

**City of Somerville
Licensing Commission**

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

**Regular Meeting
Monday
April 25, 2011
6:00 p.m.
MINUTES**

Commissioner John J. McKenna called the meeting to order at 6PM. Present were Commissioner Vito Vaccaro, Inspector Joseph McCain and Administrative Assistant Jo-Ann DePrizio. (Chairman Upton was present at 7PM).

COMMUNICATIONS

Alcoholic Beverages Control Commission notifying the Board of the New Law regarding Crowd Managers for Section 12 licensees with an occupant load of 100 or more people. The Board took Administrative Notice and placed the communication on file.

SPECIAL FARMER WINERY LICENSES

**Lexington Consulting Group, Inc.
d/b/a Turtle Creek Winery**

Present: Kipton Kumler

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

Mr. Kumler stated that another Winery would be applying at the next hearing and the two wineries will be alternating Saturdays.

On a motion duly made and seconded, it was

VOTED: To approve the Special Winery license as submitted.

SPECIAL ALCOHOL LICENSES

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

Present: Eleni Raschi

Ms. Raschi came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages at a Dinner Dance Fundraiser on April 30, 2011 from 7:00PM-12:00AM.

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.

Redbones Barbecue
55 Chester St.

Present: Robert Gregory

Mr. Gregory came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for the Annual Bike Party & benefit to be held outdoors in front of 55 Chester St. on June 6, 2011 from 5PM-10PM (rain date June 13, 2011).

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 LICENSES

Vej Naturals LLC d/b/a The Pulse Café
195 Elm St.

The Pulse Café came before the Commission requesting approval to change the hours of operation on the Common Victualer license to include Monday from 11AM-10PM.

On a motion duly made and seconded, it was

VOTED: to grant the change of hours on the Common Victualer license as submitted.

Pic Nic Pizza Place
1 Main St.
Israel M. DeJesus

Present: Israel M. DeJesus

Mr. DeJesus came before the Commission requesting approval of a Common Victualer license for Pic Nic Pizza Place at 1 Main St.

This is a new Owner with no other changes to business.

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.

Dhaulagiri Inc., d/b/a Yak & Yeti Café
719 Broadway

Present: Attorney Adam Dash

Atty. Dash, representing Dhaulagiri, Inc., d/b/a Yak & Yeti Café, 719 Broadway came before the Commission requesting approval of a Common Victualer license.

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

Dhaulagiri, Inc.
d/b/a Yak & Yeti Café
719 Broadway

Present: Attorney Adam Dash

Atty. Dash, representing Dhaulagiri, Inc., d/b/a Yak & Yeti Café, 719 Broadway came before the Commission requesting approval of an Entertainment License consisting of Radio and CD player/audio system.

On a motion duly made and seconded, it was

VOTED: to approve the Entertainment license as submitted.

ALL FORMS ALCOHOLIC BEVERAGES
7 DAY RESTAURANT LICENSE

2AM License Review

(This Matter continued from Dec. 13, 2010 Hearing)

Fasika
145-147 Broadway

Present: Befedadu Defar

Mr. Defar came before the Commission for a six month review of the 2AM License. This was a request made by the Board in December 2010.

Mr. Defar stated that their have been no problems.

Inspector McCain stated no issues to report.

On a motion duly made and seconded, it was

VOTED: to extend the 2AM license to December 2011.

VIOLATION

Present: Assistant City Solicitor Jason Grossfield & Sally Loh

Ms. Loh of New Asia Restaurant, 324-328 Somerville Ave. came before the Commission to show cause why the All Forms Alcoholic Beverages 7-Day Restaurant license, Common Victualer, Entertainment License of the above-referenced establishment should not be modified, suspended, revoked, cancelled 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 1.06. a. No licenses shall be issued or shall be considered in good standing unless licensed premises comply with all statutory requirements, including all applicable building codes, and fire, health, safety, trash, and other government regulations and laws.

Somerville Licensing Commission Rule 1.06. b. The licensed premises shall conform to the floor plan approved by the Commission with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, barstools, dance floors or areas, railing partitions, and other barriers at the premises. Any changes in the floor plan or any renovations of any kind may not be made without notification to the Commission and the prior approval of the Commission. The floor plan shall be drawn to scale. It shall include the location and dimensions of all equipment, fixtures and furniture and otherwise be satisfactory to the Licensing Commission.

Somerville Licensing Commission Rule 1.06. c. All premises covered by the license shall be kept in a clean and sanitary condition at all times:

(1) No service of alcoholic beverages shall be made to any person in a Hotel, Restaurant, Tavern or Club in a glass or any other container which has not been thoroughly cleansed and properly sterilized prior to such service. Hotels, Restaurants, Taverns and Clubs, licensed to sell alcoholic beverages, shall be provided with an adequate supply of running hot and cold water and soap and towels, at all times readily accessible, to thoroughly cleanse the hands of persons employed in such licensed premises. All glasses, dishes, silverware and other utensils used in such licensed places for service of food or alcoholic beverages shall be thoroughly cleansed after service to each patron and subjected for at least five minutes to the germicidal action of clean water heated to and maintained at a minimum of 160 degrees Fahrenheit. Equally effective methods of germicidal action by the use of heat, hot water, steam or mechanical devices may be substituted. After being cleansed and sterilized glasses, dishes, silverware and other utensils shall be packed or stored or arranged in such manner as not to become contaminated before again being used;

Somerville Licensing Commission Rule 1.06. j. All areas of the licensed premises that are intended for use by members of the general public shall be readily accessible to all patrons of the licensed establishment by way of clearly marked doorways or passageways by which patrons may travel unimpeded by doors, equipment, furniture or other materials. Without the express approval of the Licensing Commission, the licensee shall not establish areas of the licensed premises that are intended for public use but which are, by design or appearance, separate premises not readily accessible from one to the other from the interior of the structure.

Somerville Licensing Commission Rule 1.07. 1. Any alcoholic beverage licensee intending to close its place of business for a short or long term must receive prior approval from the Commission and, therefore, must notify the Commission in writing before such closing and state the reason for such closing.

Somerville Licensing Commission Rule 1.15. a. Any license issued pursuant to General Laws Chapter 138 and Chapter 140 for the service of food or beverages to the public may be modified, suspended, revoked, or have their operating hours reduced for any of the following causes:

- (1) fraud, misrepresentation, false material statement, concealment or suppression of facts by the licensee in connection with an application for a license or permit or for renewal thereof or in connection with an application for the removal of the licensed premises or the alteration of the premises or in connection with any other petition affecting the rights of the licensee or in any interview or hearing held by the Commission in connection with such petition, request, or application affecting the rights of the licensee;
- (2) failure to operate the premises covered by the license;

Somerville Licensing Commission Rule 1.17 a. Licenses are granted to serve the public need and to that end licensees are expected to operate the licensed premises for a substantial number of hours on all days when the premises are permitted to be open under the terms of the license. In the case of alcoholic beverages licenses, the numbers of which are limited according to statute, no alcoholic beverages licensee may close its place of business for any reason other than the following:

- (1) upon request to the Commission for closing in order to do renovations after approval by the Commission for such renovations and for a reasonable time of closing in order to perform the renovations;
- (2) to comply with the ABCC's annual calendar of holidays and Sunday package store openings;
- (3) a closing of one or more days per week upon approval of the Commission pursuant to licensee's request and a showing by licensee that it does not have adequate business upon such days;
- (4) a closing due to an act of God or an illness or some other business problem for which request has been made to the Commission and approval granted.

Inspector Joseph McCain read the Police report into the record. The report stated that the license was not being used and sanitation codes were being violated and changes were made to the floor plan without permission.

Ms. Loh stated that she applied for Outdoor Seating thru the Board of Alderman in May of 2011. She was denied and feels the City should help her out. Ms. Loh has 4 employees. Ms. Loh stated that the Police reports are inaccurate.

Commissioner McKenna made a motion for the Licensee to serve a 3 day suspension of the liquor license and a 7 day rollback of the hours of the liquor license from 1:00AM to 9:00PM, to be served on dates specified at the May meeting.

The motion was seconded.

Asst. City Solicitor Grossfield and Sally Loh came to a joint recommended disposition and included Commissioner McKenna's motion.

The Commission voted to accept the recommended disposition of the City and the licensee, as offered by Assistant City Solicitor Jason Grossfield and Sally Loh, with an additional rollback period, and sanctioned the establishment as follows:

- (1) The Licensee shall submit a complete application to the Licensing Commission to obtain approval of the change of floor plan, including bar area, at the premises, within 7 days.
- (2) The Licensee shall reopen its business within 20 days, by May 15, 2011, in compliance with all applicable laws and shall work to obtain the required permits within that time. At its May meeting, the Commission shall review whether the licensee is open for business and in compliance with all applicable laws as cited in the April 8, 2011 Notice of Hearing.
- (3) Failure to open for business within 20 days may result in the Commission revoking the common victualler license, entertainment license and/or canceling the liquor license at its May meeting, currently scheduled for May 16, 2011.
- (4) Upon opening for business, the licensee shall serve a three (3) day suspension of its liquor license and a seven (7) day rollback of the hours on its liquor license from 1:00AM to 9:00PM, to be served on dates specified at the Commission's May meeting.

On a motion duly made and seconded, it was

VOTED: to accept the recommended disposition with the additional change.

CLUB LICENSE
HEARING CONTINUED FROM MARCH 30, 2011 MEETING

George Dilboy Post 529 Inc., VFW, 371 Summer St. requesting a change of location of the All Forms Alcohol Club License to 343-349 Summer St.

Attorney DiGirolamo & Commander Robert Hardy spoke on behalf of Dilboy Post. Atty. DiGirolamo stated that in August of 2010, when the original application was filed with the Commission the building was going to be 4 stories and have a roof deck. The plan has changed to 3 stories, no deck and the location moved towards Summer St. The Post will be on two levels. There will be no windows in the rear of building. The new Post will have a total of 57 spaces, 42 for Dilboy Post and 15 will be rented out. The Post has an average of 170 events a year and most are for charity.

Commissioner Vaccaro requested to see the Real Estate Development agreement made with the Dilboy Post and wants to know how the Post went about getting this agreement approved and are if all the VFW members are in agreement with the new plan.

Atty. Dash had an issue with the agreement between the Real Estate Development and the Dilboy Post and noted that the agreement had expired Feb. 28, 2011.

The Commission requested that at the May 16, 2011 Hearing the new agreement should be submitted to the Commission for review.

Mr. O'Shea, a neighbor spoke against this application.

Atty. Dash stated that there will be 20 conditions from the Zoning Department in regards to this project. Part of this development will be in a RA Zone. He also stated that the neighbors are not aware of any MBTA approval in regards to this development.

Upon a motion duly made and seconded, it was

VOTED: to continue this matter to the May 16, 2011 Hearing and the new plans are to be submitted.

Late Items

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 a Mother's Day Celebration on May 7, 2011 from 8:00PM-12:00AM.

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.

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 a Wedding Celebration on May 21, 2011 from 7:00PM-11:00PM.

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.

There being no further business, the meeting was adjourned,

Respectfully

Jenneen M. Pagliaro
& Jo-Ann DePrizio
Administrative Assistants