

**City of Somerville  
Licensing Commission**

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

**Regular Meeting  
Monday  
October 17, 2011  
6:00 p.m.**

**MINUTES**

Chairman 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 August 15, 2011 meeting were accepted as submitted.

**COMMON VICTUALER LICENSE**

**Delta Tau Delta Foundation of Tufts University, Inc.  
98 Professors Row**

Present: John Stearns

Mr. Stearns came before the Commission requesting approval for a Common Victualer License at 98 Professors Row.

This is a Tufts University Fraternity House that has been closed for 8 years.

Along with the application a menu and floor plan 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.

**STATUS UPDATES**

**Continued from the June 20, 2011 Licensing Hearing**

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

Present: Attorney Richard DiGirolamo & Patrick Buben

Atty. DiGirolamo representing Deco Restaurant came before the Commission to give a status update on the re-opening of the establishment. Atty. DiGirolamo stated the construction has begun, however, construction was held up for a couple of months by the ISD Dept. due to permit issues. The Establishment expects to be open around February 2012.

The Commission is concerned about this license being tied up for such a long period of time.

Atty. DiGiorlamo stated the building needs extensive repairs.

A motion was made to come back for a status report at the January 2012 meeting.

Motion was seconded.

Voted: to return back before the Licensing Commission at the January meeting.

**Status Update**

**Las Brisas**  
**561 McGrath Highway**

Present: Attorney Ann Vigorito

Present: Atty. Vigorito came before the Commission to give status report on the re-opening of the business and for the status update on the Wine and Malt License pending at the ABCC.

Atty. Vigorito stated the business is still closed due to water damage and a problem with the fire alarm unit. The business plans to re-open in the next couple of weeks.

The Commission feels this business is taking to long to re-open.

Chairman Upton made a motion for Las Brisas to come back before the Commission at the November meeting for a show cause hearing.

Motion was seconded,

Voted: Las Brisas to come before the Board for a Show Cause Hearing violation in November.

**2:00AM CLOSING**  
**ALL FORMS ALCOHOLIC BEVERAGES 7 DAY RESTAURANT LICENSES**

**EXTENDED HOURS REVIEW**

The following licensees appeared before the Commission for annual review of their extension of hours until 2:00AM:

<u>Date Approved</u>	<u>Business</u>	<u>Address</u>
8/27/07	Fasika	145-147 Broadway
9/29/05	The Independent	75 Union Square
9/29/05	Precinct	70 Union Square
12/21/05	Casey's	171 Broadway
4/26/06	Olde Magoun Saloon	518 Medford Street
11/15/2010	Trina's Starlite Lounge	3 Beacon St.

Each licensee's file was reviewed for incidents/complaints and all were found to be suitable to continue with their extended hours.

On a motion duly made and seconded, it was

VOTED: To extend the 2AM license for one more year.

**ALL FORMS ALCOHOL CLUB LICENSE**

**Demosthenes Greek American Democratic Club of Ma**  
**218 Somerville Ave.**

Present: John Piantes

Mr. Piantes came before the Commission requesting a change of manager from Kostas Kargatzis to John G. Piantes.

Mr. Piantes has experience.

On a motion duly made and seconded, it was

VOTED: To change the Manager to John G. Piantes.

**ALL FORMS ALCOHOLIC BEVERAGES**  
**7 DAY RESTAURANT LICENSE**

**Continued from September 19, 2011 meeting**

**Transfer of License**

**Change of Location**

Present: Attorney Richard DiGirolamo

Atty. DiGirolamo requested a continuation on this matter.

New Asia, 324-328 Somerville Ave. requesting approval to transfer its All Forms Alcoholic Beverages 7 Day Restaurant license to Slow Train Coming LLC, d/b/a Redbonita's, 49 Day St. and approval for a Common Victualer and Entertainment license consisting of a mariachi band, video and audio.

On a motion duly made and seconded, it was

VOTED: That this matter be continued until the November 21, 2011 Hearing.

**New Officers**

**Transfer of Stock**

**New Manager**

**Namaskar, Inc.**  
**236 Elm St.**

Present: Anver Sheikh

Mr. Sheikh came before the Commission requesting approval to transfer shares of stock held by Anver Shaikh to Mandeep Singh and Manu Kaushal also requesting a change of manger from Anver Shaikh to Mandeep Singh and to appoint new officers.

Mr. Shaikh would be transferring interest in this license.

This is a City owned license and they are not transferable.

Mr. Sheikh stated that the license was not being transferred, that the ownership was being partially transferred.

The Commission feels that the license belong to the City.

Chairman Upton stated that you can't separate the license from the Corporation and is not inclined to vote for this transfer. The Commission will give one month continuation for the applicant to seek an opinion from the ABCC or the City Solicitor.

Upon a motion duly made and seconded, it was

VOTED: To continue this matter until November hearing.

**New License-All Forms Alcoholic Beverages 7 Day  
Restaurant license** (1 available)

**Fat Hen LLC, d/b/a La Brasa  
118-120 Broadway**

Present: Attorney Joseph Hanley

Atty. Hanley, representing La Brasa came before the Commission requesting approval for a New All Forms Alcoholic Beverages 7 Day Restaurant license and for a Common Victualer license.

Alderman Sullivan and Alderman Roche support this application.

Atty. Hanley stated there is a public need for a license to revitalize this neighborhood.

East Somerville Mains Sts supports this application.

A signed petition was submitted for the record.

Twenty-one e-mails of supports were submitted for the record.

The Chamber of Commerce is in support of this application.

This establishment plans to hire local help.

George Proatis of OSPCD recommends approval.

A few neighbors spoke in support.

Hearing closed to hear next applicant.

**FFDJ,LLC  
89 Holland St.**

Present: David Jick & Attorney Richard DiGirolamo

Mr. Jick came before the Commission requesting approval for a New All Forms Alcoholic Beverages 7 Day Restaurant license and for a Common Victualer license at 89 Holland St.

Mr. Jick owns Dave's Fresh Pasta next store to this vacant spot.

Mr. Jick signed a lease in March anticipating a license and is ready to begin construction.

A Petition was submitted in support.

Ald. Trane supports this application.

OSPCD George Proakis supports application, However not recommending approval because only one license is available and feels East Somerville needs this license for revitalization.

The Chamber of Commerce is in support.

Fifty-Seven e-mails were sent in support and three e-mails were sent in opposition.

A few neighbors spoke in support of this application and a couple of neighbors had concerns regarding noise and parking.

Hearing closed for vote.

The Board felt both were great applicants, but East Somerville really needs development and would benefit with this license.

On a motion duly made and seconded, it was

VOTED: To grant the New All Forms 7-Day Restaurant License to La Brasa and approval of a Common Victualer license.

### **VIOLATIONS**

Present: Assistant City Solicitor Jason Grossfield & Timothy Taddia

On the Hill Tavern, 499 Broadway came before the Commission to show cause why the All Forms Alcoholic Beverages 7-Day Restaurant license, Common Victualer, Entertainment License and 2AM Closing 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 1.09.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 1.14.a.- Licensees shall instruct their employees and security personnel that they are not to make bodily contact with a patron unless to protect other patrons or themselves from being subjected to body blows or other harm from an unruly patron. In all other circumstances employees and security personnel are to call the police to have patrons removed from the premises when such patrons are being disruptive and they are unable to convince the patron to leave the premises voluntarily.

Somerville Licensing Commission Rule 1.13.a.(5)- 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.

ASC Grossfield read the violation into the record. The date of the alleged offense was September 12, 2011.

ASC Grossfield and Mr. Taddia came to a recommended disposition to issue a WARNING.

The Commission voted to accept the recommended disposition and

VOTED: to issue a Warning.

Present: Assistant City Solicitor Jason Grossfield and Robert Hardy

George Dilboy Post 529 VFW, 371 Summer St. came before the Commission to show cause why the All Forms Alcoholic Beverages 7-Day Club 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 1.09.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 1.11.a. No licensee may provide entertainment of any kind unless the licensee holds an entertainment license issued pursuant to the General Laws, Chapter 140, section 183A. Such license must be held in the same name, by the same owners, and with the same manager as the food or beverage licensee; provided, however, that in cases where entertainment on the premises is to be conducted by a person or entity who is an independent contractor at the premises, the food or beverage licensee may seek the approval of the Commission for an exemption from this rule based upon a written contract with the independent contractor to book and/or to produce the entertainment. The food or beverage licensee shall be responsible for the actions of such independent contractor on the premises in addition to the responsibility held by the independent contractor pursuant to the entertainment license. The food or beverage licensee shall pay the independent contractor a fee according to the written contract, said fee to be commensurate with the market value of the services, and the independent contractor shall not be given any direct or indirect interest in the licensed premises other than the fee set out in the contract. Said fee shall not be based upon the number of patrons attending an entertainment event. The food or beverages licensee shall provide in the contract for removing the independent contractor in the event that the entertainment is poorly managed or causes violations to occur at the licensed premises. Any food or beverage licensee who permits entertainment at the licensed premises pursuant to a license held by a person in violation of this rule will be subject to disciplinary action by the Commission.

The date of the alleged offense was August 20, 2011

The report was read into the record.

ASC Grossfield and the licensee came to a recommended disposition.

The Commission voted to accept the recommended disposition of the City Solicitor Jason Grossfield and the licensee and sanctioned the establishment with:

A Warning to the Licensee, requiring it to comply with all applicable state laws and Licensing Commission regulations.

Licensee shall hold a valid Entertainment License for any entertainment to be conducted on the license premises as required by law.

Effective Tuesday, 10/18/11 through Friday 10/21/11, Licensee shall serve a 4-day rollback of hours to 11:00PM on its All Alcohol Club License.

No Sale or consumption of alcohol shall take place outside of the licensed premises, including the parking lot and exterior grounds, without obtaining a license therefore.

On a motion duly made and seconded,

The Board Voted: to accept the recommended disposition

**Continued from September 19, 2011**

Present: Attorney Richard DiGirolamo & Roberto DiResta

George Dilboy Post 529, Inc., VFW 371 Summer St., requesting approval for a change of location of the All Forms Alcohol Club license to 343-349, 351 Summer St and for an Entertainment License for Entertainment by Performers, Patrons and Devices.

A new plan was discussed.

ASC Grossfield stated that any change of substantial footage must have a new plan.

The ZBA meeting will be held on Oct. 19, 2011.

A few neighbors spoke in opposition.

Atty. DiGirolamo stated that this is the final plan and will not change.

A motion was made to continue the hearing until next month.

Motion seconded continued until November 21, 2011 meeting.

Having no further business the meeting was adjourned.

Respectfully

Jenneen M. Pagliaro  
Administrative Assistant