

**City of Somerville
Licensing Commission**

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

**Regular Meeting
Monday
September 21, 2009
6:00 p.m.**

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

MINUTES

The Minutes of the August 17, 2009 meetings were accepted as presented.

COMMON VICTUALER LICENSES

**Red Peppers
65 Summer St.**

Present: Jose Araujo

Mr. Araujo came before the Commission seeking the approval of a Common Victualer license for Red Peppers, 65 Summer St.

Mr. Araujo has experience in the restaurant business.

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

On a motion duly made and seconded, it was

VOTED: to approve the Common Victualer license as presented.

**Bom De Boca Grill, Inc.
3 Washington St.**

Present: Luciane Tavares

Ms. Tavares came before the Commission requesting approval of a Common Victualer license for Bom De Boca Grill, Inc. at 3 Washington St.

Ms. Tavares has restaurant experience and is taking over as owner of the corporation with no changes to the menu.

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

On a motion duly made and seconded, it was

VOTED: to approve the Common Victualer license as presented.

SPECIAL ALCOHOL LICENSES

St. Anthony's Church
12 Properzi Way

Present: Father Balen

Father Balen came before the Commission requesting approval of a Special alcohol license for the purpose of dispensing and selling alcoholic beverages at a Sertaneja Dance to be held at the school gymnasium, 12 Properzi Way on September 26, 2009 between the hours of 8:00PM and 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.

Hellenic Association of Somerville
29 Central St.

Present: Attorney Mike Veveris

Atty. Veveris came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for a Wedding Anniversary Party at Dormition of the Virgin Mary Greek Church, 29 Central St. on October 3, 2009 between the hours of 7:00PM to 12:00AM.

Approximately 150 people are expected to attend this event.

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
29 Central St.

Present: Attorney Mike Veveris

Atty. Veveris came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for a Sweet 15 party at Dormition of the Virgin Mary Greek Church, 29 Central St. on October 10, 2009 between the hours of 6:00PM to 12:00AM.

Approximately 200 people are expected to attend this event.

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
29 Central St.

Present: Attorney Mike Veveris

Atty. Veveris came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for a Church Fundraiser/Night of Comedy at Dormition of the Virgin Mary Greek Church, 29 Central St. on November 14, 2009 between the hours of 8:00PM to 12:00AM.

Approximately 300 people are expected to attend this event.

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.

Red Bones
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 at a Fall Festival Party to be held on Chester St. on October 4, 2009 between the hours of 12Noon and 6:00PM. (rain date October 18, 2009).

This is an outdoor festival being held in conjunction with the Chamber of Commerce.

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.

ArtsSomerville-Nave Gallery

Present: Maureen Liberatore & Susan Berstler

Ms. Liberatore & Ms. Berstler came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages at a fundraising event to be held at the Clarendon Hill Presbyterian Church, 155 Powderhouse Blvd. On October 15, 2009 between the hours of 7:00PM and 10:00PM.

Approximately 150 people are expected to attend this event.

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.

Cambridge Portuguese Credit Union

Present: Carlos DaSilva

Mr. DaSilva came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages at the 3rd annual Passport to Possibilities-Community Appreciation Event to be held at St. Anthony's Parish Hall, 12 Properzi Way on October 16, 2009 between the hours of 3:30PM and 7:30PM.

Approximately 400 people are expected to attend this event.

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.

The Center for Arts at the Armory
191 Highland Ave.

Present: Debra McLaughlin

Ms. McLaughlin came before the Commission requesting approval of a Special Alcohol license on behalf of VoidStar Production, David Dobson for the purpose of dispensing and selling alcoholic beverages for an Ordnance-Multi-Media Dance Performance to be held on September 27, 2009 between the hours of 5:00PM and 10:00PM.

Approximately 150 people are expected to attend this event.

Experienced servers will be dispensing the alcoholic beverages. Police and Fire Details have been requested.

John L. Sullivan spoke in opposition to the beer and wine license.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

The Center for Arts at the Armory
191 Highland Ave.

Present: Debra McLaughlin

Ms. McLaughlin came before the Commission requesting approval of a Special Alcohol license on behalf of VoidStar Production, David Dobson for the purpose of dispensing

and selling alcoholic beverages for an Ordnance-Multi-Media Dance Performance to be held on October 10, 2009 between the hours of 6:00PM and 11:00PM.

Approximately 50 people are expected to attend this event.

Experienced servers will be dispensing the alcoholic beverages. A Fire Detail has been requested.

John L. Sullivan spoke in opposition to the beer and wine license.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

**Joe Grafton, Somerville Local First
and Downtown Wine & Spirits**

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 at a Harvest Fest to be held at The Center for Arts at the Armory, 191 Highland Ave. on October 3, 2009 between the hours of 12Noon and 8:00PM.

Mr. Grafton stated that this event will have food & wine sampling.

Experienced servers will be dispensing the alcoholic beverages. Police and Fire Details have been requested.

Rob May of OSPCD spoke in favor of the application.

John L. Sullivan spoke in opposition to the beer and wine license.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

City of Somerville – Mayor’s Office

Present: Assistant City Solicitor Francis X. Wright

ASC Wright came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages at the All American City Award Celebration to be held at The Center for Arts at the Armory, 191 Highland Ave. on October 17, 2009 between the hours of 6:00PM and 11:00PM.

Experienced servers will be dispensing the alcoholic beverages. Police and Fire Details have been requested.

John L. Sullivan spoke in opposition to the beer and wine license.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

STATUS REPORT

Continuation from August 17, 2009 Meeting

Present: Assistant City Solicitor Francis X. Wright & Hildo DaCosta

H.I.O. Restaurant, Inc., d/b/a Café Belo, 120 Washington St. came back before the Commission regarding the violation hearing from the August 17, 2009 meeting. Mr. DaCosta reported back to the Board his monitoring plan as requested at the last meeting.

ASC Wright stated that Mr. DaCosta has made arrangements with an outside firm (Affiliated Monitors, Inc.) that will be doing the monitoring program, which the Commission had ordered at the last meeting. ASC Wright presented the proposal to the Commissioners. ASC Wright stated that this will include in-house training for ownership and staff and will include a monitor who will appear at Café Belo for unscheduled monitoring and will continue as long as it is agreed to with the City of Somerville, It will include oversight, and implementation and appearance of City's Alcohol regulation and alcohol sales restrictions of the Commonwealth.

ASC Wright stated that the Commission had requested a 30 day minimum of this program.

Mr. DaCosta stated that he has made changes to his staff.

ASC Wright asked that the Commission vote to have Mr. DaCosta return next month with a report from Affiliated Monitors, Inc. and if the Commission finds the report satisfactory at that point the monitoring program can be discontinued.

Chairman Upton motions to approve

Motion seconded.

Voted: to approve monitoring plan for Café Belo subject to Mr. DaCosta returning in 30 days to have reports be satisfactory to the Commission.

VIOLATION HEARINGS

Armur, Inc.
d/b/a The Joshua Tree
256 Elm St.

Present: Assistant City Solicitor Francis X. Wright, Mark Murphy, General Manager & Robert Ames, Manager

Mr. Murphy and Mr. Ames came before the Commission to show cause why its All Forms Alcoholic Beverages 7 Day Restaurant License, 2AM Closing, Common Victualer License, Entertainment License and Dance License should not be revoked or the hours during which alcoholic beverages made 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 1.13.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: 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.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 1.14.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 offense was July 18, 2009.

Assistant City Solicitor Francis X. Wright stated that this matter comes before the Commission on the complaint of Mr. Beckstead.

Mr. Beckstead was notified by certified and regular mail of this hearing, however he has failed to appear.

ASC Wright left it up to the Commission on how to proceed.

Chairman Upton would like to hold this over until the next meeting and if Mr. Beckstead doesn't show up this matter will be dismissed.

Chairman Upton allowed the Joshua Tree to make a short statement regarding the incident.

Mr. Murphy stated that Mr. Beckstead was at the establishment on Friday night. Two female patrons were made to feel uncomfortable by Mr. Beckstead and they reported this to the doorman. The doorman asked Mr. Beckstead to leave, which he did without incident. On Saturday night, different staff was working at the door and Mr. Beckstead entered without notice. Mr. Beckstead went outside for a bit around 12Midnight and upon his return the doorman from the night before spotted him entering and asked him to leave. Mr. Beckstead got upset and swung at the doorman. Mr. Beckstead was restrained and escorted out and left the establishment.

The Joshua Tree stated they have installed security camera's since this incident has happened.

Chairman Upton motions to hold this hearing over until next month, should Mr. Beckstead come forward to make his case.

If Mr. Beckstead fails to show up despite the good faith efforts of the Board to contact him, the Board will be inclined to dismiss this matter.

Motion seconded, and it was

VOTED: to continue this hearing at the October 19, 2009 meeting.

A & C Food Corp.
d/b/a Zoe's Chinese Restaurant

296-298 Beacon St.

Present: Assistant City Solicitor Francis X. Wright, Jun Yang & Li Sue & Dr. David Christiani.

Mr. Yang came before the Commission to show cause why its Common Victualer License should not be modified, suspended, revoked or forfeited, for alleged violation of Somerville Licensing Commission Rules and Regulations and Massachusetts General Laws, to wit:

Somerville Licensing Commission Rule 2.02.a - Patrons are not permitted to bring alcoholic beverages on the premises for their own consumption. Licensees are not permitted to keep alcoholic beverages on the premises except for a reasonably small quantity that is used in the preparation of certain specialty foods. The Commission will, in its discretion, determine what is reasonable for this purpose and whether it is customary in the preparation of such specialty foods.

The date of the alleged offense is August 12, 2009.

ASC Wright asked Commissioner Vito Vaccaro to recuse himself from this hearing, due to fact he was present at the investigation that led to this violation.

ASC Wright stated that on August 12, 2009 Police Officer Chaille and Commissioner Vaccaro visited the above establishment with regards to the pending All Forms Alcoholic Beverages 7 Day Restaurant application before this Commission. Officer Chaille witnessed alcohol being consumed in the restaurant. Officer Chaille advised the establishment that this was a violation of the rules and regulations of the City of Somerville Licensing Commission.

ASC Wright and Zoe's have come to a recommended disposition of a 4 day suspension of the Common Victualer license, 3 days to be held in abeyance and 1 day to be served on a Wednesday, the day the offense took place. The 3 days held in abeyance to be served if another violation of any kind were to occur within a year.

Commissioner Upton stated that under the rules you cannot apply for a liquor license if you had a violation in the last six months. If Zoe's agrees to this recommended disposition the Commission can not hear the next item on the agenda, which is an application for a liquor license for Zoe's. The applicant will have to wait six month to come back to reapply.

Dr. Christiani stated that the applicants misunderstood the disposition.

ASC Wright stated that the report speaks for itself and this is not the 1st time that they have been spoken to by officer Chaille regarding this issue.

ASC Wright asked if they applicants wanted to withdraw the disposition.

The Applicants took a short recess for discussion and decided to accept the terms of the recommended disposition.

On a motion duly made and seconded, it was

VOTED: to accept the joint recommendation of the City and the licensee.

ALL FORMS ALCOHOLIC BEVERAGES
7 DAY RESTAURANT LICENSE

NEW LICENSE

CONTINUED FROM AUGUST 17, 2009 MEETING

A & C Food Corp., d/b/a Zoe's Chinese Restaurant, 296-298 Beacon St. requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant License and for an Entertainment License consisting of audio and two televisions. This item has been struck from the agenda due to the above violation.

COMMUNICATION FROM MAYOR'S OFFICE

Submitting for consideration and approval a draft of proposed guidelines for All-Forms Restaurant Licenses (MGL Ch. 138, §12) issued on or after September 21, 2009.

Assistant City Solicitor Francis X. Wright stated that these are guidelines that the Mayor Has forwarded to the Commissioners and has asked for consideration. The Mayor believes That the public need in the City of Somerville will be best served if the Commission would take into consideration these guideline with regards to the issuance of the recently awarded New All Forms Alcohol license that remain. The Mayor is looking to have the licenses work with the on going community development and redevelopment.

ASC Wright stated that OSPCD will be presenting more specific recommendations with regards to individual applications as they determine necessary on behalf of the administration.

Commissioner McKenna thanked the Mayor's Office and OSPCD for putting this together and feels these are the kind of guideline that the Commission has been looking for.

Commissioner Vaccaro would like Rob May to come to all future meetings to speak on the OSPCD recommendations.

Chairman Upton feels that this is good first step and should the City Solicitor feel that we need to transform these into regulations at some time in the future, that may be a good idea, but such as they are it makes sense to adopt them tonight and keep things moving.

ASC Wright stated that these are not proposed as regulations because of the nature of the licenses as compared to beer and wine regulations.

A Motion was duly made and seconded, and it was

VOTED: to accept the guideline proposal as presented.

SPECIAL ALCOHOL LICENSE

The Center for Arts at the Armory
191 Highland Ave.

Present: Debra McLaughlin

Ms. McLaughlin came before the Commission requesting approval of a Special Alcohol license for the Boston Palestinian Film Festival for the purpose of dispensing and selling alcoholic beverages for Film Screening to be held on October 16, 2009 between the hours of 7PM and 11PM.

Approximately 350 people are expected to attend this event.

Experienced servers will be dispensing the alcoholic beverages. Police and Fire Details have been requested.

John L. Sullivan spoke in opposition to the beer and wine license.

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 submitted

Jenneen M. Pagliaro
Administrative Assistant