

**City of Somerville
Licensing Commission**

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

**Regular Meeting
Monday
November 16, 2009
6:00 p.m.**

Chairman Andrew Upton called the meeting to order. Present were Commissioners Vito Vaccaro, John McKenna, Inspector Warren Chaille and Administrative Assistants Jenneen M. Pagliaro & Jo-Ann DePrizio.

The Minutes of the September 30, 2009 meeting were accepted.

The Following hearings were conducted:

EXTENDED HOURS REVIEW

The following licensees appeared before the Commission for annual review of their extension of hour until 2AM.

Choices
On the Hill Tavern
The Independent
Casey's
PJ Ryan's
Precinct
Olde Magoun Saloon
The Burren
Fasika
The Joshua Tree
Sagra

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

COMMON VICTUALER LICENSE

**Red Peppers
67 Summer St.**

Red Peppers will be heard at the December 14, 2009 meeting.

Los Paisanos Restaurant
62 Broadway

Present Jose Aldana

Mr. Aldana came before the Commission requesting approval of a Common Victualer license for Los Paisanos Restaurant, 62 Broadway.

Mr. Aldana has restaurant experience.

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

On a motion duly made and seconded, it was

VOTED: to grant the Common Victualer license as presented.

ENTERTAINMENT LICENSE

Bloc 11 Café
11 Bow St.

Present: Jennifer Clark & Tucker Lewis

Jennifer Clark came before the Commission requesting approval of an Entertainment license consisting of Audio and Entertainment by performers.

Ms. Clark stated that they would have open mic two nights a week. & acoustic music.

Ald. Taylor supports this license.

On a motion duly made and seconded, it was

VOTED: to grant the Entertainment license as presented.

SPECIAL ALCOHOL LICENSES

Hellenic Association of Somerville
29 Central St.

Present: Michael Ververis

Mr. Ververis came before the Commission requesting approval of a Special Alcohol license for the purpose of dispensing and selling alcoholic beverages for a New Year's Eve Party on December 31, 2009 from 7PM-2AM.

Mr. Ververis stated approximately 200 people will be in attendance.

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

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 Holiday Fundraiser on December 4, 2009 from 7PM-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 Armory Venue Showcase on December 7, 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 a fundraiser for Calling All Crows on December 11 & December 12, 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 licenses as presented.

ALL FORMS PACKAGE GOODS STORE

TRANSFER OF LICENSE AND LOCATION
CONTINUED FROM OCT. 19, 2009 MEETING

New Bombay Market
359 Somerville Ave.

Present: Attorney William Goldberg, Mohammad Nurpasha & Ruby Sehli

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

Atty. Goldberg stated that he had met with Rob May of OSPCD recently and they inspected the premises at 234 Elm St. together.

Rob May stated that he did take a tour of the building and had a meeting with the internal staff at OSPCD. They decided that they would not support the transfer of this license at this time.

Atty. Goldberg was very surprised by this decision. Atty. Goldberg stated that he was disappointed with the lack of communication with Rob may since that meeting.

Commissioner McKenna questioned as to where the floor plan was, that was requested at the last meeting.

Atty. Goldberg stated he showed the floor plan to Rob May and was under the impression that Rob May was going to make up a floor plan from the visit & bring it before the Board.

Atty. Goldberg stated that if this transfer does not occur the owner will have to pay the renewal fee for 2010.

Dan Parson, Owner of Downtown Liquors stated he was not notified of this hearing, but is not opposed to competition.

Atty. Goldberg stated that they are not opposed to the license being conditioned.

Chairman Upton stated that he was inclined to oppose this transfer, due to lack of government support.

A five minute recess was called to get the floor plan in order.

Chairman Upton stated that any changes to the floor plan must be approved by the Board.

Commissioner McKenna motions to allow transfer subject to 60sq. feet as outlined in plan submitted.

Commissioner Vaccaro seconds the motion

Chairman Upton votes in Opposition

Upon motion duly made and seconded,

VOTED: To allow transfer of license & change of location.

STATUS REPORT-CONTINUED FROM OCT. 19, 2009 MEETING

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

Present: Assistant City Solicitor Francis X. Wright

ASC Submits plan from Affiliated Monitors, Inc., Mr. DaCosta did not show up for the meeting.

Mr. DaCosta will be contacted to appear before the Commission at the December meeting.

This matter to be Continued until December 14, 2009

NEW LICENSE-CONTINUED FROM OCT 19, 2009 MEETING

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

Present: James Na

Mr. Na came before the Board to state that he is still interested in pursuing a New All Forms Alcoholic Beverages 7 Day Restaurant License. He is still working with his attorney and the City.

This matter to be continued until the next Licensing meeting

VIOLATION HEARING CONTINUED FROM OCT 19, 2009 MEETING

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

Present: Assistant City Solicitor Francis X. Wright, Attorney Richard DiGirolamo, Attorney Ann Vigorito, Robert Ames, Martin Murphy & Shane Beckstead.

Atty. DiGirolamo came before the Commission representing The Joshua Tree, 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.

Atty. Vigorito stated that their Law Office had just become involved with this matter and would like some time to get more familiar with the case. Atty. Vigorito requests the hearing be continued until next meeting so they can meet with the clients to get more facts and view the bank video tape.

ASC Wright and Mr. Beckstead stated they had no problem with that.

Motion to continue matter until the December 14th meeting.

Motion seconded.

VIOLATION

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

Present: Assistant City Solicitor Francis X. Wright, Robert Ames, Martin Murphy & Attorney Richard DiGirolamo

Atty. DiGirolamo came before the Commission, representing The Joshua Tree to show cause why the All Forms Alcoholic Beverages 7-Day Restaurant license, 2 AM Closing, Common Victualer License, Entertainment License and Dance License of the above 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 1.06. 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 1.09.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 1.13.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.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 October 17, 2009

The Joshua Tree recently installed video cameras at their establishment.

ASC Wright stated that the incident Joshua Tree has video of the incident that occurred on Oct. 17, 2009.

ASC Wright showed a 4 minute tape.

ASC is concerned with the changing of the floor plan as the night goes on, also notes that is hard to identify who the staff is.

Police Officer Nardone was on the scene before the business called the police.

ASC Wright recommended a disposition:

- 1) Friday and Saturday night police detail inside the establishment-10PM-2AM, after 90 days the licensee may request the Licensing Commission review whether the police detail should be maintained.
- 2) Submit floor plan to Licensing Commission
- 3) In order to promptly summon Somerville Police for assistance, the establishment shall direct all staff to program the direct Somerville Police Department telephone number, (617) 625-1212, into their cell phones, as cell phone calls to 911 are directed to the State Police rather than the Somerville Police. The Somerville Police telephone number shall also be posted at all phones in the establishment as a reminder.
- 4) All staff shall wear matching shirts/blouses that read STAFF or SECURITY in block letters on their back, so as to be readily identifiable to patrons.

Atty. DiGirolamo submitted a floor plan.

Chairman motions to accept the floor plan tonight and take it out of the recommended disposition, rule 106B-Accepted and placed on file

On a motion duly made and seconded, it was

VOTED: to accept the recommended disposition of the Assistant City Solicitor Francis X. Wright.

ALL FORMS ALCOHOLIC BEVERAGES
7 DAY RESTAURANT LICENSES

Change of Manager

Neighborhood Liquor, Inc.
163 Washington St.

Present: Attorney DiGirolamo, Aman Kalia & Isabella Kalia

Atty. DiGirolamo, representing Neighborhood Liquor, Inc. came before the Commission requesting approval for a change of manager from Aman Kalia to Isabella Kalia.

Ms. Kalia works at the store and has experience.

On a motion duly made and seconded, it was

VOTED: to grant the change of manager as presented.

Change of Hours

Bread & Company
345 Broadway

Present: Renaldo Maio

Mr. Maio came before the Commission requesting approval to extend the closing hours from 11PM to 1PM.

Mr. Maio stated that longer hours will help his business and plans to keep full menu until closing time.

Alderman Pero is in support of this application as well as is the Chamber of Commerce.

Mr. Maio submitted a petition of support for the record.

On a motion duly made and seconded, it was

VOTED: to grant the change of hours.

New Licenses

Vinny's At Night
76 Broadway

Present: Attorney Richard DiGirolamo, Vincent Magliore

Atty. DiGirolamo, representing Vinny's At Night, came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant License.

Vinny's At Night has been in business since 1984 and currently hold a beer and wine license.

Alderman Roche is in support of this application

Rob May of OSPCD is also in support.

Mr. Magliore feels different kinds of drinks would improve the business.

The Chamber of Commerce is in support.

On a motion duly made and seconded, it was

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

The Center for Arts at the Armory
191 Highland Ave.

requesting approval of a New All Forms Alcoholic Beverages 7 Day License –
(**withdrawn**)

Mariachi Foods, Inc.
d/b/a El Porto Mexican Grill
61 Union Sq.

Present: Evelio Portillo

Mr. Portillo came before the Commission requesting approval of a New All Forms Alcoholic Beverages 7 Day License and Entertainment License consisting of Audio and Entertainment by performers.

Alderman Taylor requested that the hearing be postponed until the February meeting, so that he can meet with the neighborhood.

Chairman Upton motions to hold the meeting over until the January meeting.

On motion duly made and seconded, it was

VOTED: To hold hearing at the January meeting.

COMMUNICATIONS

Resolution from the Board of Alderman, requesting the Licensing Commission change its meeting venue to a location that is equipped with microphones and that allows attendees to better hear the deliberations and decisions of the Commission. The Board will study this resolution and come up with a solution.

Resolution to the City Solicitor to find out why our licenses are being held up so long at the state.

There being no further business, the meeting was adjourned.

Respectfully submitted

Jenneen M. Pagliaro
Administrative Assistant

