

**City of Somerville  
Licensing Commission**

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

**Regular Meeting  
Monday  
December 14, 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.

Approval of Extension of hours until 2:00AM on New Years Eve for All Forms Restaurants.

**COMMON VICTUALER LICENSE**

**Red Peppers Convenience & Pizza  
67 Summer St.**

Present: Jamilson Conceicao

Mr. Conceicao came before the Commission seeking approval of a Common Victualer License for Red Peppers at 65 Summer St.

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

**Blessing Caribbean Restaurant  
89 Broadway**

Present: Fritz Richard

Mr. Richard came before the Commission seeking approval of a Common Victualer License for Blessing Caribbean Restaurant at 89 Broadway.

Mr. Richard has restaurant experience.

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

**Primo's Pizza**  
**284 Broadway**

Present: Stephen Rasetta

Mr. Rasetta came before the Commission seeking approval of a Common Victualer License for Primo's Pizza at 284 Broadway.

Mr. Rasetta stated he is reopening this business. The business originally belonged to family but they had some financial issues so he is taking over.

There will be no structural changes to the building.

Mr. Rasetta is waiting for to sign the new lease on the building.

Along with the application, a floor plan and menu 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 for a Reveillon Feast to be held at the school gymnasium, 12 Properzi Way on December 19, 2009 from 9PM-1AM.

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 approve 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 at an Acoustic Music Showcase on January 8, 9, 15 & 16, 2010 from 7PM-11PM.

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 approve the Special Alcohol License as presented.

**B.E.E.F, Inc.**  
**d/b/a Fasika**  
**145-147**

Present: Assistant City Solicitor Francis Wright & Befekadu Defar

Mr. Defar reported back on violation that occurred on Feb. 27, 2009

ASC stated that this was a violation that went to criminal court & Mr. Defar reported back the status to the Commission.

Mr. DeFar stated that the charges were dismissed. Inspector Chaille concluded this to be true and a motion was made to place this matter on file.

Upon motion duly made and seconded, it was

VOTED: To place this matter on file.

**STATUS REPORT-CONTINUED FROM NOVEMBER 16, 2009 MEETING**

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

Present: Assistant City Solicitor Francis Wright & Hildo DaCosta

Mr. DaCosta stated for the record that he was confused as to the meeting date for last months hearing and that is why he was not in attendance.

Mr. DaCosta came before the Board Regarding the report from Affiliated Monitors Systems, Inc.

Mr. DaCosta stated that Affiliated Monitoring Systems, Inc. did the training with his workers and he had sent the report to ASC Wright.

ASC noted that noted that all employees were not trained and that they all need to be trained.

ASC Wright stated that Affiliated Monitoring Systems, Inc. will visit Café Belo every other month and report the results to the City.

Motion that copies of the reports be sent to the Commission to be POF and this matter will not require a further hearing.

Motion seconded and approved

**NEW LICENSE-CONTINUED FROM NOVEMBER 16, 2009 MEETING**

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

Present: Attorney David Sokol & James Na

Attorney Sokol, representing Yoshi's came before the Board requesting approval of a New All Forms Alcoholic Beverages 7 Day Restaurant License.

Atty. Sokol had appeared before the Commission three times for this application.

Mr. Sokol stated that Yoshi's is looking for a beer & Wine license.

The City does not have any beer & wine licenses available at this time.

Chairman Upton stated that the City is not supporting Yoshi's for an All Forms License.

Chairman Upton motioned to keep door open so that the applicant can work with the City to resolve this issue.

Motion seconded and moved.

**VIOLATION HEARING CONTINUED FROM NOVEMBER 16, 2009 MEETING**

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

Present: Assistant City Solicitor Francis Wright, Atty. Ann Vigorito, Atty. Richard DiGirolamo, Martin Murphy & Shane Beckstead.

Atty. DiGirolamo representing Armur, Inc. 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.

ASC Wright stated that both parties viewed the video tape.

Atty. DiGirolamo stated that they did view the tape and saw nothing related to this issue and also stated that The Joshua Tree has been doing everything that was asked of them at the last Licensing Hearing.

Mr. Beckstead stated that the call regarding the incident came from The Joshua Tree.

Atty. DiGirolamo stated that this is not true, the call came from someone outside the establishment.

Atty. DiGirolamo stated he has a letter from a woman who stated she was at the Joshua Tree the night before and being harassed by Mr. Beckstead.

Chairman Upton stated that Mr. Beckstead needs to have some evidence to prove he was assaulted by someone from the establishment.

Commissioner Vaccaro suggested that Mr. Beckstead should take them to court, there is not enough evidence here.

ASC Wright stated that we know Mr. Beckstead was assaulted by someone, but does not know where else to go with this and Mr. Beckstead does have other ways to pursue this matter.

Mr. Beckstead stated that he has proven his case and the Joshua Tree are liars. He Also stated that he has lost respect for the Commission.

Atty. DiGirolamo requested that Mr. Beckstead have no contact with the two individuals that made statements.

Commissioner McKenna motions, no evidence to help case and request this complaint be Place on File.

Upon Motion duly made and seconded, it was

VOTED: Place this complaint on file.

Also VOTED: to Renew the Joshua Tree 2AM License.

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

**Orleans Restaurant**  
**59-65 Holland St.**

Present: Attorney DiGirolamo & Tom Devlin

Atty. DiGirolamo came before the Commission representing Orleans Restaurant, 59-65 Holland St., requesting approval to extend its official closing hour from 1AM to 2AM.

Atty. DiGirolamo stated that the establish is run in an efficient manner but would like a 2AM license due to the competition of places that already hold 2AM in the area.

Atty. DiGirolamo stated that they did meet with the Davis Sq. Task Force also spoke with Alderman Gerwitz and the abutters.

Mr. Devlin agreed that they need to address the parking situation.

Mr. Devlin owns the Comcast lot and decided that they would have no parking allowed after 10PM 7 days a week.

Atty. DiGirolamo stated that Mr. Devlin has come up with a number of restrictions that they think would help the situation.

Ald. Gerwitz thought this may work if they have certain requirements on the license.

Ald. Trane was not against the license but had some concerns with the parking issues.

The Chamber of Commerce are in support.

A few neighbors spoke in support of the license.

A few other neighbors had concerns with noise.

Ald. Trane stated he would like to work with Mr. Devlin on working out the parking issues.

Motion to approve 2AM license with the following conditions:

1. 2AM Trial period, come back before the Commission every 90 days for one year.
2. No One allowed to enter the establishment after 1AM
3. Outdoor Space to be closed at 10AM, 7 nights a week.
4. Police Detail 10:30-2:30 on Friday and Sat. nights.
5. Food to be served until 1:30AM
6. Work out an acceptable parking plan with the Alderman.
7. Staff to monitor the noise and make sure customer leave quietly.

On a motion duly made and seconded, it was

VOTED: To grant the 2AM License

Commissioner Vaccaro voted in opposition  
To 2AM license.

**Transfer, Change of Location and Change of License Type**

**Michael Pergantis**  
**d/b/a Greek American Social Construction Club, Inc.**  
**79 Bow St.**

Present: Attorney Richard DiGirolamo & Michael Pergantis

Atty. DiGirolamo came before the Commission representing Greek American Social Construction Club, Inc., 79 Bow St., requesting approval of the transfer of All Forms Alcoholic Beverages 7 Day Restaurant license (bought at auction, formerly held by Khoury's State Spa) and a Common Victualer License. Also requesting approval to change the license type to a Club License.

Atty. DiGirolamo stated that this club is a non-profit organization that was formed earlier this year for members of the Construction Industries.

Mr. Pergantis owns the building.

Atty. DiGirolamo stated that he spoke with Ald. Taylor and he is in favor on a trial basis.

Ald. Taylor was not present at this meeting.

A few people spoke in support and no one spoke in opposition.

On a motion duly made and seconded, it was

VOTED: to grant the transfer, change of location and license type.

**NEW LICENSES**

Rockwell Restaurant Group, LLC  
d/b/a Davis Square Theater, Restaurant & Lounge  
255 Elm St.

Present: Attorney Richard DiGirolamo & Ken Kelly

Atty. DiGirolamo representing Rockwell Restaurant Group, LLC came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant license. Common Victualer License and an Entertainment license consisting of shows, plays, music performances, televisions and a juke box.

Atty. DiGirolamo stated this will be a theater, restaurant on 1<sup>st</sup> level and a lounge.

Mr. Kelly stated that there is good foot traffic in Davis Sq. and this would offer neighbors something that they would not have to go outside the square to enjoy.

This will be a neighborhood restaurant with good prices.

OSPCD is in support of the license.

Ald. Gerwitz is in support, Union Sq. Main Sts and Chamber of Commerce are also in support.

On a motion duly made and seconded, it was

VOTED: to approve the All Forms Alcoholic Beverages 7 Day License, Common Victualer License and the Entertainment License.

**Dina A. Posada**  
**d/b/a The Salvadorean Restaurant**  
**402 Mystic Ave.**

Present: Attorney Richard DiGirolamo & Dina Posada

Atty DiGirolamo representing The Salvadorean Restaurant, 402 Mystic Ave., came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant license.

Atty. DiGirolamo stated that this is a family business that has been in operation for the past 16 years.

This is an area that is in need of economical development.

16 people spoke in favor of this application.

OSPCD is not in support of this application.

Chairman Upton was inclined to defer to the City's view of economic development of license.

Rob May of OSPCD stated that the City would not be opposed to a Beer & Wine license at this establishment.

Upon a motion duly made and seconded, it was

VOTED: to deny the new All Forms 7 Day Restaurant License.

**Federal Wine & Spirits Belmont, Inc.**  
**d/b/a Journeyman Restaurant**  
**9 Sanborn Court**

Present: Leonard Rothenberg, Tse Wei Lim & Diana Kudajarova

Mr. Rothenberg of Federal Wine & Spirits Belmont, Inc., d/b/a Journeyman Restaurant came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant license, a Common Victualer license and an entertainment license consisting of audio.

Mr. Rothenberg owns Federal Wine & Spirits and has restaurant experience.

The establishment will be 1470 sq. feet with seating for 36.

Some construction will be needed.

Mimi Graney of Union Sq. Main Sts. is in support.

Many spoke in support of this application, no one opposed.

Licensing Commission received 22 e-mails in support.

Upon a motion duly made and seconded, it was

VOTED: to approve the new All Forms 7 Day Restaurant License, Common Victualer & Entertainment License.

### **VIOLATIONS**

Robbat's Villa Capri, Inc.d/b/a The Genoa-Withdrawn (**Not Renewing**)

Kirkland Café d/b/a Studley-Being transferred to a new owner

Good Times Billiard, Inc.-Has 60 Days to sell license & file paperwork with the Commission.

New Asia Chinese Restaurant- Has 10 days to renew license

All of the above establishments are here before the Board for a hearing pursuant to the provision of G.L. Chapter 138, §77, see below, and G.L. c. 140, §9, see below, and Somerville Licensing Commission Rules and Regulations, Rule 1.15.a.(1) and (2), see below, to show cause why the All Forms Alcoholic Beverages 7-Day Restaurant license and Common Victualler license of the above establishment should not be revoked, or not renewed;  
to wit:-

G.L. c. 138, Section 77. The licensing authorities may, after hearing or reasonable opportunity therefor, cancel any license issued under this chapter if the licensee ceases to conduct the licensed business. If the local licensing authorities determine that a license should be cancelled as aforesaid the licensee may appeal to the commission as if such authorities had refused to grant the license upon an original application therefor, and the decision of the commission upon such appeal shall be final.

Chapter 140: Section 9. If, in the opinion of the licensing authorities, a licensee as an innholder or a common victualler ceases to be engaged in the business he is licensed to pursue, or fails to maintain upon his premises the implements and facilities required by this chapter, they shall immediately revoke his license. If a licensee at any time conducts his licensed business in an improper manner, the licensing authorities, after notice to the licensee and reasonable opportunity for a hearing, may upon satisfactory proof thereof suspend or revoke his license. An innholder who violates section seven shall forfeit his license. A licensee who is convicted a second time of the violation of any of the provisions of sections six to eighteen, inclusive, shall forfeit his license.

Somerville Licensing Commission Rule 1.15.a.(1) and (2) 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.

### **Minutes**

The Minutes of the October 19 & November 16, 2009 meetings were accepted as presented.