr and Paul Burns.

Chris Levasseur said he is here to renew his store Fortunetelling License for Enchanted at 98 Wharf Street and for two new sub licensees at the store, Paul Burns and Mark Hammesfahr. Mr. Flores motioned to approve. Mr. Lee seconded. Motion carried.

5. Hearing with Tavern in the Square, Washington Street.

Rick Naples, Manager, and Stephen DeSousa, owner, of Tavern in the Square were present with their Attorney, Joseph Correnti. Chairman St. Pierre said that Sgt. Gaudet would be allowed to state his case, present witnesses and cross examine and then Mr. Correnti could do the same. The chairman then asked who would be witnesses and who would be sworn in. A total of (4) four witnesses were sworn in, the two representatives of Tavern in the Square and two Salem Police Officers, Officer Monk and Officer Gagnon.

Sgt. Gaudet opened the Hearing with JMRS Restaurant, Inc. d/b/a Tavern in the Square stating that he is bringing this complaint against the Tavern in the Square for two violations of 204 CMR 2.05 (2) which provides that “no Licensee for the sale of alcoholic beverages shall permit any disorder, disturbance or illegality of any kind to take place in or on the licensee premises. The licensee shall be responsible therefore.” The two violations were: 1. Sales of Alcohol to a Minor, Violation of M.G.L. Ch. 138, S. 34 and 2. Sale to Intoxicated Person, Violation of M.G.L. Ch. 138 S. 69.

Sgt. Gaudet first called Officer Monk to testify. Officer Monk was asked about his employment with the City and to describe the events on the night of August 8, 2016. Officer Monk said that he has been employed by Salem Police Department for just over two years and was on duty with his partner Officer Rondinelli on the night of August 8th when they were called to the location of the Tavern in the Square at about 12:45 am for a fight in progress. He said upon arrival there was a large crowd of about 100 people gathered and from the middle of the crowd he heard yelling that sounded like an altercation. Officer Monk said that a female, now known as Emma Wiley, had another female by the hair and it appeared as though she was trying to get her down to the ground. He said that Wiley fought both officers all the way to the cruiser and the crowd was moving toward the cruiser with her. Officer Monk said she resisted the whole time. He said upon getting her into the cruiser she yelled “FU” to the officers. He said at that point her body was in the cruiser but her legs were still outside of the cruiser kicking around. He said that Officer Rondinelli was finally able to get her feet together and move them into the cruiser and as she was going to close the door Wiley lunged out of cruiser at Officer Rondinelli and bit her ear. Sgt. Gaudet asked if Ms. Wiley appeared intoxicated. Officer Monk said that she appeared to be and was completely out of control.

Sgt. Gaudet showed a video of the Tavern on the Square from the Derby Street side and showed the amount of police resources that were tied up responding to this call. Sgt. Gaudet asked officer Monk about how many cruisers there were at this point and Officer Monk said about five. Sgt. Gaudet pointed out that there was a lot of confusion happening around the large crowd and that they were not being held back at all or adequately managed from any Tavern staff.

Sgt. Gaudet then showed a still picture of Ms. Wiley from inside the restaurant and then played the video from inside. Officer Monk pointed out Ms. Wiley in the video. Sgt.

Gaudet asked if Officer Monk has ever met or known Ms. Wiley before this incident on this night. Officer Monk said no, never.

Det. Gaudet asked who photographed the injuries that Officer Rondinelli sustained. Officer Monk said that Officer Priddy photographed her and that he was present as well. Sgt. Gaudet showed the Board the pictures of Officer's Rondinelli's injuries showing the top of her ear after it was bitten off. Attorney Correnti and the Tavern owners said they have already seen them. Sgt. Gaudet asked Officer Monk if he was given Ms. Wiley's wallet and what was in it if so. Officer Monk said that he was and that it had an area to hold cards which had a MA Juniors Driver's License and a RI Driver's License both in the name of Emma Wiley. Sgt. Gaudet asked if Officer Monk at any time learned Ms. Wiley's age. Officer Monk said he had from Officer Riley and that she was 19 years old. Sgt. Gaudet said that he did not have any further questions at this point. Attorney Correnti said he did not have any questions at this time either.

Mr. Lee asked Officer Monk if anyone from the Tavern staff was helping with crowd control. Officer Monk said he did not see anyone. Attorney Correnti asked Officer Monk if anyone identified themselves as being from the Tavern staff. Officer Monk said no one did. Attorney Correnti asked how long Officer Monk thought he was there. Officer Monk said probably ten minutes, not exactly positive.

Sgt. Gaudet showed another video, the interior of the Tavern prior to Ms. Wiley's arrest, before calling the next witness. He said he would like to note that the Tavern was very accommodating in getting him the videos he requested. Sgt. Gaudet pointed out that Ms. Wiley is near the bar with a drink in her hand with a small group of females but her attention is drawn to the table next to theirs with a group of males at it. Attorney Correnti objected the video being shown with a narration. Chairman St. Pierre noted the objection but allowed Sgt. Gaudet to narrate the video since it had no sound and because it would be helpful to the Board to understand what was happening.

Sgt. Gaudet pointed out for the Board Ms. Wiley's behavior and what he counted as six assaults over more than four minutes. Ms. Wiley threw a drink on a patron and smashed a glass on the floor. He stated that it is evident from the tape that there is no attention paid to Ms. Wiley by any staff member. Sgt. Gaudet pointed out that the tape shows Ms. Wiley leaving the restaurant and assaulting two men on the way out. He said at this point a staff member, Mr. Labby, follows her toward the door, orders her out as she exits and tells another staff person to call the police. A female staff member is seen heading toward a counter area.

Sgt. Gaudet called his next witness, Officer Eric Gagnon. Officer Gagnon testified that he has been a police officer in Salem for four years. He said he was the house officer on the night of August 7/8, 2016. As house officer, he testified that is responsible for booking prisoners, getting demographics, taking their photos and prints and allowing them their phone call. Officer Gagnon stated that he booked in a female prisoner Emma Wiley on August 8, 2016 and while doing so Ms. Wiley was combative, uncooperative and completely out of control. He reported that it took three or four officers to remove required items from her (belt, etc) and get her into the cell. Upon questioning by Sgt. Gaudet, Office Gagnon testified that he was trained as a drug and intoxication expert. He said on that night Ms. Wiley booked, there was a strong odor of alcohol on her and her behavior was

erratic and her thoughts were incoherent. He further testified that Ms. Wiley told him that she and her friends went to Tavern in the Square all of the time because it is the easiest place to get into with their fake ID's. The Board listened to an audio tape of Ms. Wiley during her booking during which she was yelling and failing to cooperate.

Attorney Correnti asked Officer Gagnon what his training was as a drug impairment officer. Officer Gagnon responded that he took a two-week course. Attorney Correnti asked if there was any evidence of Ms. Wiley's blood level or if a breathalyzer was given at the restaurant or the station. Officer Gagnon said he did not believe so. Chairman St. Pierre asked how long Officer Gagnon has been an Officer. Officer Gagnon responded almost ten years. Sgt. Gaudet then showed a still photo of Ms. Wiley to the Officer. Officer Gagnon confirmed that was Ms. Wiley. Chairman St. Pierre noted that a breathalyzer wouldn't normally be given if driving wasn't involved. Attorney Correnti asked the Officer if it was true that there was no way of knowing if Ms. Wiley was under the influence of a controlled substance or alcohol or both just by this interaction. Officer Gagnon answered that there was no way to tell. There were no further questions of this witness.

Sgt. Gaudet testified that on the days that followed the incident, he and another detective, Det. Gaito, met with a few of the Tavern staff that worked that night. Sgt. Gaudet said he met with a Mr. Labby, the assistant manager. He reported that Mr. Labby advised him that Ms. Wiley was a regular at the Tavern in the Square and that she had never been any trouble in the past. He said this information places Ms. Wiley as a patron of the Tavern in the past. He said that he and Det. Gaito spoke to a Jessica Stepopolous, who was the waitress on the night of this incident. She said that she served Ms. Wiley three Long Island Ice Teas. She told the detectives that she recalled seeing Ms. Wiley there at least three times in the past. She said that she did not witness the fight that happened that evening, that Ms. Wiley drank her three drinks over a long period of time and that Ms. Wiley seemed fine. Sgt. Gaudet showed a still photo of Ms. Wiley from a twitter account of another evening. In the photo, Ms. Wiley is sitting with a drink called the "Fishbowl" with the Tavern insignia on it. Chairman St. Pierre asked if Ms. Wiley was even carded anytime during the night. Sgt. Gaudet said that during his investigation, he was told that there was a door staff that started carding at the door at 9pm at night. Chairman St. Pierre asked if patrons are carded before 9pm. Attorney Correnti said he believes the waitress informed Sgt. Gaudet that the servers check ID's before 9pm and then after 9pm it is up to the door staff to check them and normally after that the serving staff would not check again. Chairman St. Pierre asked who would have carded Ms. Wiley on that night. Sgt. Gaudet said it was after 9pm so it would have been the door staff. He said that night the Tavern had on two doormen and two managers. He said that he tried calling and visiting both doormen to speak to them and neither one of them returned his calls so he has never spoken to either of them.

Attorney Correnti began his questioning of Rick Naples, a former manager at the Salem Tavern. Mr. Naples testified that when he was manager in Salem, he was in charge of everything. Mr. Naples stated that he was not working the night of the incident but saw it in the log when he reported to work the next day. He added that a Fire Deputy Chief walked by that morning and told him about the severity of the incident the night before. He said it was later when spoke to Det. Gaito that he found out an Officer was hurt. Attorney Correnti asked if he spoke to his staff. Mr. Naples said yes, he spoke to everyone that was

working that night. Attorney Correnti asked if either of the two door men or two managers recalled Ms. Wiley entering. Mr. Naples said no one did. Attorney Correnti asked Mr. Naples if Jessica Stepopolous was a server that night. Mr. Naples said she was. Attorney Correnti asked if she was still employed by Tavern. Mr. Naples said she was not. Attorney Corrent asked what time Ms. Wiley entered the establishment. Mr. Naples said according to the server, it was about 9:30pm with another female and met a group of other females inside. Attorney Correnti asked to replay the video. He said it shows Ms. Wiley and a group of females at one table and a group of males at another table. Attorney Correnti asked Mr. Naples if it appeared to him if Ms. Wiley was drawing attention. Mr. Naples said yes, by a couple of people. Attorney Correnti asked if there were any managers in the video. Mr. Naples pointed out that Mr. Labby was behind the bar. Attorney Correnti asked what time this was. Mr. Naples said according to the stamp it was 12:30am, lights just came up, as usual. Attorney Correnti said that Ms. Wiley has been there about three hours at this point and had not drawn any attention. Mr. Naples agreed and said that as soon as Mr. Labby heard the glass break he went over, saw Ms. Wiley walking and ordered her to leave. He then followed her out of the door. Attorney Correnti asked Sgt. Gaudet to play the door video and asked Mr. Naples to describe what was being shown. Mr. Naples said it shows Mr. Labby coming from behind the bar to the area where Ms. Wiley has just smashed a glass, follows her out the door with about four staff members and has a staffer call the Salem Police. Attorney Correnti asked how long it took for the police to be called. Mr. Naples said seconds. Attorney Correnti asked what happens once outside. Mr. Naples said that Ms. Wiley was screaming and yelling and getting in people's faces and was being restrained by Mr. Labby and that a passerby asked what happened and Ms. Wiley went crazy and grabbed the female. He said the staff was on top of them trying to break her apart from the passerby as Officers Monk and Rondinelli arrived and said they have it from there. Attorney Correnti asked what the second managers was doing while this was happening. Mr. Naples said trying to make sure everything inside was going okay. Attorney Correnti asked how long before police arrived. Mr. Naples said two or three minutes. Attorney Correnti asked how many staff were outside when police arrived. Mr. Naples said about four or five and they were still trying to hold the crowd back. Attorney Correnti asked Mr. Naples if he was involved in creating the policies and procedures for the Tavern in Salem's front door men. Mr. Naples said that he was. He said that after 9pm it is the responsibility of the door men to ask for and check ID's. He said if they have an out of state ID they ask for a backup. Attorney Correnti asked what type of secondary backup did Ms. Wiley show. Mr. Naples said she showed a credit card with the name Emma Wiley on it so the name matched the ID. Attorney Correnti asked if Mr. Naples had seen the ID that was presented before tonight. Mr. Naples said no this was the first time he had seen the ID. Attorney Correnti asked if they used anything else to check the ID that night. Mr. Naples said a black light and they presumed it to be a valid ID. Attorney Correnti asked if all procedures were followed. Mr. Naples said they were and once in the restaurant, the server or bartender would not check the ID again. Attorney Correnti again pointed out that the server said Ms. Wiley seemed fine. Mr. Naples said that was correct. Attorney Correnti asked Mr. Naples how many times over the course of the investigation he spoke with Salem Police. Mr. Naples said between five and seven times. Attorney Correnti asked if they were cooperative with the Salem Police. Mr. Naples said yes, fully.

Sgt. Gaudet asked Mr. Naples how long he worked for Tavern. Mr. Naples said eight years. Sgt. Gaudet asked if he had known Ms. Wiley. Mr. Naples said he did not. Sgt. Gaudet asked if he did not make that statement to Det. Gaito. Mr. Naples said other staff were familiar with her, but not himself. Sgt. Gaudet said that the server was familiar with her though. Mr. Naples said yes, she was. Sgt. Gaudet said that when they spoke he asked about other devices used to check ID's and nothing about a flashlight or black light was ever mentioned. Mr. Naples said he thought he meant a scanner not a light and didn't consider a light a device. Sgt. Gaudet asked what was in a Long Island Ice Tea drink. Mr. Naples said that it a mix of vodka, gin, tequila. Sgt. Gaudet asked how big a drink it is. Mr. Naples said it is a 14-ounce drink but said the amounts of alcohol are so small that it is equivalent to a rum and coke drink. Chairman St. Pierre confirmed she has three of them. Mr. Flores asked if they have a scanner to check ID's. Mr. Naples said they do now. Mr. Lee asked what their policy is on out of state ID's. Mr. Naples said that it is what he described before in that they ask for a backup of some sort. Chairman St. Pierre noted that there had been an issue there before and the Tavern didn't obtain a scanner then. Mr. Naples said that was some years back.

The Chairman asked City Solicitor Beth Rennard if it is illegal for the Tavern to accept a Rhode Island license. She responded no and provided him with a copy of the ABCC Advisory which states that licensees may reasonably rely on certain forms of identification and that an out of state license is not on the list. Attorney Correnti added that there is a presumption that a MA license is valid, but accepting a Rhode Island license is not illegal. He stated that the Tavern staff were also shown a credit card which name matched the ID. Chairman St. Pierre said a credit card doesn't have a date of birth on it. Chairman St. Pierre said that three years ago, there was an incident where a patron was thrown outside of the restaurant by staff and at that time the testimony was that staff was deployed at different areas of the restaurant during the night. He asked if that was the same operation during the night of this incident. Mr. Naples said the restaurant was not as busy on the night of this incident. Mr. Lee said that one of the problems is that while the police came and were trying to do their job it does not appear anywhere in the video that the staff was trying to control the crowd from out front of the establishment. He said that is the restaurant's responsibility as well. Mr. Naples said he was not there and cannot speak to that but that maybe once police arrived the staff retreated back inside.

Chairman St. Pierre said he would like to take a five-minute recess to speak to the City Solicitor. Meeting was recessed.

When the meeting reconvened, Sgt. Gaudet made a closing statement. He stated that in over four plus minutes an incident escalated inside of the establishment, then a very upset and combative Ms. Wiley went out front, resulting in a massive amount of resources being needed from the City, and that this situation from the beginning could have been handled better by the Tavern. He said that after the incident, the Tavern informed him that they purchased a scanner and were turning in large amount of false ID's. HE said that has since stopped and he has not seen or heard anything from the Tavern. He said looking at the past violations and based upon the resources that this incident needed and an Officer being injured, it was his recommendation that the Tavern serve a total of a 30-day suspension, a 15-day suspension for illegally serving a minor and a 15-day suspension for overserving a patron.

Attorney Correnti said that when these incidents happen, we always look back and ask how it could have been handled better or how things could have been done differently. He said that this is the third incident in seven years. He said he thinks that record speaks for itself. He said this is only the second time they have been charged with selling to a minor. He said they have to look at how that happened and he said that the staff followed all of the steps in place that night for a patron to get into the establishment and never the less the patron was a minor. He said that he feels as though the charge of selling to an intoxicated person should be dismissed. He said that the standard is if the person is intoxicated at the time the last drink is served to them and that the server's statement was that Ms. Wiley seemed fine. The server also said that she had three drinks over the course of three hours and that the drinks were the equivalent of three rum and cokes. He said he does not feel it meets the standard. He said he would also like to note that Officer Monk did not specifically ask for any Tavern staff outside and that it was a very confused scene. Attorney Correnti said there is no reason to doubt the testimony of Mr. Naples who diligently interviewed all of the staff and cooperated with Sgt. Gaudet and others from the Salem Police. Attorney Correnti said this was a very unfortunate event but feels as though the Tavern followed protocol and feels it is important that the Board knows that.

Chairman St. Pierre said that he wanted the record to show that despite all of the interviews that Mr. Naples held, not one witness was present here tonight for this Hearing that was there the night this incident took place. Attorney Correnti said that because they relied on the statements of those staff members that gave statements to the police. Chairman St. Pierre said that it is all hearsay because no witnesses were actually present. He asked City Solicitor Rennard to speak about past discipline. Ms. Rennard said that in May of 2012 they were issued a verbal warning after receiving a complaint about an intoxicated patron being roughly bounced out on the street by a door staff. She said that in October 2012, the ABCC imposed a 3-day suspension which was held in abeyance for 2 years for serving a person with a stolen MA license and in May of 2013 they received a 5-day suspension with 2 days served for an incident with an A&B with a patron and a bouncer.

Chairman St. Pierre stated that he does not recommend the Board accept the recommendation of Attorney Correnti to dismiss the charge of serving to an intoxicated person. Second, he said he stands by what he said in that he feels as though this comes down to ineffective management. He said that Salem is a tourist destination and that the Board has been very supportive of restaurants and always tries to work with management. He said with that being said he feels that with better management at this establishment this situation could have been avoided. He said that three other big restaurants in the City have purchased scanners long before this to avoid some of these problems. He said the Tavern acted at its own peril by accepting out of State ID's. He said that the Tavern has a way to go to improve its management. He said he recommends the Board adopt Sgt. Gaudet's findings and recommendation for a 30-day consecutive suspension. He believes that it is warranted. He said that the Board will not tolerate this behavior from any establishment in the City. Mr. Lee stated so moved. All voted in favor of adopting the findings of Sgt. Gaudet and suspending the license of Tavern in the Square for 15 days for serving a minor and 15 days for overserving a patron.

Attorney Correnti asked if the board would stay the imposition of the suspension so that the Tavern could appeal. Chairman St. Pierre said the Board would entertain that motion. The

Board voted in favor of staying the imposition if the Tavern appeals the board decision in the requisite time to do so. If the Tavern fails to appeal, the suspension will be imposed.

Chairman St. Pierre said he would also like the record to reflect that he and Board members Mr. Lee and Mr. Flores commends Sgt. Gaudet and the Salem Police officers for their presentation and testimony tonight.

6. Old/New Business: None
7. Approval of Meeting Minutes from February 27, 2017.
8. Adjournment

Melissa Pagliaro
Clerk of the Board

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Sections 2-2028 and through 2-2033**