

**City of Somerville
Licensing Commission**

**Senior Center
Tufts Administration Building
167 Holland Street**

**Regular Meeting
Monday
May 16, 2011
6:00 p.m.**

MINUTES

Chairman Andrew Upton called the meeting to order. Present were Commissioners Vito Vaccaro, John J. McKenna, Inspector Joseph McCain and Administrative Assistant Jenneen M. Pagliaro.

Minutes of the March 30, 2011 meeting were approved as presented.

SPECIAL FARMER WINERY LICENSES

**David W. Neilson
d/b/a Coastal Vineyards**

Present: David Neilson

Mr. Neilson came before the Commission requesting approval of a Special Farmer Winery License to sell wine produced by the licensee for off-premise consumption at the Union Square Farmers Market to be held at the Union Square Plaza on Twenty-Two consecutive Saturdays from June 4 thru Oct. 29, 2011 from 9AM-1PM.

Mr. Neilson stated that he did participate in the Winters Market and had no issues.

Coastal Vineyards will be alternating Saturdays with Turtle Creek Winery.

On a motion duly made and seconded, it was

VOTED: to approve the Special Farmer Winery license as submitted.

SPECIAL ALCOHOL LICENSES

**Trustees of Tufts College
d/b/a Tufts Catering**

Present: Eric Hamil

Mr. Hamil came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for the Class of 1971 Reunion, Reception & Dinner to be held at 40 Talbot Ave. on May 21, 2011 from 6:30-10:30PM.

Experienced servers will be dispensing the alcohol.

Police and Fire Details have been requested.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

Trustees of Tufts College
d/b/a Tufts Catering

Present: Eric Hamil

Mr. Hamil came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for the Fletcher School BBQ to be held at Fletcher Field, Professor's Row on May 20, 2011 from 7:00PM-10:00PM.

Experienced servers will be dispensing the alcohol.

Police and Fire Details have been requested.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

St. Anthony's Parish
12 Properzi Way

Present: Father Ademir Guerini

Father Guerini came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages at The St. John's Feast to be held on June 25, 2011 from 7:00PM-12:00AM.

Experienced servers will be dispensing the alcohol.

Police and Fire Details have been requested.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

St. Anthony's Parish
12 Properzi Way

Present: Father Ademir Guerini

Father Guerini came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for a 25th Anniversary Party to be held on May 28, 2011 from 9:00PM-12:00AM.

Experienced servers will be dispensing the alcohol.

Police and Fire Details have been requested.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented

COMMON VICTUALER LICENSES

Blanca's Bakery
85B Broadway

Present: Raul Pleitez

Mr. Pleitez came before the Commission requesting approval of a Common Victualer at 85B Broadway.

This is an existing business that is adding seating.

Along with the application, a menu, floor plan and lease were submitted for the Commissioner's consideration.

On a motion duly made and seconded, it was

VOTED: to approve the Common Victualer license as presented.

ALL FORMS ALCOHOL BEVERAGES
7 DAY RESTAURANT LICENSES

Change of Manager, Transfer of Stock
And Alterations to Premises

Federal Wine and Spirits Belmont, Inc.
d/b/a Journeyman Restaurant
9 Sanborn Court

Present: Sayway Lim

Mr. Lim came before the Commission requesting approval for a Change of Manager to Margaret Grady-Troia, Transfer of Stock to Dennis Clark and Alteration to Premises.

Mr. Lim stated they need to do a Transfer of stock to fund the Alterations to the premises.

The restaurant would expand from 1,500 sq. feet to 2,900 sq. feet. They will be adding a bar area.

A Petition of 20 signatures in support was submitted for the record.

Union Square Main Streets are in support.

Upon a motion duly made and seconded, it was

VOTED: to approve Change of Manager, Transfer of Stock and Alterations to Premises.

STATUS

Patrick Buben
d/b/a Deco Restaurant
425 Washington St.

Present: Attorney Richard DiGirolamo

Atty. DiGirolamo, representing Deco Restaurant, came before the Commission to give a status update as to why the restaurant is not open as of yet.

This License was transferred in 2010 from The Kirkland Café.

The Alcoholic Beverages Control Commission has not approved it due to Tax Issues.

Atty. DiGirolamo stated that this establishment is being renovated and they plan to be open by the end of the year.

Chairman Upton stated the Board will give the new owner more time to clear up the tax issues and they must appear back before this board at the June meeting with another status update.

Viz, Inc. d/b/a Choices,
379-381 Somerville Ave.

Present: Victor Ortiz

Mr. Ortiz came before the Commission for a 2AM license review (This matter continued from November 2010 Hearing, required to have one mandatory detail officer every Friday and Saturday night for 6 months time).

Mr. Ortiz stated that the details have been going unfilled and business has been slow.

Inspector McCain agreed that the details have been going unfilled and they have not had too many issues. The main issue is with the patrons not leaving in an orderly fashion.

Inspector McCain feels the mandatory details are not necessary. The establishment should just hire details as needed.

A motion was made to require details for Saturday nights only and drop the Friday night detail and to review again at the annual 2AM review hearing.

On motion duly made and seconded, it was

VOTED: to require mandatory Saturday night details until next annual review.

New Asia Restaurant
324-328 Somerville Ave.

Present: Attorney Richard DiGirolamo & Sally Loh

Atty. DiGirolamo representing New Asia came before the Commission to give status report per the Violation hearing from April 25, 2011.

Atty. DiGirolamo stated New Asia is back before the board regarding a hearing from the April 25, 2011 meeting. Ms. Loh wanted to change the floor plan and add a bar, However Ms. Loh didn't have the current building permits to do so.

Atty. DiGiorlamo requested that the board consider hearing this matter at the June meeting and if New Asia is not ready to open they will have a Purchase and Sale in place and have a prospective buyer.

The Commission heard testimony from Licensing Commission Officer Joseph McCain indicating that the establishment was not open for business as of this past weekend. The Commission also received a memorandum from Rob May, Director of Economic Development, stating that subsequent to the Commission's above-referenced Decision, the Inspectional Services Division was again called to the establishment due to a report of

construction without a building permit in violation of a prior Stop Work Order, and a second Stop Work Order was issued. The memorandum notes that the health/sanitary code violations previously identified by the Health Department have not been corrected. Assistant City Solicitor Jason Grossfield reviewed the licensee's violation history before the Commission dating back to 2010.

Based on the testimony and documentation before the Commission, it had been determined that New Asia failed to meet the requirements on the April decision, in addition to the Somerville Licensing Commission Rules and Regulations cited therein,

On a motion duly made and seconded, it was

VOTED: The Common Victualer License and the Entertainment Licenses held by New Asia at 324-328 Somerville Ave. be REVOKED effective immediately AND to continue the hearing on the status of the All Forms Alcohol License at the June 20, 2011 meeting.

Alterations to Premises
D/B/A Name Change

New Asia Restaurant, 324-328 Somerville Ave. requesting approval for alterations to the premises and change of d/b/a to Union Kitchen and Bar. (see above, no action taken on this).

CLUB LICENSE
HEARING CONTINUED FROM APRIL 25, 2011 MEETING

George Dilboy Post 529 Inc.
VFW, 371 Summer St.

Present: Attorney Richard DiGirolamo & Attorney Adam Dash

George Dilboy Post 529, Inc., VFW came before the Commission requesting a change of location of the All Forms Alcohol Club License to 343-349 Summer St.

The hearing was opened with a statement from Alderman Gerwartz.

Ald. Gerwartz stated that she was concerned with all the continuations of this hearing and felt that doing so made it difficult for the members of the community to participate. She questioned if the plans have changed with the Zoning Board, wouldn't the applicant need to submit new paperwork and was also wondering why the paperwork that was requested to be submitted to tonight's hearing was not submitted until this afternoon.

Andrew stated the Board was waiting on a one page document, which is only the extension of the development agreement and the substance of the agreement hasn't

changed, this is just extending the time frame on the agreement. They are allowed to submit paperwork right before the meeting if they wish.

Commission McKenna suggested that the neighbors should use technology to keep up with what is going on.

Ald. Gerwartz feels that the developers should have more contact with the neighbors.

Atty. DiGirolamo spoke on behalf of the applicant George Dilboy Post 529.

Atty. DiGirolamo spoke in response to Ald. Gerwartz comments and stated that they had no intent to continue this hearing indefinitely. The continuations were due to mediation and that only two members were sitting on the Board for the last couple of meetings. Atty. DiGirolamo also stated that they have had a number of meetings with the neighbors and have never refused to meet with the neighbors. Atty. DiGirolamo did provide the board an amendment to the real estate agreement, this is not an application, just extending the deadline.

The plan is to break ground in the next several months. They just need approvals to begin.

Commissioner Vaccaro was concerned, if this took more than a year would they have to come back to the Board and could the Board put that on as a condition?

Chairman Upton stated that is possible but that is already in the rules and they would have to come back before the Commission if they tried to move it again.

Atty. DiGirolamo stated there is no chance of this happening. This move was made to pull building away from residential abutters.

Chairman Upton noted for the record, Ald. Gerwartz had several good points about the importance on notice and continuance, but throughout the process there have been no defects in notice, everyone has been noticed appropriately and constantly. Further the continuances were based on representations from both parties, that they were continuing mediation. They wanted more time, see no issue with the notice and continuance and for the record they did submit the new plans on February 16, 2011. Whether or not their was enough outreach to the Community discussion and interaction will be weighed on the merit based on testimony and that is a legitimate concern for the Board members and they should take that into consideration when they vote.

Atty. DiGirolamo stated that through the mediation process substantial changes were made to the plan. The height of building was brought down and we feel we have made progress. A lot of people would agree that this is a better proposal than the last one. We feel like progress was made but we didn't satisfy 100 percent of the people, but we have satisfied many people.

Attorney Dash, representing the Summer Street action Committee, stated some changes were made and it is better but there are still too many issues with parking, outdoor activities a larger VFW etc. Some changes were made but feels mediation was not a success.

Angela Ramey a resident of Hawthorne St. stated she was suppose to receive legal notice of the hearing but was never notified. Ms. Ramey stated she has a copy of the abutters list and she and some of the other neighbors are not listed.

Chairman Upton stated that the Board does not control the list and that is not a function of the Board and if you wish to raise that issue you would have to figure out how to do that.

It is not up to the applicant to check the list.

Ms. Ramey is concerned about the noise and the lack of notice.

Tom Bok voiced concerns with the plans changing and stated that Zoning made them do a new application.

Atty. DiGirolamo stated you can't have two applications pending with the Zoning Board and that is why they submitted a new one.

Chairman Upton stated that the Licensing Commission requirements are not the same as Zoning and the Licensing Commission was provided with the new plans.

Mr. Bok feels it isn't urgent to move on this at this point since there is still a lot of discussion still going on.

Chairman Upton stated the Board has a legal obligation to vote on this.

Nancy Iappini was also concerned with the abutter's notices.

Atty. Dash stated they are concerned that the agreement with VFW and Developer doesn't reflect the new plan. T they have not demonstrated site control. Atty. Dash feels the Zoning Bd. Should vote first and the Licensing Commission should vote next just in case changes are made after the fact.

Commissioner McKenna noted the system is not perfect.

Atty. DiGirolamo stated the VFW meets the criteria and they have been at this location for 80 years and the place is falling apart. They need a new building and feels the applicant is worthy of the transfer.

Charles Robinson, abutter stated he was not notified or invited to the mediation and has concerns with the process.

George O'Shea stated since they have a change of foot print they should file a new application.

Robert Hardy, Commander of VFW stated they have already met most of the Zoning Board conditions.

Commissioner McKenna made a motion to allow transfer of location as amended by the plan submitted on Feb. 16, 2011.

Commissioner Vaccaro seconded this motion.

Motion approved.

VOTED: to allow the change of location transfer of the club license.

Chairman Upton chose abstention and did not vote on this and feels there are some legitimate concerns from the neighbors but the Veterans do deserve consideration for all they do for us.

Late Items

Bull McCabe's
366A Somerville Ave.

Present: Brian Manning

Mr. Manning came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for an Outdoor Festival to be held in the Parking lot at 366 Somerville Ave. on June 11, 2011 from 3PM to 10PM.

Mr. Manning stated this festival would be held in the Family Center Parking lot.

This event will be open to the public, some of the profits will go towards the Family Center.

Experienced servers will be dispensing the alcohol.

Police and Fire Details have been requested.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

There being no further business, the meeting was adjourned.

Respectfully

Jenneen M. Pagliaro
Administrative Assistant