

**City of Somerville  
Licensing Commission**

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

**Regular Meeting  
Monday  
August 17, 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.

The minutes of the previous meeting were accepted as presented.

**COMMUNICATION**

Request for reconsideration on the wine and malt beverage restaurant license fees. Due to administrative error and a miscommunication with the City Clerk and the Mayor's Office, The Commission mistakenly adopted a raised fee for wine and malt beverage restaurant licenses.

Chairman Upton motions to revert back to old license fees.

The Motion was seconded and approved.

**SPECIAL ALCOHOL LICENSES**

**Hellenic Associates of Somerville  
29 Central Street**

Present: Paul Loutraris

Mr. Loutraris came before the Commission seeking approval of a Special Alcohol license for the Hellenic Association of Somerville for the purpose of dispensing and selling alcoholic beverages for their Annual Festival to be held at the Greek Orthodox Church Grounds, 29 Central St. on Sept. 11, 12Noon-10PM, Sept. 12, 12Noon-12Midnight & Sept. 13, 2009 12Noon-9PM.

The proceeds from this event will go to the Church. A Police and Fire Detail have been requested and experience bar tenders will be dispensing the alcoholic beverages.

On a motion duly made and seconded, it was

VOTED: to grant the Special Alcohol license as presented.

**COMMON VICTUALER LICENSES**

**SPUN**  
**860 Broadway**

Present: Jon Staff

Mr. Staff came before the Commission seeking approval of a Common Victualer license for SPUN at 860 Broadway.

Mr. Staff has food service experience.

The Chamber of Commerce is in favor of this application.

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

On a motion duly made and seconded, it was

VOTED: to approve the Common Victualer license as presented.

**Capresse Pizza N Grill**  
**516B Medford St.**

Present: Mariyan Valchev & Kalin Frangulev

Mr. Valchev & Mr. Frangulev came before the Commission seeking approval of a Common Victualer license for Capresse Pizza N Grill at 516B Medford St.

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

On a motion duly made and seconded, it was

VOTED: to approve the Common Victualer license as presented.

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

**Extension of Premises**

**Bread & Co., Inc.**  
**349 Broadway**

Present: Ronaldo Maio

Mr. Maio came before the Commission requesting approval to serve alcoholic beverages in the outdoor patio area at Bread & Co., Inc., 349 Broadway.

Alderman Pero is in favor of this application.

James Rogers, a neighbor of Bread & Co., Inc. spoke in favor of this application.

The Chamber of Commerce also spoke in favor of this application.

Upon motion duly made and seconded, it was

VOTED: to grant the Extension to Premises.

**New Licenses**

**74 LTD Inc.**  
**d/b/a Snappy Sushi**  
**420 Highland Ave.**

Present: Attorney Robert Costello, Katie Janik & Kazuhiro Aotani

Attorney Costello representing 74 LTD Inc., d/b/a Snappy Sushi came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant License and for an Entertainment License consisting of audio.

Atty. Costello stated that this license will greatly enhance the restaurant.

Ms. Janik feels that Snappy Sushi offers a unique menu and dining experience and feels that a drink would go nice with the food.

Atty. Costello stated that the business was losing customers due to lack of an alcohol license.

Commissioner McKenna requested that Atty. Costello read into the record the recommendations from the OSPCD.

Atty. Costello read the recommendations from OSPCD expressing its reservations with this establishment having an All Forms Alcoholic Beverages 7 Day Restaurant license.

The Chamber of Commerce is in support of this application.

Alderman Connolly sent a letter of support.

Jim Capano is opposed to all the new liquor licenses and stated that he is not opposed to Snappy Sushi, per say just doesn't want any more bars in the city.

Lee Auspitz, member of The Davis Square Task Force, submitted an overall complaint for the record. Mr. Auspitz also noted that OSPCD did not contact any of the City residents and Questioned what qualifications OSPCD have for giving an opinion on these licenses.

On a motion duly made and seconded, it was

VOTED: to approve the New All Forms Alcoholic Beverages 7 Day Restaurant contingent upon Alcohol service with Food and hours of closing, 10PM weekdays and 11PM on the weekends.

**East Bridge International, Inc.**  
**d/b/a Taipei Tokyo**  
**7 Holland St.**

Present: Attorney Adam Dash & Jan Huei Lin

Atty. Dash, representing East Bridge International, Inc., d/b/a Taipei Tokyo came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant License.

Atty. Dash stated that Taipei Tokyo came before this Commission last year for one of the available Beer & Wine licenses, but was not fortunate enough to receive one.

Atty. Dash stated this establishment has 28 seats. The restaurant closes at 11PM and is not looking to be any thing but a restaurant selling mostly food and also stated that it is tough to compete in Davis Square with all the other places having liquor licenses. Mr. Lin has held a Liquor License at a prior establishment in another town for five years.

Ald. Dash Stated that he spoke with Ald. Gerwitz and that she is in support of this license and also noted that he has spoken with the Davis Sq. Task Force.

Also noted Ald. Connolly sent a letter of support.

The Chamber of Commerce spoke in favor of this license.

Commissioner Vaccaro visited this establishment recently and feels that a larger percentage of this restaurant is take-out.

Mr. Lin Stated that only 25-30 percent of the business is takeout and most of the take out is during lunch time.

Chairman Upton read into the record, the recommendations from OSPCD expressing its reservations with the All Forms 7 Day Restaurant License.

Commissioner Vaccaro motioned to vote no on this application due to the amount of take out the restaurant does and the amount of liquor licenses in Davis Sq.

Chairman Upton motions to approve and Commissioner McKenna seconds the motion,

Commissioner Vaccaro votes No.

On a motion duly made and seconded, it was

VOTED: to approve the New All Forms Alcoholic Beverages 7 Day Restaurant License contingent upon Alcohol service with Food and the hours of closing to remain at 11:00PM.

**A & C Food Corp.**  
**d/b/a Zoe's Chinese Restaurant**  
**296-298 Beacon St.**

Present: Lee Sue & Jun Yang

Ms. Sue and Mr. Yang came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant License and for an Entertainment License consisting of audio and two televisions.

Ms. Sue stated that the restaurant has been calling the City for months looking for a beer & wine license and were told their were none available.

Ms. Sue stated that Zoe's Chinese Restaurant offers authentic Northern style Chinese food.

Ms. Sue stated that she had a liquor license in Brookline in the past.

The business has been open for 10 years.

Commissioner Vaccaro and Inspector Chaille stated that they visited Zoe's last week and noticed wine sitting on one of the tables.

Commissioner Vaccaro stated that he was diverted towards the kitchen as a way to distract him from the wine on the table.

Inspector Chaille saw the waitress remove the wine glasses and the alcohol.

Commissioner Vaccaro stated that the Inspector has given this establishment warnings about this issue in the past.

Commissioner Vaccaro feels that they have broken the rules and he is going to vote no.

Ms. Lin states that they ask the waitress to make sure no one bring in their own alcohol, but stated that is somewhat hard to enforce.

Ms. Lin apologizes for the incident and stated that she has made changed to the staff.

Chairman Upton commented that this is a nice restaurant and good location, but based on Commissioner Vaccaro's experience Chairman Upton motioned to table this item and have the applicant's come back in 30 days and have inspection to clear this is. It is also recommended that they have communication with the Aldermen and OSPCD and do not let anyone bring alcohol into this establishment.

On a motion duly made and seconded, it was

VOTED: to have Zoe's come back before the Commission in 30 days.

**Out of The Blue Restaurant, Inc.**  
**215 Elm St.**

Present: Attorney Issac Machado & Steve Liakos

Atty. Machado, representing Out of the Blue Restaurant came before the Commission requesting approval of a new All Forms Alcoholic Beverages 7 Day Restaurant License. (Currently hold a beer and wine license with cordials and will surrender upon approval of a new All Forms License).

Atty. Machado mentioned that Ald. Gerwitz is in support of this application.

Atty. Machado submitted some 3 letters of support for the record.

Ald. Connolly sent a letter of support for this application.

Atty Machado stated that Out of The Blue Restaurant has been in business since 2000.

Atty Machado feels that the business finds it hard to compete with just a beer and wine license and would like an All-Forms License in order to maintain its viability.

Commissioner Vaccaro stated that he recently visited the establishment and was impressed.

The Chamber of Commerce spoke in favor of this application.

Chairman Upton read into the record, the recommendations from OSPCD and expressing its support with the All Forms 7 Day Restaurant License.

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.

**Flatbread Somerville, Inc.**  
**d/b/a Flatbread Company at Sacco's Bowl Haven**  
**45 Day St.**

Present: Attorney Richard DiGirolamo & John Meehan

Atty. DiGirolamo representing Flatbread Company at Sacco's Bowl haven came before the Commission requesting approval for a new All Forms Alcoholic Beverages 7 Day Restaurant License and a New Common Victualer License.

Atty. DiGirolamo stated that this location is presently Sacco's Bowl Haven.

Atty. DiGirolamo stated that Flatbread Somerville, Inc., has entered into a 20 year lease with the option to purchase the realstate.

The plan is to have 140 seat restaurant with 10 bowling lanes and a bar area.

This will be a family oriented restaurant with a ratio of 80-20 percent food to alcohol.

Atty DiGirolamo stated that Flatbread is looking for a 12AM closing time.

They restaurant will employ approximately 50 people, 80-90 percent locally hired and will have tip trained employees.

Atty DiGirolamo stated that they have appeared before the Davis Square Task force and has their support and the support of Ald. Gerwartz.

Mr. Meehan stated that the business will serve mostly organic/healthy food.

Flatbread plans to open in December 2009.

Commissioner Vaccaro stated that he likes this concept and feels this is what the new licenses were meant for.

Mr. Meehan stated that he wants to continue the bowling leagues.

The Chamber of Commerce is in favor of this application.

Diane Ricardo & Kathy Sarno speak in favor of this application.

Ersin Dur has concerns with the crowds and speeding vehicles and is concerned that the number of incidents will increase in this area. Mr. Dur stated he is not against the business opening, just the amount of alcohol licenses in the area.

Chairman Upton read into the record, the recommendation from OSPCD expressing its support with the All Forms 7 Day Restaurant License.

On a motion duly made and seconded, it was

VOTED: to approve the All Forms 7 Day Restaurant License & Common Victualer license with conditions: Open until Midnight, Kitchen remains open until 11:30PM and wait staff service of alcohol at the lanes.

### **VIOLATION HEARINGS**

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

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

Hildo DaCosta came before the Commission to show cause why the All Forms Alcoholic Beverages 7-Day Restaurant license, Common Victualer license and Entertainment license should not be modified, suspended or revoked or the hours during which sales of alcoholic beverages may be made reduced for alleged violation of the following, to wit:-

MASSACHUSETTS GENERAL LAWS CHAPTER 138, SECTION 12 (in pertinent part) - The hours during which sales of such alcoholic beverages may be made by any licensee as aforesaid shall be fixed by the local licensing authorities either generally or specially for each licensee; provided, however, that no such sale shall be made on any secular day between the hours of two and eight o'clock antemeridian ...

MASSACHUSETTS GENERAL LAWS CHAPTER 138, SECTION 41. The delivery of alcoholic beverages in or from a building, booth, stand or other place, except a private

dwelling house, or in or from a private dwelling house if any part thereof or its dependencies is used as an inn, eating house or shop of any kind, or other place of common resort, such delivery in either case being to a person not a resident therein, shall be prima facie evidence that such delivery is a sale.

SOMERVILLE LICENSING COMMISSION RULE 1.04.j. Licensees are not permitted to allow any patron or any guest or any employee who is not working that shift to enter the premises after the official closing hour posted on the license or prior to the official opening hour posted on the license.

SOMERVILLE LICENSING COMMISSION RULE 1.05.a. Licensees may have persons, including employees, on the premises only during the following hours:  
(1) The hours on the license, except that patrons who are already on the premises prior to the official closing hour may remain on the premises and consume food and beverage served before the official closing hour for up to one-half hour after the official closing hour; provided, however, that no new patrons are admitted after the official closing hour and that no beverages are served after the official closing hour and that no food is served after the official closing hour. No employee or owner shall serve any alcoholic beverages before the official opening hour or after the official closing hour, provided, however, that any alcoholic beverages served prior to the official closing hour must be consumed no later than one-half hour after the official closing hour; (2) Personnel may be on the premises after the official closing hour and prior to the official opening hour but only if they are actively engaged in cleaning, making repairs to, or providing security for such premises or preparing food for the day's business or opening or closing the business in an orderly manner. No other persons, friends, or relatives may be on the premises with the owners, managers or employees of licensed premises during the hours when the public is excluded from the premises;

The date of the alleged offense is July 27, 2009 as reported to this commission by Somerville Police Inspector Warren Chaille.

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

Hildo DaCosta came before the Commission to show cause why the All Forms Alcoholic Beverages 7-Day Restaurant license, Common Victualer license and Entertainment license of the above-referenced establishment should not be modified, suspended or revoked or the hours during which sales of alcoholic beverages may be made reduced for alleged violation of the following, to wit:-

G.L. Chapter 138, §34-Sale, Delivery or Furnishing Alcoholic Beverages to a person under 21. No person shall receive a license or permit under this chapter who is under 21 years of age. Whoever makes a sale or delivery of any alcoholic beverage or alcohol to any person under 21 years of age, either for his own use or for the use of his parent or any

other person, or whoever, being a patron of an establishment licensed under section 12 or 15, delivers or procures to be delivered in any public room or area of such establishment if licensed under section 12, 15, 19B, 19C or 19D or in any area of such establishment if licensed under said section 15, 19B, 19C or 19D any such beverages or alcohol to or for use by a person who he knows or has reason to believe is under 21 years of age or whoever procures any such beverage or alcohol for a person under 21 years of age in any establishment licensed under section 12 or procures any such beverage or alcohol for a person under 21 years of age who is not his child, ward or spouse in any establishment licensed under said section 15, 19B, 19C or 19D or whoever furnishes any such beverage or alcohol for a person under 21 years of age shall be punished by a fine of not more than \$2,000 or by imprisonment for not more than one year or both. For the purpose of this section the word "furnish" shall mean to knowingly or intentionally supply, give, or provide to or allow a person under 21 years of age except for the children and grandchildren of the person being charged to possess alcoholic beverages on premises or property owned or controlled by the person charged. Nothing in this section shall be construed to prohibit any person licensed under this chapter from employing any person 18 years of age or older for the direct handling or selling of alcoholic beverages or alcohol.

Notwithstanding the provisions of clause (14) of section 62 of chapter 149, a licensee under this chapter may employ a person under the age of 18 who does not directly handle, sell, mix or serve alcohol or alcoholic beverages.

Somerville Licensing Commission Rule 108.i.- Whoever makes a sale or delivery of any alcoholic beverages or alcohol to any person under twenty-one years of age, either for his own use or for the use of his parent or any other person, or whoever, being a patron of an establishment licensed under section 12 or 15 of General Laws Chapter 138 delivers or procures to be delivered in any public room or area of such establishment any such beverages or alcohol to or for use of a person who he knows or has reason to believe to be under twenty-one years of age or whoever procures any such beverages or alcohol for a person under twenty-one years of age in any establishment licensed under section 12, or procures any such beverage or alcohol for a person under twenty-one years of age who is not his child, ward or spouse in any establishment that is a package store, shall be subject to disciplinary action by the Licensing Commission.

The date of the alleged offense is July 31, 2009 as reported to this commission by Somerville Police Inspector Warren Chaille.

ACS Wright stated that the Commission will hear both violations together.  
Mr. DaCosta waived the reading of the two violation letters from the City.

ACS Wright stated that on July 22, 2009 at 2:54AM Somerville Police noticed activity at Café Belo.

Earlier that evening, one of the Employees of Café Belo having been at an event where there was a professional soccer player and the employee made an error in judgment when he invited the soccer player and a group of people back to the restaurant. Mr.Hildo has

indicated to ACS Wright that he is going to under take training of his employees and make any necessary changes in the staff. As a result of this, the City is going to recommend a two day roll back of hours, closing at 11:00PM.

The second Violation was one that involved the ABCC. On Friday July 31, 2008 Investigator Chaille went out with an ABCC Investigator to conduct a compliance check and as a result Café Belo sold alcohol to a 16 year old.

ACS Wright made a joint recommendation with Mr. DaCosta for a 5 day roll back for this incident.

The total for the two incidents will be a seven day roll back to 11:00PM.

Mr. DaCosta apologized and stated he will do whatever it takes to improve the situation.

ACS Wright stated that these are two violations tonight and if they get another one it would be considered a third offense.

ACS Wright recommends 7 consecutive days.

Commissioner McKenna feels this recommendation is too light.

ACS Wright explains that he took into consideration that these two offenses took place so close together. ACS expressed to Mr. DaCosta the need for training and he needs to be on the premises.

Commissioner McKenna would like to hear an articulated plan that will upgrade the quality of the staff and would like to have it be part of the record tonight. If you can't provide it then you should inform this Board by the next meeting, the steps they are taking to improve the professionalism of this operation.

Chairman Upton moves to accept the recommendation for the roll back, However the roll back to be served Thursday, Friday, Saturday and subsequent Thursday, Friday, Saturday & Sunday, combined with the implementation of some type of private monitoring and compliance, approved by the City Solicitor and approved by the Board at the next Licensing Commission meeting. This is to be at the expense of the licensee. The monitoring should be for a minimum of 30-90 days. ACS Wright and Mr. Hildo DaCosta are to report back before this board at the next meeting.

Motion seconded and approved.

There being no further business, the meeting was adjourned.