

**FRANKLIN PLANNING BOARD
PUBLIC HEARING MEETING
September 14th, 2011**

Call to Order:

- Pledge of Allegiance.
- Roll Call

Present: Brian Colburn, Michael Freeman, Ted Starkweather, Anthony Daniel, Powell Glenn, Bob Sharon, Marty Russo, David Veysey and Planning and Zoning Administrator, Richard Lewis.
Absent: Brian Sullivan, Mayor Merrifield, and Anthony Giunta.

Member Sharon was seated in place of absent voting member Mayor Kenneth Merrifield.
Member Veysey was seated in place of absent voting member Brian Sullivan.

- Approval of Minutes: July 27th, 2011 Meeting

MOTION: Member Sharon moved and Member Starkweather seconded to approve the minutes of the July 27th, 2011 meeting as submitted. All were in favor of approving the minutes as submitted.

Old Business: None.

New Business

- Hearing for the purpose of determining whether or not to modify or revoke the Special Use Permit issued, under file number P-11-03, to Mass Investment Group, LLC, on May 25, 2011 for the establishment an assembly use space within the existing mill building. This hearing, and any decision made subsequent thereto, is necessitated by reports from, and concerns raised by, the Franklin Police Department relative to their determination that the operations of the assembly space have not been carried out in conformance with the standards and conditions outlined by the Planning Board in their decision of May 25, 2011.

Chief David Goldstein, of the Franklin Police Department, was present to speak. He has been the Police Chief for Franklin since February of 2009. He indicated he has been a police officer for over 32 years and has been a police chief in Franklin and in Massachusetts since 2004.

Chief Goldstein stated he is present regarding the Special Use Permit that was issued to Mass Investment Group in relation to 20 Canal Street. He stated he began working with Stephen Fischer and dealt with a great deal of resistance to having police presence. Chief Goldstein had informed Mr. Fischer that the detail was needed for maintenance and to ensure safety. He stated that the only issue he has with this business is that he wants to insure public safety, and that he has no problems with the music or the people.

Mr. Fischer has been less than helpful with the issue of public safety. Chief Goldstein recently found out that Mr. Fischer is only the events manager and not the business owner or the building owner. He stated that since the beginning of the business, emails have gone back and forth, and emails received from Mr. Fischer were very degrading. Sergeant Doug Voelbel was put in charge of scheduling details with Mr. Fischer, and he will testify that the contact that he has had with Mr. Fischer is less than satisfying. Chief Goldstein has stayed in touch with Mr. Fischer on the events for the hiring of the detail. The email contacts were insulting and in the emails Mr. Fischer accused Chief Goldstein of being "on the take" and he was accused of undermining. He stated that he did not bring these emails with him, but stated they are available if the board would like a copy of them.

At this time, the Chief then gave the board the most recent list of events that the police department was supplied with.

Recently Mr. Fischer's attitude has changed. Chief Goldstein stated that he came in on Monday to the office to apologize; however, he stated that the apologies of Mr. Fischer carry little weight, they are empty and he has heard them before.

Chief Goldstein stated that Sgt. Carlson was the detailed officer at 20 Canal Street on August 12, 2011, and the things that he dealt with that evening were so distressing to this seasoned and decorated Police Officer that he felt the need to file a five (5) page memo with the Patrol Commander, Lt. Clough, documenting the details of the evening. Chief Goldstein stated that Sgt. Carlson is present in case the board would like to speak with him. It was indicated that the board had received the five page memo from Sgt. Carlson.

Chief Goldstein stated that the bottom line is that in his experience and training and education, events like this require police details. He stated that he spoke with Manchester, Nashua and Hudson and they all indicated there is no question about it, and that a Police Detail is required.

He again stated that his concern is public safety of the Citizen's of Franklin and the patrons of the events. He stated that when a police enters it has a calming effect on people and that private sector security guards do not have this same affect. He stated that he is a veteran of doing security details at place like Seabrook and Motorcycle Races and stated he has seen when things go bad, and it only takes one person to create a riot. He ended by stating that a Police Detail is necessary.

Member Colburn asked Chief Goldstein what condition or further conditions are appropriate. Chief Goldstein stated a comprehensive schedule is needed, police details are necessary and if a venue does not need one he will recognize that. He added that he has received concerned emails from parents and residents about issues including drugs, alcohol and sex. He stated it is the responsibility of the Police Department and the City to insure the safety of those who attend these events. If the owner is willing to conduct the business in the appropriate way, then he is okay with that, but at the moment that has not been happening.

Member Freeman asked how the Chief of Police decides who needs a detail. Chief Goldstein indicated that it differs for each event. He stated that bands draw different individuals. He stated if a band is the event then a detail would be needed. He stated mundane events, such as book clubs, scrapbooking would not need details. He stated that his experience in this field helps him to make the decision and he added that exercising his authority has proven to be correct in this case.

Chief Goldstein stated that his officers have indicated that a large number of the faces at the events are from other communities and are not people known to the police department as citizens of Franklin.

Member Freeman asked if they sent the Chief a schedule if he would be able to determine what needs details and can notify them back. Chief Goldstein indicated that he has attempted to obtain a schedule for this purpose and one has not been provided until very recently.

Member Freeman asked how many officers are being sent to conduct the detail and Chief Goldstein indicated only one. He stated that even on opening night, when there were a lot of people present there was only one.

Member Freeman asked if security was a regular occurrence by the company. Chief Goldstein indicated that at first it was and there were three present for the building and outside; however, the last one had none that they could tell.

Richard Lewis asked the Chief if in his professional opinion if a schedule with more details was provided, would this put him in a better position to plan. Chief Goldstein indicated that it would; however, if a band is scheduled then a detail will always be necessary, due to the nature of the beast.

Member Russo asked if the Chief had time to review the letter that was submitted by the attorney for Mass Investment Group and the Chief indicated he did. Member Russo stated that in the letter they are recommending that they will have four staff members on hand and that a detail would only be necessary if there were 75 people or more and asked the Chief if he agreed with this. Chief Goldstein stated that 75 people is a lot of people and you can have problems with a lot less.

At this time Chief Goldstein asked if the board would like to hear from the Sergeant and they indicated they do not.

Attorney Maria Dolder, representing Mass Investment Group, was present to speak. She stated that Mr. Fischer is the promoter of events and not the manager. She apologized for his remarks and his language. She stated that his behavior would not be tolerated into the future and has asked Mr. Fischer to not have any further contact with the City or the police department unless it was an emergency. She agreed that public safety is key, and asked if a comprehensive schedule was okay as the schedule sometimes changes. She stated an event may not be two months in advance, as they do change items from time to time. She indicated that part of the problem with the police department was that every event up until now has needed as a police detail and there has been no flexibility on the Chief's part. She stated even if only 14 people show up, they have needed a detail and there is no way that they can hold an event if they have to pay a detail for his amount of people. She asked for more flexibility so that they can have smaller shows. She stated it is not cost effective to have a detail at most events and believes that events with 75 people or more is a logical number. She stated that hopefully the Chief will be flexible on the venue and work with them on these issues.

She stated she would like to outline the items that they are willing to propose to ensure safety:

1. There will always be a minimum of four staff members, with one at the door, one in the parking lot and they will always wear T-shirts identifying themselves.
2. The Security Staff will introduce themselves to the officer.
3. August 12th was the only evening that there were any issues and that was when they were hosting "scream bands" and they will not longer have these types of bands in the future.

She stated they have been in business for 2 ½ months and this is the first incident of this kind. Chair Colburn asked who was in charge at this particular event. Attorney Dolder stated that Alex Gorelik was. Chair Colburn asked if he is present at every show and Attorney Dolder indicated that he is.

Attorney Dolder stated that now that the word is out, they can be more flexibility with the type of bands and the type of events that they hold. She stated that they would like flexibility that if Alex cannot be present at an event that they can have another contact person.

Member Russo asked if there is any requirement that a member of Mass Investment LLC (the owner's) to be present. Attorney Dolder stated that so far a Member of Mass Investment has been at every event.

Alex Gorelik stated that he has people looking out for his best interest. He stated that he can't physically be at every show.

Member Russo asked who owns this business within the building and if he is providing the security or if the venue is providing the security. Mr. Gorelik stated that Mass Investment is the owner of the business and the building. He stated that sometimes the promoter brings their own security. Member Russo stated that this needs to be better organized. Attorney Dolder stated that Mr. Gorelik will provide four security guards and then the promoter would have their own. Alex Gorelik stated that the building is video monitored all the time. Member Russo asked if someone monitors the screens or if they are taped and Mr. Gorelik stated they are taped.

Attorney Dolder stated that they always have four security guards, they just aren't always identifiable.

Member Colburn asked if they set up for a band and the space can hold 150 people, how do they estimate how many people will show up. Mr. Gorelik stated that it is difficult to know how many will show up, sometimes there are 150 and sometimes there are 14. Mr. Gorelik stated it is hard to predict.

Member Colburn asked what type of event had only 14 people show up. Mr. Gorelik stated there have been few like this, because they have been pushed into having to have a big show in order for the show to be cost effective due to needing a detail. Member Colburn asked Mr. Gorelik if he was saying that the cost of the detail can make or break them and Mr. Gorelik stated that was correct. He stated that currently they haven't made anything off of the shows.

Member Starkweather asked what form of Identification the Security guards have and Mr. Gorelik stated they have t-shirts. He stated that due to having an officer they had to cut back on security. Member Starkweather asked if the security guards were volunteers. Mr. Gorelik stated that some are volunteers and some are paid, he stated they don't just take anyone and they have requirements. Member Starkweather asked what the requirements were and Mr. Gorelik stated that they need to be strong and good sized. Member Starkweather asked if there were any criteria to be a security guard or any training required. Mr. Gorelik did not answer. Member Starkweather asked if big guys with no training were the security and Mr. Gorelik stated that he works with what he has and they are just starting out. Member Starkweather asked if this was a work in progress and Mr. Gorelik stated that it was. Member Starkweather asked how many events they have hosted and Mr. Gorelik stated 10 or 11. Member Starkweather indicated that based on the schedule that was given, it is subject to change and Mr. Gorelik stated it is constantly changing, that they know between 1-2 months so that they can promote the event, but in some instances don't know until the doors open if the band has shown up. He stated that with every show the Bands quality and promoters get better. Member Starkweather asked if they get a 1-2 month notice if a band is going to cancel and Attorney Dolder stated that sometimes they don't know until the night of the show. Member Starkweather asked how often a venue doesn't show and Alex Gorelik stated it happened and they had to get someone else to do the show. Attorney Dolder stated that there is typically more than one band a night, with 15 minute set up time between bands, so if the next band doesn't show up, they either push a band up or have the bands each play a little longer session. Member Starkweather asked if they have the bands email them if they aren't showing up so that they can let the police department know ahead of time and Alex indicated that they do now.

Member Starkweather asked how many events have been cancelled since August 12th and Mr. Gorelik stated they have cancelled about 60% of their venues. Member Starkweather asked how many events they have cancelled since they opened and Mr. Gorelik stated all the screamer music has been cancelled. Alex Gorelik then continued by saying that these venues are booked two months in advance and they can't cancel them as

they have been advertised. Member Starkweather asked if they were cancelling or trying to replace them and Mr. Gorelik said they are trying to replace them.

Member Starkweather indicated that on May 25th the Board gave them approval with conditions and he asked Mr. Gorelik if he had seen the conditions and he stated that he had. Member Starkweather indicated that the conditions indicated that the Police Department determines if a police detail is needed and asked if he understood this. Mr. Gorelik stated he understands it somewhat. Attorney Dolder indicated that they thought there would be more flexibility.

Member Colburn asked if they have had any events that were not bands. Mr. Gorelik stated that he had artists who wanted to do shows, but that it wasn't cost effective. Member Colburn again asked if they have had an event that was not a band and Mr. Gorelik stated that they have not and that those were cancelled. Member Colburn asked if they had approached the Police Department and Attorney Dolder stated that is part of the problem. She stated the Mr. Fischer approached the police department and communicated with the police department and he felt as though there wasn't any flexibility. She stated that Mr. Fischer and the Police Chief did not have a good relationship and indicated an agreement needs to be reached.

Member Colburn stated that the original condition of the approval was that the detail was at the discretion of the Police Department. Attorney Dolder stated a more formal adult like communication is needed.

Member Sharon indicated that security is an issue. He stated that in the last year and a half to two years the Chief has done a good job with making the Police Department and the City better. He stated he has faith in the police Chief. He went on to indicate that there is no trained security on site, there is no description of their duties and indicated they enforce the rules by bringing in a big guy, with no authority, who has no training, which is just a bouncer and not a security guard. He stated the municipal parking lot is under construction.

He indicated that he has walked by this area and the language coming from the hall is atrocious. He stated that Bouncers are not acceptable and if the police department says a detail is needed then one is needed. He stated it is in the best interest of the City and not about if they are making money or not.

Member Veysey indicated that of all the venues that have currently been held that none of them have been non-musical to date and Attorney Dolder stated that was correct. Member Veysey then asked for clarification on who Mr. Fischer was and stated he is not an owner and just a promoter and Attorney Dolder stated that this was correct. Member Veysey asked who Mr. Gorelik is and Attorney Dolder stated that he is one of the owners of Mass Investment Group. Member Veysey asked if on August 12 someone from Mass Investment was there, as the Police Officer's only had contact with and only saw Mr. Fischer. Mr. Gorelik stated that he was there. Member Veysey asked if the owner was there, why did he not have any contact with the Police Officers and why did the promoter take over. Attorney Dolder indicated that normally the promoter would take control of the event. Mr. Gorelik stated that Mr. Fischer has run quite a few shows and there has only been one incident with the promoter or security and that was that night. There have been no similar incidents. Mr. Gorelik stated that all the shows are at night and the doors are not open during the day and almost no one is there during the day. He stated that Artemis has a separate door, a separate entrance, that no one else is there and it is completely controlled.

Member Veysey stated that other areas of the building are occupied by other tenants. He asked if these areas are blocked off so that no one has access to the rest of the building and so the tenants have no problems with vandalism or other issues and Alex indicated the only access to the main building is from the main entrance and they have a separate entrance. Member Veysey asked if they have control over the rest of the building

and Mr. Gorelik stated that they do. Member Veysey asked if they have control at all times and Mr. Gorelik stated that they do. Attorney Dolder stated that at the event on the 12th of August the venue brought their own security, and in going forward there will be a better plan. Member Veysey stated it only takes one event to cause hard feelings and the other tenants need to be protected. Attorney Dolder stated that she agrees. Member Veysey stated they need to resolve this and need to create an open and formal line of communication with the Chief of Police. The police should not have to chase them around to see what they are doing or to make arrangements and it is on the business to keep the Police apprised. Attorney Dolder indicated that she agrees. Member Veysey stated the owners of the business are Mass Investment and it is up to them to create a secure and safe environment for all tenants, the public, the City and all persons who may come to the events. He stated that the police department needs advance notice of the events and details on them. Attorney Dolder stated that from now on this will be done.

Member Sharon asked if the bathrooms located in the long main hallway of the building are used for this business and Alex Gorelik stated that people do not go through this hallway. Member Sharon asked if there were bathrooms within this business and Attorney Dolder stated that there are, and the only bathrooms used by the patrons are the ones within Artemis. Alex Gorelik stated that someone watches the door that leads into the hallway. Member Sharon asked about two entrances and Mr. Gorelik stated the main entrance is from the parking lot and the entrance into the hallways is for emergencies only. It was indicated the main entrance is where the handicap ramp is.

Member Starkweather asked if Mass Investment Group hires the promoters and Alex Gorelik stated that they do. Member Starkweather then indicated the promoter works for Mass Investment and Alex Gorelik stated that was correct, and that they are contractors. Member Starkweather indicated that if Mass Investment pays them, then they work for Mass Investment, and their activities and what they do falls under Mass Investment. Attorney Dolder stated that she agrees.

Member Colburn asked a few questions of the Police Chief. He asked if once a detail is ordered if the officers are paid for at least four hours or some time frame and the Chief indicated that they are not and if a detail is cancelled upon an officer's arrival they get paid for nothing. He stated they only get paid for what they actually work of the detail.

Member Colburn asked Chief Goldstein if he knows of any training for onsite security. Chief Goldstein stated he doesn't know of any, but stated that the State Police License security guards. These would be bonifide Security Guards, not bouncers. Member Colburn asked if the Franklin Police Department would certify the guards and Chief Goldstein stated they could; however, he would hesitate to do so as then the Franklin Police Department would be accepting liability of the certificate. He stated his officers go through polygraph testing, physical agility testing, lengthy background checks, psychiatric testing and other testing.

There was a lengthy discussion regarding screening and background checks for security guards. The chief indicated that normally someone would go to State Police and pay for a copy of their background check and motor vehicle record. He stated they can run checks, but that with running a Triple I, not every police department has to answer the request for information.

Mr. Lewis stated that a board member asked about security guards and training and job descriptions. He asked if the Police Chief could work with Mass Investment on developing an appropriate job description. Chief Goldstein indicated that it is a tad more complicated than this.

Public Comment

Sharyl Geisert, owner of White Tiger Karate, was present to speak. She stated that her business is in the building located at 20 Canal Street. She stated that people can roam any portion of the building and can get anywhere in the building. She stated that this is a safety issue for her students (both kids and adults) when the business is packed. She stated she has had problems with Steve Fischer, as he tried to pick a fight with her in the parking lot. She stated she has been told by teenagers that there are drugs being used; underage drinking and she had witnessed teenagers sleeping upstairs. She stated her business and other portions of the building have been vandalized, and that the kids that did it apologized for drinking, doing drugs and vandalizing her stuff.

She stated she wants to be part of the solution. She stated more businesses are needed, but a responsible person needs to be in charge. She stated that Mr. Fischer needs to not be part of the business or the community. She stated this business got shut down in Tilton at Lakes Region Fitness.

Member Russo asked when Mr. Fischer picked the fight with her. She indicated that this was the date that the business opened. She stated they have had numerous incidents and not just one. She stated that one business has already left and four more businesses are ready to move or are looking to move, including herself. She stated she can't have the kids there if she feels it is not safe for them or herself. She stated about an hour ago there was a bottle of alcohol on a window; and right before she came here it had been removed and there was a sign that said "alcohol free zone". She stated that a police detail is necessary and that if there are security guards then they need to be trained. She stated she understands the money that will need to be put in, but if they do it right they will recuperate their money and this needs to be a safe environment.

Ms. Geisert stated that she has lost students as their parents do not feel this is a safe environment. She told the parents to make sure that they walk the students in and don't let them walk by themselves in or out. She stated she is trying to be positive, but wanted to know what the cost of business is, if they allow businesses that will push other businesses out.

Nita Tomaszewski was present to speak. She stated that she works at White Tiger Karate. She indicated that Sharyl has summed up all her concerns. She stated that she teaches kick boxing and she doesn't allow any of her students to walk out alone. She stated it is pretty ridiculous in a small community like this.

She stated she has witnessed pot smoking, alcohol use, rude behavior and foul language in the hallways. She stated this is not what the town is about. She indicated that she has lost students.

She stated that she has worked as a Security Officer for YDC before and that there is cheap training available. She stated that having thugs with Security Shirts is not what is wanted.

Kathy Haines, a resident of Franklin who's son attended an event at Artemis, indicated that her son was not comfortable with what he saw going on there. She stated the company has indicated they are a work in progress, but she said this work in progress is at the expense of children. She stated that the security guards need training and background checks should be done, including motor vehicle driving record and sex offender registry. She stated that people are in the business during the day. She stated that Mr. Fischer is there all the time. She stated she has seen businesses come and go, she is all for businesses but not one's that are going to push out businesses that have been here for a while. She stated the goings on at this business need to be looked at closer.

Nate Bragdon, who has children at White Tiger Karate, was present to speak. He stated that he has lived in Franklin for six years and the biggest issue in town is business. He stated this business has a direct lack of ownership and doesn't know what is going on. He stated that different people run the business and there needs to be a clear and concise representative. He wanted to know who was taking responsibility and was going to be held accountable. He stated penalties need to be set for each offense. He stated he is all for business in Franklin, but indicated that someone needs to be accountable for what is going on here.

Annette Andreozzi was present to speak. She stated that as a City Council member she does not want the police department responsible for background checks. These can be acquired through State Police.

She stated that as a Citizen, she has heard about the business and is concerned for the citizens of Franklin and other business in the City. She stated she would like the business to strive, but not at the expense of citizen safety or at the expense of putting other businesses at risk. She stated the board needs to extend the probation period, and re-evaluate the business next summer as the business will operate differently in the winter than in the summer.

She stated that it needs to be reinforced that one person is responsible and needs to be on site. This person needs to provide the City with their contact information.

She stated if there are changes in the schedule, as entertainment is unpredictable, that the city should work with them. She stated however that the business needs to take responsibility.

She indicated there are no minimum requirements for a detail. She stated off duty police officers conduct the details and they volunteer for the shifts. She stated that if an event is cancelled there should be a minimum that is paid for that officer. She stated that if the detail is not needed after an hour, then the detail can leave, but that should be left up to the Police Department to decide. She stated this is a new business and it will take time for them to make a profit. She stated that flexibility can affect safety. She stated that if the venue is an artist, that this should be looked at on its own merits. She stated there are other concerns then just the venue, and that is the parking, people staying on location and sleeping there, vandalism and drinking in the parking lot. She stated she doesn't want drug use at the location to continue.

Angie Carey indicated that she is concerned about a detail only staying for one hour and then leaving. She indicated that it was mentioned that there are up to three bands a night. Some people may be coming for the main band, which is the third one in line to play, and doesn't want to go and watch the first two bands. Even though there are only 14 people for the first band doesn't mean there won't be a 100 for the second band. She stated that the persons between the ages of 18-23 also tend to go out later, and might night even show up until 11 p.m. She stated it would be problematic if the detail left and an hour later there were 100 people on site.

There was no further public comment.

At this time, the board spoke about recessing to confer with legal Counsel.

Richard Lewis stated that if the board can give him some feedback before they recess, that he can work on some conditions. Some of the concerns brought up included:

1. In house security needed, with these individuals receiving background checks and motor vehicle checks from State Police. It was indicated that when a venue provides security it is to protect the

- band and their equipment and they are not there to protect the interests of the community or the business itself.
2. Security guards needing training or a certificate.
 3. Attorney Fitzgerald indicated that there is training that can be obtained through the liquor commission.
 4. Need a permanently assigned contact person, who has supplied the city with all contact information.
 5. During the issues on August 12th, no one intervened except for Mr. Fischer and the question was brought up if there were any security guards there that evening and if Mr. Gorelik was present.
 6. That a schedule of events with details including band name, type of venue, maximum occupancy, expected turnout, and the security plan, and who is in charge needs to be submitted for each event.
 7. That a schedule of events needs to be supplied ahead of time. This information needs to be submitted upfront and with more information than currently is being construed.
 8. That security needs to be supplied by the owner and not by the venue.
 9. Keep civilized doors of communication open.
 10. Building access needs to be addressed, how the remainder of the building will be blocked off from this business so that patrons do not have access to the rest of the building.
 11. Security Plan needs to be submitted and will include all the issues raised this evening. This plan needs approval from Police, Fire, Planning and Zoning and Code Enforcement.
 12. That not all issues can or will be addressed this evening, that there is competent staff to deal with issues as they arise and that staff should have the ability to set additional parameters.

There was a question about condition #4 indicating a six month review necessary and this time frame is almost up. It was indicated that this time frame was for parking issues only and that the conditions as set are for the extent of the business. All conditions stand for the time frame that the business is in operation.

It was indicated that Mass Investment is the Owner of the building and of the business, being Artemis.

At 9:08 the board recessed to confer with Legal Counsel.

The board reconvened at 9:37 p.m.

MOTION: Member Daniel moved and Member Veysey seconded that because of all that the board has been presented this evening that the Planning Director prepare a draft motion for consideration by the Planning Board at the next scheduled public hearing, scheduled for September 28th, 2011 at 7:00 p.m. for continuation of the business under the Special Use Permit with the revised conditions addressing the concerns raised by the Police Department and by the public this evening.

The public were thanked for coming in and the police chief for their comments and they will be used in the determination of conditions and helping to let the board know of the issues that were present as this will help with the conditions that need to be set forth.

All were in favor and the motion passed.

Public Comment: None.

Other Business: None.

Planner's Update: None.

Adjournment

MOTION: Member Veysey moved and Member Daniel seconded to adjourn the September 14th, 2011 Regular Meeting of the Franklin Planning Board at 9:43 p.m. All were in favor and the motion passed. The meeting was adjourned at 9:43 p.m.

Respectfully Submitted,

Angela M. Carey,
Planning and Zoning Office
Assistant to the Administrator