

**City of Somerville
Licensing Commission**

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

**Regular Meeting
Monday
October 19, 2009
6:00 p.m.**

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

MINUTES

The Minutes of the September 21, 2009 meeting were accepted as presented.

COMMUNICATION

Massachusetts State Lottery notice of Keno to Go applicants. This was noted for the record and is available for review.

COMMON VICTUALER LICENSES

**Los Paisano
62 Broadway**

Present: Morris Lopez

Mr. Lopez came before the Commission seeking approval of a Common Victualer license at 62 Broadway.

Mr. Lopez has 8 years of restaurant experience.

Along with the application, a copy of the floor plan, menu 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.

Martsa on Elm
233A Elm St.

Present: Dawa Thoulutsang

Ms. Thoulutsang came before the Commission requesting approval of a Common Victualer license at 233A Elm St.

Ms. Thoulutsang is purchasing the restaurant from the current owner.

The menu will stay the same.

Ms. Thoulutsang has restaurant experience.

Along with the application a copy of the lease, 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.

Jimmys Café
300 Beacon St.

Present: Oscar Escobar

Mr. Escobar came before the Commission Requesting approval of a Common Victualer license at 300 Beacon St.

Mr. Escobar has restaurant experience.

Along with the application a copy of the lease, 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.

Rodizio Brazilian Steakhouse
129 Broadway

Present: Ernesto Perez & Ariel Alarcon

Mr. Alarcon came before the Commission requesting approval of a Common Victualer license at 129 Broadway.

Mr. Alarcon has restaurant experience.

Along with the application a copy of the lease, 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.

SPECIAL ALCOHOL LICENSES

The Center for the 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 purpose of dispensing and selling alcoholic beverages for a Silent Film screening of Phantom of the Opera with Alloy Orchestra on Oct. 30, 2009 from 5PM-11PM.

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 the 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 purpose of dispensing and selling alcoholic beverages for a Halloween Week-end silent film screening with live music on Oct. 31, 2009 from 5PM-11PM.

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 the 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 purpose of dispensing and selling alcoholic beverages for an acoustic concert, Andy Dunlop & Fran Healy of Travis, on Nov. 1, 2009 from 6PM-10PM.

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 the 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 purpose of dispensing and selling alcoholic beverages for acoustic concerts, Dan Blakeslee on Nov. 5, Nov. 12 & Nov. 19, 2009 from 6PM-10PM.

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 the 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 purpose of dispensing and selling alcoholic beverages for Somerville Community Corp. 40th Anniversary fundraiser on Nov. 13, 2009 from 5PM-11PM.

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 the 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 purpose of dispensing and selling alcoholic beverages for Somerville Writers Festival on Nov. 14, 2009 from 1PM-11PM.

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 the 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 purpose of dispensing and selling alcoholic beverages for a Music Concert, Pete Sutton on November 20, 2009 from 6PM-11PM.

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.

CLUB LICENSE

CHANGE IN MANAGER

Nucleo Sportinguista
282-284 McGrath Highway

Present: Paulo Bizzaria & Miguel Correia

Mr. Bizzaria came before the Commission requesting approval for change of manager from Miguel Correia to himself.

Chairman Upton suggested Mr. Bizzaria become tip certified.

Upon motion duly made and seconded, it was

VOTED: to approve the change of manager as presented.

ALL FORMS PACKAGE GOODS STORE

TRANSFER OF LICENSE

M.B. Market, Inc.
d/b/a Paul Revere Beverage
8-10 Main St.

Present: Attorney Joseph Devlin, Tin Duc Nguyen & Barry Jaffe

Atty. Devlin came before the Commission on behalf of T & T Ocean, Inc. requesting approval to transfer the All Forms Alcoholic Beverage Package Goods Store license from M.B. Market, Inc., d/b/a Paul Revere Beverage to T & T Ocean, Inc., d/b/a Paul Revere Beverage, Tinh Duc Nguyen, 8-10 Main St.

Att. Devlin stated they will make no changes to the premises.

Mr. Nguyen had been a clerk for 10 years and has service training scheduled for tomorrow.

Mr. Jaffe stated he wanted to move on and is selling his business.

On a motion duly made and seconded, it was

Voted: to grant the transfer of license as presented.

TRANSFER OF LICENSE AND LOCATION
CONTINUED FROM SEPT. 30, 2009 MEETING

New Bombay Market
359 Somerville Ave.

Present: Attorney William Goldberg, Mohammad Nepasha & Mr. Selhi

Atty. Goldberg came before the Commission on behalf of New Bombay Market requesting approval to transfer the Wine and Malt Package Goods Store License to Fauji Corporation d/b/a Farmer's Bounty, 234 Elm St.

Mr. Nepasha was not in attendance at last months meeting. It was requested that he appear tonight to answer any questions regarding this license.

Commissioner Vaccaro questioned how long New Bombay Market has been closed.

Mr. Nepasha responded that they have been closed about a year. He also stated that they tried to sell the license last year but the Commission did not approve the transfer. Mr. Nepasha has held the license for three years.

Commissioner Vaccaro voiced his concerns that the store was too very close to another liquor store.

Atty. Goldberg stated that this license will serve the public need of the people who shop at this establishment.

Atty. Goldberg stated that they have the support of the Community and need the license to stay in business.

Many neighbors spoke in support of this business.

Rob May of OSPCD stated that OSPCD has concerns with what the store could become and wants to know if the license can be conditioned.

Mr. May suggested a condition to limit the amount of square footage that they can use to hold the alcohol.

Commissioner McKenna was concerned with the sale of alcohol getting out of control, stating that it has happened in another situation like this.

Commissioner McKenna motions that they come up with a footprint of how many cases and where they would be located in the store and come back before the Commission at the next meeting.

Motion seconded

Voted: To continue until next meeting.

ALL FORMS ALCOHOLIC BEVERAGES
7 DAY RESTAURANT LICENSE

NEW LICENSE

Tamario Inc.
d/b/a Dali Restaurant
415 Washington St.

Present: Mario Leone

Mr. Leon came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant License (currently hold a Wine and Malt Restaurant License)

Mr. Leone stated that he has had this business for 20 years.

Rob May of OSPCD stated that they are in support of this application.

The Chamber of Commerce is in support.

Mr. Leone stated that he owns this license but will give it back to the City, instead of selling it.

Upon a motion duly made and seconded, it was

VOTED: to approve the new All Forms 7 Day Restaurant license and upon final approval return the Beer and Wine license to the City.

NEW LICENSE-CONTINUED FROM SEPT. 30, 2009 MEETING

Ty Sun Corporation d/b/a Yoshi's
132 College Ave.

Present: Attorney David Sokol & James Na

Atty. Sokol came before the Commission on behalf of Yoshi's requesting approval of a New All Forms Alcoholic Beverages 7 Day Restaurant License.

Atty. Sokol questioned whether the license could be restricted to beer and wine or maybe they could have the next beer and wine license when it comes back from the State.

Chairman Upton stated that they could not condition a license to just beer and wine and the Commission does not enter into contracts with people.

Chairman Upton suggested that Atty. Sokol try working with the City and the Chamber of Commerce to come up with some solution and the Board will keep the hearing open.

Motion to keep hearing open if the applicant can work out some sort of arrangement with the City and they can come back to the next meeting.

Motion seconded, continued until next meeting.

STATUS REPORT-CONTINUED FROM SEPT. 21, 2009 MEETING

H.I.O. Restaurant Inc.
d/b/a Café Belo
120 Washington St.

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

Mr. Costa came back before the Board with the report from Affiliated Monitors, Inc.

ASC stated that he spoke with Mr. Costa earlier tonight and Mr. DaCosta informed him that he has been closed for renovations and that the monitoring system was suppose to contact the License Commission with that information. ASC Wright stated that Mr. DaCosta should have contacted the City with this information sooner.

ASC Wright recommends that the monitoring continue for 60 days and come back with the report. Mr. DaCosta is to send ASC Wright a copy of the agreement that he has entered into with Affiliated Monitors, Inc. by Oct. 30th and come to the November meeting with the report.

STATUS REPORT

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

Present: Victor Ortiz

Mr. Ortiz came before the Commission for a hearing on the hours of operation. (Currently on three month trial of Fridays and Saturdays until 2AM and Sundays until 1AM).

Mr. Ortiz stated that things have been quiet at his business. Officer Chaille confirms this statement.

Ald Taylor stated that he is opposed to Choices having the extended hours back but since he has had no complaints and he is willing to wait for the 2AM review to come up. Three people spoke in support of this licensee, No neighbors spoke in opposition.

Motion to continue current status until renewal comes up.

Upon a Motion duly made and Seconded, it was

VOTED: to continue hours until renewal time.

VIOLATION HEARING CONTINUED FROM SEPT. 21, 2009 MEETING

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

Present: Assistant City Solicitor Francis X. Wright, Mark Murphy, Robert Ames & Shane Beckstead

The Joshua Tree 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.

A complaint was filed by Mr. Beckstead regarding an incident that he claims to have happened on July 18, 2009 at the Joshua Tree. Mr. Beckstead stated that he was beat up by the bouncer from the Joshua Tree outside the establishment.

Chairman Upton stated that Mr. Beckstead needs to bring some material evidence to the meeting to back up his story.

Mr. Ames, the manager remember Mr. Beckstead being there and stated that Mr. Beckstead was assaulted down the street by someone unknown to him.

The Bank next store has a tape. ASC Wright stated that he can get a copy of the tape from the bank for viewing.

Chairman Upton motions to continue hearing pending production of materials as described by ASC Wright and come back to the meeting next month.

Motion seconded, continued until next meeting.

COMMON VICTUALER LICENSE

Café Belo Restaurant, Inc.
445 Somerville Ave.

Present: Alexander Akira Inove

Mr. Inove came before the Commission seeking approval of a Common Victualer license For Café Belo, 445 Somerville Ave.

Mr. Inove has restaurant experience.

Along with the application, a copy of the floor plan, menu 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.

There being no further business, the meeting was adjourned.

Respectfully submitted

Jenneen M. Pagliaro
Administrative Assistant