

Saugus Board of Selectmen
March 15, 2010

The Saugus Board of Selectmen met on March 15, 2010 at 7:30PM in the Town Hall Auditorium, 298 Central Street. Present were: Selectmen Scott Crabtree, Stephen Horlick, Michael Kelleher, Michael Serino and the Chairman Donald Wong.

The Chairman called the meeting to order and said he will abstain from the following hearings and passed the Chair to Vice Chair Crabtree and excused himself from the table.

7:30 PM Show cause hearing re: JLMT Enterprises, Inc. d/b/a Tabu Ultra Lounge and Nightclub, 168 Broadway.

The Board of Selectmen has scheduled this hearing based on police reports submitted to the Board alleging that a violent incident that took place at the Mobil on the Run, located on Route 1 at 1123 Broadway, on December 13, 2009, including the discharge of firearms, originated inside of the Tabu nightclub earlier that evening. Copies of police logs and the associated reports are attached hereto and incorporated by reference herein. The Board will also hear evidence pursuant to the provisions of G.L c. 138, section 12, sixth paragraph, as to the public need for the licensed premises to remain open until 1:00 AM.

7:30 PM Show cause hearing re: JLMT Enterprises, Inc. d/b/a Tabu Ultra Lounge and Nightclub, 168 Broadway.

The Board of Selectmen has scheduled this hearing based on reports submitted to the Board alleging that Mezzanotte, LLC is, in fact, operating the licensed premises without the prior approval of the Board of Selectmen or the Alcoholic Beverages Control Commission. The Board will also hear evidence pursuant to the provisions of G.L c. 138, section 12, sixth paragraph, as to the public need for the licensed premises to remain open until 1:00 AM.

7:30 PM Show Cause hearing re: Mezzanotte, LLC d/b/a Tabu, 168 Broadway.

The Board of Selectmen has scheduled this hearing based on reports submitted to the Board alleging that Mezzanotte, LLC is, in fact, operating the licensed premises without the prior approval of the Board of Selectmen or the Alcoholic Beverages Control Commission. The Board will also hear evidence pursuant to the provisions of G.L c. 138, section 12, sixth paragraph, as to the public need for the licensed premises to remain open until 1:00 AM.

The Vice Chair read notice of public hearings. Attorney Frank Russell, 11 Dartmouth Street, Malden was present and stated he represents JLMT Enterprises, Inc. and represents Mezzanotte, LLC. Special Counsel Ira Zaleznik was also present.

Special Counsel said he had discussion with Counsel with respect to incident at Mobil on the Run and counsel is willing to stipulate to police reports if the Board agrees to stipulation. Vice Chair said the Board will take it under advisement. Mr. Kelleher suggested since the police are here and the written reports are not contested the Board could choose to accept the reports. Vice Chair said Members may have questions.

Atty. Russell said he sent correspondence to Special Counsel and Police Chief regarding a proposed resolution to the hearings. Vice Chair said he understands counsel has requests for continuance and said for clarification the letter counsel sent about the

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Board rejecting proposal, for clarification said there are open meeting laws and the Board can't consider proposals or continuance and asked he present continuance request. Atty. Russell said he is not requesting continuance on Mobil on the Run, but regarding JLMT and Mezzanotte the notice referenced reports but none were enclosed and did contact Special Counsel and he did send them this afternoon and asked for continuance on those hearings to review and digest reports. Vice Chair asked if he requested any other reports. Atty. Russell said he did not. Vice Chair said the transfer is scheduled for tomorrow night and the Board wanted the issues raised addressed before. Atty. Russell said they are prepared to withdraw transfer application tonight. Vice Chair said or they could continue it. Atty. Russell said it was clear from last meeting the transfer doesn't have support he thought it might and suggested the business is closed and remain closed and will withdraw transfer application and request the Board continue the hearings for 6 months and said Tabu is closed and is not going to re-open, and if after 6 months they don't find an acceptable buyer, then at that time they may re-open the hearings. Vice Chair asked if he received notice. Atty. Russell said he received letter but not enclosures and said when checked he did have proof of notice. Vice Chair asked if there's anything he doesn't have. Atty. Russell said he has everything now. Mr. Serino asked if they have submitted a letter to withdraw. Their Clerk said no. Atty. Russell said as part of the agreement. Vice Chair said the Board has requested information and they may need more than a week. Special Counsel read documents to produce. Vice Chair asked how much time they would need. Atty. Russell said a week from today. Vice Chair asked Special Counsel of time frame. Special Counsel said a week from tomorrow.

Mr. Kelleher moved the Board vote to continue the two hearings on JLMT Enterprises, Inc. and on Mezzanotte, LLC regarding operating without licenses; with condition they stay closed; and that they withdraw application for transfer of Licenses.

Special Counsel said to reschedule a week from tomorrow. Members discussed dates and times.

Mr. Serino moved the Board vote to continue the hearing on JLMT Enterprises, Inc. regarding operating without licenses to March 23, 2010 at 7:00PM; with condition they stay closed; and that they withdraw application for transfer of Licenses. Vice Chair seconds. Vote: 4-0.

Mr. Serino moved the Board vote to continue the hearing on Mezzanotte, LLC regarding operating without valid licenses to March 23, 2010 at 7:00PM; with condition they stay closed; and that they withdraw application for transfer of Licenses.

Vice Chair asked regarding Mobil on the Run if the Board preferred the officers' or accept the reports. Mr. Kelleher said he agrees to accept the reports because counsel has stipulated to them. Mr. Horlick said that's fine.

Atty. Russell said they have submitted letter withdrawing application for transfer of licenses and they are actively looking for a 3rd party buyer and will close for 6 months and asked the Board consider continuing the hearing to allow them to find a buyer and asked the Board if they were inclined to take up proposals. Mr. Serino said to go forward with show cause and can discuss proposals after and said to make it clear, that he has never seen the proposals. Atty. Russell said they got a sense from last meeting the Board was looking for someone different to operate the establishment and is asking for 6 months and if they find a buyer, they can cancel the hearing and agree to dismiss existing appeals and if not, the Board can re-open the proceedings or if the Board felt they were

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not actively pursuing a buyer. Vice Chair said he has concern if 6 months go by and no show cause and no buyer, now it would be almost a year. Mr. Horlick suggested they continue the show cause while they can remember and if goes on too long its not fresh in mind and said in the past under past ownership the Board went through proposals before. Mr. Serino agreed and said they should have the show cause.

The Police Chief passed out copies of reports to Board Members and counsels.

Mr. Serino moved recess to review documents. Vice Chair seconds. Vote: 4-0.

Meeting recessed at 8:22PM.

The Vice Chair called the meeting back to order at 8:43PM.

The Vice Chair said the purpose of the recess was to look over the documents presented by the police and asked counsel if he had enough time. Atty. Russell said he appreciated the recess and said this is the first he has seen the photographs and exhibits and a statement from employee of Mobil on the Run and would like further review regarding who made identification and is not prepared to address tonight and would look for additional witnesses and asked to continue to next Tuesday because this has raised some questions. Vice Chair asked about witnesses. Atty. Russell said yes, maybe 2. Mr. Kelleher said they already have the other 2 continued and if the Board agrees they could push this one over as well. Vice Chair expressed concern that they just saw the documents and request witnesses, if the Board took action it could be issue in appeal process and wants a fair and impartial hearing. Mr. Kelleher said they could proceed next week, not next month.

Mr. Kelleher moved the Board vote to continue the hearing to next Tuesday, March 23, 2010 at 7:00PM. Vice Chair seconds. Vote: 4-0.

Atty. Russell said he was unclear regarding tomorrow evening. Vice Chair said there is no need for them to come because the Board has his request in writing to withdraw application for transfer and said if he has a proposal to present he may at an open meeting now. Atty. Russell submitted copy of two letters, one regarding JLMT Enterprises, Inc. and one regarding Mezzanotte, LLC outlining the proposal they stay closed for 6 months and asking to continue the show cause hearings and if they don't have a buyer the Board may take them up; they will withdraw JLMT Enterprises pending appeals; Mezzanotte will seek a 3rd party buyer acceptable to the Board, not a nightclub operation; and asking for 6 months; they withdraw transfer application in good faith and said they are working in earnest to find a buyer and if after 6 months they are not able to find a buyer and if they have to transfer they will concede to hearings. Vice Chair asked status. Atty. Russell said they have been closed since they served the suspension. Mr. Serino said they have voluntarily closed and would not be required to turn the license into the Town. Vice Chair said they did agree to close and if he wants to hold the license he doesn't see a problem if they agree. Mr. Serino asked if they are voluntarily closed if willing to allow the Board to hold the license. Atty. Russell said it's fair. Special Counsel said if they are in agreement, with their consent he doesn't see a problem.

Mr. Kelleher moved to adjourn. Vice Chair seconds. Vote: 4-0.

Meeting adjourned at 8:57PM.

Respectfully submitted,
Wendy Reed, Clerk