

**City of Somerville
Licensing Commission**

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

**Regular Meeting
Monday
September 20, 2010
6:00 p.m.**

MINUTES

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

Minutes of the August 5, 2010 meeting were accepted as submitted.

COMMUNICATIONS

Massachusetts State Lottery Commission re: Keno-To-Go. The Board took administrative notice and placed the communication on file.

SPECIAL ALCOHOL LICENSES

**St. Anthony's Parish
12 Properzi Way**

Present: Mary Laney

Ms. Laney came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for a dinner dance to be held in the gymnasium on September 25, 2010 from 9:00PM-1:00AM.

Experienced servers will be dispensing the alcoholic beverages.

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.

Shoestring LLC
d/b/a The Swapaholics

Present: Melissa Massello

Ms. Massello came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for Boston Fashion Week Clothing Swap to be held at The Center for Arts at the Armory, 191 Highland Ave. on September 30, 2010 from 5:00PM-10:00PM.

Experienced servers will be dispensing the alcoholic beverages.

Police and Fire Details have been requested.

John L. Sullivan spoke in opposition to this application.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

Commissioner Vaccaro voted NO.

Somerville Local First

Present: Joe Grafton

Mr. Grafton came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for Harvest Fest Fundraiser to be held at The Center for Arts at the Armory, 191 Highland Ave. on October 9, 2010 from 1PM-10PM.

Experienced servers will be dispensing the alcoholic beverages.

Police and Fire Details have been requested.

John L. Sullivan spoke in opposition to this application.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

Commissioner Vaccaro voted NO.

Hellenic Association of Somerville
d/b/a Dormition of the Virgin Mary Greek Orthodox Church
29 Central St.

Present: Mike Veveris

Mr. Veveris came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for Honk Fest Band Celebration dinner on October 9, 2010 from 7:00PM-2:00AM.

Experienced servers will be dispensing the alcoholic beverages.

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.

Hellenic Association of Somerville
d/b/a Dormition of the Virgin Mary Greek Orthodox Church
29 Central St.

Present: Mike Veveris

Mr. Veveris came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for Cultural Event on October 16, 2010 8PM-1AM.

Experienced servers will be dispensing the alcoholic beverages.

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 LICENSE

Rodizio Brazilian Steakhouse
129 Broadway

Present: Otto Hernandez

Mr. Hernandez came before the Commission seeking approval of a Common Victualer license for Rodizio Brazilian Steakhouse at 129 Broadway.

Mr. Hernandez has restaurant experience.

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.

ENTERTAINMENT LICENSES

Amelia's Kitchen **1137 Broadway**

Present: Delio Susi

Mr. Susi came before the Commission requesting approval of an Entertainment license consisting of Audio, film projectors & Television.

Mr. Susi stated this would be dinner and a movie.

Alderman Trane spoke in favor of the application.

On a motion duly made and seconded, it was

VOTED: to approve the Entertainment license as presented.

The Joshua Tree **256 Elm St.**

Present: Dominic Forte

Mr. Forte came before the Commission on behalf of the Joshua Tree requesting approval of an Entertainment license by performers consisting of Free Poker Tournaments.

Mr. Forte stated that these are Free Poker Tournament and no money will be exchanged.

Poker Tournament are currently being held at Johnny's D's.

On a motion duly made and seconded, it was

VOTED: to approve the Entertainment license as presented.

Commissioner Vaccaro voted NO

Prima Pizza
284 Broadway

requesting approval of an Entertainment license consisting of Television.
(No Show, This matter will be heard at the next Licensing Commission meeting).

CLUB LICENSES

Change of Manager

Somerville Post 19 American Legion
124 Highland Ave.

Present: Marie DiBenedetto

Ms. DiBenedetto came before the Commission requesting approval for change of manager from Richard Campbell to Marie DiBenedetto.

Mr. Campbell passed away and Ms. DiBenedetto will be replacing him as manager.

Chairman Upton suggested Ms. DiBenedetto become tip certified.

Upon a motion duly made and seconded, it was

VOTED: to approve the Change of Manager as requested.

Change of location

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

Present: Attorney Richard DiGirolamo

Atty. DiGirolamo came before the Commission requesting a change of location of the All Forms Alcohol Club license to 343-349 Summer St.

Alderman Gerwartz expressed her concerns from the neighbors with the new location and concerns about issuing a license to a building that has not been built. Ald. Gerwartz requests that the board not take any action until Planning and Zoning review everything and the neighbors are on board. Alderman Gerwartz submitted a letter of opposition for the record. Ald. Gerwartz stated this would be located in a RA Zone. This was changed from CBD Zone to an RA Zone by the Board of Aldermen.

Chairman Upton stated that the Board can not respond to this until they hear the plan.

Commission McKenna noted that the Board does not make Zoning decisions.

Chairman Upton stated that the decision is based on the Character of the applicant and public need and is not aware that they have to wait for Zoning or Planning. The license will not be issued until all City permits are approved.

Atty. DiGirolamo gave a short history of this case which goes back to 2002. Decota Partners were going to put up a 14 unit building, but the permit was appealed all the way to the Supreme Court. The Court ruled in the developers favor. However the market has changed and the developer decided to go in another direction and approached Dilboy Post to do a land swap. The VFW would get a new VFW on the old MBTA shaft sight. This building would sit 100 yards from the existing building.

Atty. DiGirolamo stated that they would be going before the Zoning Board in October for 3 special permits.

Atty. DiGirolamo stated that the exhibits are not relevant and are of a confidential nature and are not required to be attached.

Atty. DiGirolamo submitted a draft of conditions proposed by OSPCD.

Commissioner Vaccaro questioned why they need to approve this now.

Atty. DiGirolamo stated it is easier to obtain the financing if the license is approved.

Various people spoke in favor of this application.

Various people spoke in opposition of this application.

A signed petition with 56 signatures in favor was submitted for the record.

The Board received 12 letters in opposition.

Attorney Adam Dash represented the neighbors.

Atty. Dash spoke of the neighbors concerns with noise and has requested that the Board not vote until the after the meeting with Zoning takes place in October. They have concerns parking & issues with the dumpsters being too close to the houses. They are also concerned with changes made to the plan after tonight, if the license is approved.

Chairman Upton stated that any changes would have to come back before the Board for approval.

Nancy Iapini an abutter noted that she did not receive an abutter notice. She was directed to the Board of Assessors office for that information.

Commissioner Vaccaro wasn't expecting anything like this and is not ready to vote. He wants to do some homework and feels there are too many unanswered questions.

Commissioner McKenna stated it would be difficult to vote tonight.

Chairman Upton stated he likes the idea of a proposal for Veterans but still feel this has a ways to go and noted this is the first we seen of any proposed conditions and needs to take into consideration the concerns of the neighbors & abutters. The two sides should sit down and try to work this out together. The character and fitness is not in question here. Chairman Upton is not sure if it is fair to accept this transfer if the neighbors have concerns.

Upon a motion duly made and seconded, it was

VOTED: To keep public hearing open and continue until the October 18, 2010 meeting.

ALL FORMS ALCOHOLIC BEVERAGES
7 DAY RESTAURANTS

Review of 2AM license

Dev. Corp. d/b/a Orleans Restaurant
59-65 Holland St.

Present: Attorney Richard DiGirolamo

Atty. DiGirolamo, representing Orleans, came before the Commission for the 90 day review of the 2AM license as part of the conditions on the extended hours license.

No issues have been reported at this establishment.

On a motion duly made and seconded, it was

VOTED: Orleans is to come back in 90 days for another review.

New Licenses (One License available)

Namaskar Restaurant
236 Elm St.

Present: Attorney Glen Nardone

Atty. Nardone, representing Namaskar Restaurant came before the Commission requesting approval of a New All Forms Alcoholic Beverages 7 Day Restaurant license.

Namaskar currently holds a city owned beer & wine license

Atty. Nardone stated that this is an Indian restaurant and feels they need an All Forms license to keep up with the competition.

Rob May, OSPCD recommended approval of this license because they are trading in a beer and wine license.

Chairman Upton closes hearing on this item to hear the next applicant.

Istanbul'Lu
237 Holland St.

Present: Attorney Richard DiGirolamo

Atty. DiGirolamo, representing Istanbul'Lu came before the Commission requesting approval of a New All Forms Alcoholic Beverages 7 Day Restaurant license.

Atty. DiGirolamo stated this is the only Turkish restaurant in the City and the owner is willing to agree to any conditions if necessary. The restaurant does not qualify for a beer and wine due to the size.

A petition with 85 signatures in favor was submitted for the record.

Alderman Trane in not in support of this application.

Rob May, OSPCD recommends denial of this license.

Chairman Upton closed hearing on this item.

Hearing re-opened on Namaskar

Commissioner McKenna motions to approve the new All Forms Alcoholic Beverages 7 Day Restaurant License.

Chairman Upton seconds the motion.

Commission Vaccaro votes NO.

Upon a motion duly made and seconded, it was

VOTED: to grant the new All Forms Alcoholic Beverages 7 Day Restaurant license to Namaskar.

Hearing re-opened on Istanbul'Lu

A motion was made to withdraw this application.

Motion to withdraw was accepted.

WITHDRAWN

WINE AND MALT LICENSES

New Licenses (Two Licenses available)

Yak & Yeti Café
719 Broadway

Present: Attorney William Goldberg

Atty. Goldberg, representing Yak & Yeti Café came before the Commission requesting approval of a Wine and Malt Restaurant license.

Atty. Goldberg stated there is a need for a beer and wine license at this location and feel it would compliment the food.

Atty. Goldberg stated that this is an upscale restaurant with 48 seats.

Chairman Upton motioned to close hearing on this item to hear the next applicant.

Marsala
1127 Broadway

Present: Attorney Richard DiGirolamo & Binot Pradham

Atty. DiGirolamo, representing Marsala came before the Commission requesting approval of a Wine and Malt Restaurant license.

Mr. Pradham owns the building and has experience in the food industry.

This establishment is set to open in October.

Alderman Trane is in favor of this application.

Chairman Upton motioned to close hearing on this item to hear the next applicant.

Las Brisas, Inc.

561 McGrath Highway

Present: Attorney Richard DiGirolamo

Atty. DiGirolamo, representing Las Brisas came before the Commission requesting approval of a Wine and Malt Restaurant license.

East Somerville Main Streets support this and feels that the part of the City needs economic development.

Atty. DiGirolamo stated that the owners have been working on improvement to the business for 6 months.

Commissioner Vaccaro noted that he is impressed with the facilities and they are doing a nice job.

Maria Curtatone spoke in support of this application.

Chairman Upton motioned to close hearing on this item to hear the next applicant.

Snappy Sushi
420 Highland Ave.

Present: Attorney Robert Costello & Katie Janik

Atty. Costello representing Snappy Sushi came before the Commission requesting approval of a Wine and Malt license. (Currently holds an All Forms Alcohol license).

This establishment has been open for two years and have had no complaints.

Chairman Upton motioned to close hearing on this item to hear the next applicant.

Taipei Tokyo
7 Holland St.

Present: Adam Dash

Atty. Dash representing Taipei Tokyo requesting approval of a Wine and Malt Restaurant license (Currently holds an All Forms Alcohol license).

Chairman Upton motioned to close hearing on this item to hear the next applicant.

Hearings re-opened

Commissioner McKenna made a motion to take applications out of order.

Motion made to grant Beer and Wine License to Taipei Tokyo.

Upon a Motion duly made and seconded, it was

VOTED: to grant the Beer and Wine License to Taipei Tokyo as presented.

Commissioner McKenna made a motion to grant Snappy Sushi a Beer and Wine license.

Commissioner Vaccaro votes NO

Upon a motion duly made and seconded, it was

VOTED: to grant the beer and wine license to Snappy Sushi as presented.

The Commission feels by granting these establishments Beer and Wine licenses this will free up the All Forms Licenses.

A motion was made by Las Brisas to withdraw the application

Motion to withdraw accepted.

A motion was made by Marsala to withdraw the application

Motion to withdraw accepted.

A motion was made by Yak & Yeti to withdraw the application

Motion to withdraw accepted.

VIOLATION

(THIS VIOLATION WAS CONTINUED FROM THE JULY 27, 2010 MEETING)

Present: City Solicitor Francis Wright & Befekadu Defar

B.EEF., Inc., d/b/a Fasika, 145-147 Broadway came before the Commission to show cause why the All Forms Alcoholic Beverages 7-Day Restaurant license, Common Victualer license and Entertainment license of the above-referenced establishment should not be modified, suspended, revoked, or the hours during which sales of alcoholic beverages may be made reduced for alleged violation of Somerville Licensing Commission Rules and Regulations to wit: -

Somerville Licensing Commission Rule 1.08.1. Alcoholic beverages licensees are forbidden to make a sale or delivery of alcoholic beverages or alcohol to a person who is intoxicated.

Somerville Licensing Commission Rule 1.09.a. - It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee will be held accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances.

Somerville Licensing Commission Rule 1.09.e. - When any noise, disturbance, misconduct, disorder, act or activity occurs in the licensed premises, or in the area in front of or adjacent to the licensed premises, or in any parking lot provided by the licensee for the use of its patrons, which in the judgment of the Commission adversely affects the protection, health, welfare, safety or repose of the residents of the area in which the licensed premises are located, or results in the licensed premises becoming the focal point for Police attention, or is offensive to public decency, the licensee may be held in violation of the license and subject to proceedings for suspension, revocation or modification of the license.

Somerville Licensing Commission Rule 1.13(a)(5)-(a) Licensees shall make all reasonable and diligent efforts to ensure that illegal activities do not occur at the licensed premises. Such efforts may include, but are not limited to:
(5)calling for police assistance as necessary to protect patrons against injury `or to evict unruly patrons or to uncover unlawful conduct or to give medical assistance and providing police with requested information;

Somerville Licensing Commission Rule 1.14.b. Licensees shall call the police and an ambulance and take all other reasonable steps to assist patrons and persons who are injured in or on the licensed premises or whose injuries have occurred outside the premises but have been brought to the attention of the licensee.

The date of the alleged offenses are April 24, 2010 (2:23 AM) see Somerville Police Department Incident Report #10012938, May 7, 2010, see Somerville Police Department Incident Report 10014712, and May 15, 2010 (2:40 AM), see Somerville Police Department Incident Report 10015637.

City Solicitor Wright stated that an incident occurred on May 7, 2010. The matter involves an altercation between two patrons a block away from the establishment. CS Wright spoke with Mr. Defar, the owner of the establishment and they came up with a recommended disposition. A roll back of hours to give Mr. Defar an opportunity to think about his operation and how it has been functioning. The recommendation is for a four night rollback of the 2AM license to 1AM on four consecutive Friday nights.

Based on the Police reports and the licensee's stipulation thereto. The Commission voted to accept the recommended disposition.

On a motion duly made and seconded, it was

VOTED: To roll back the 2AM license to 1AM on Four Consecutive Friday nights.

Having no further business, the meeting was adjourned.

Respectfully submitted

Jenneen M. Pagliaro
Administrative Assistant