

Saugus Board of Selectmen
June 16, 2010

AGENDA
Saugus Board of Selectmen
June 16, 2010, 7:30 PM
Town Hall Auditorium, 298 Central Street

- 1.) Call to order.
- 2.) Invited guests: 0
- 3.) Approval of minutes: 0
- 4.) Continued hearings:
 - (- Hot Topic for Entertainment License from 1/26 & 3/16)
(TO: 6/22/10- Crystall Kimball S-2 from 5/4/10)
 - Dunkin Donuts Extended Hours of Op. Permit from 5/25/10
 - Liquor & Entertainment Rules & Regs. from 12/16/09

Ansaug, LLC d/b/a Dunkin Donuts, 508 Lincoln Avenue, for Permit to extend hours of operation in accordance with Section 810.00 of the Town of Saugus By-Laws by allowing business to be open for operation at 4:00 AM.

Public hearing to amend the Town's Liquor Rules & Regulations 1.05 HOURS OF OPERATION for consideration of "roll back" to 1:00AM closing time; and for consideration of amending the Town's Liquor Rules & Regulations by amending section 1.12 to include a new section "Guidelines for Progressive Discipline, or any other action thereto. This hearing is being held under MGL c.138 and the Town of Saugus Liquor Rules & Regulations.

Public hearing to amend the Town's Entertainment Rules & Regulations 1.05 HOURS OF OPERATION for consideration of "roll back" to 1:00AM closing time; and for consideration of amending the Town's Entertainment Rules & Regulations by amending section 1.12 to include a new section "Guidelines for Progressive Discipline, or any other action thereto.

Correspondence
0

Member's Motions
Citizen's Forum
(Posted on 5/28/10 & amended on 6/9/10)

Saugus Board of Selectmen
June 16, 2010

The Saugus Board of Selectmen met on June 16, 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.

Invited guests: None this evening.

Approval of minutes: None this evening.

Continued hearing: - Dunkin Donuts Extended Hours of Op. Permit from 5/25/10 Ansaug, LLC d/b/a Dunkin Donuts, 508 Lincoln Avenue, for Permit to extend hours of operation in accordance with Section 810.00 of the Town of Saugus By-Laws by allowing business to be open for operation at 4:00 AM.

Paul Bunker, Dunkin Donuts was present and said the Board of Health issued letter withdrawing objection. Mr. Kelleher asked what tells him customers want 4am service. Mr. Bunker explained locations and did try it here with big response but once he was notified they needed a Permit he filed with the Board and did collect signatures on a petition. Mr. Kelleher asked what time they open now. Mr. Bunker said 6am. Mr. Kelleher said there's concern with increased noise. Mr. Bunker said he doesn't see there will be any additional noise. Mr. Kelleher asked about parking. Mr. Bunker said parking lot in back and some spaces in front. Mr. Kelleher asked about deliveries. Mr. Bunker said this won't affect deliveries. Mr. Serino said he's not sure there's a 4am base and has supported 5am openings, but the parking lot is right next to residential neighborhood and is leaning toward 5am. Mr. Bunker said he did check neighboring hours and understands and agrees if the Board wants to take it insteps with a 5am opening. Mr. Crabtree said he has similar issues already raised and said there's probably a public need for earlier hours for fair competition. Mr. Horlick said he could not support a 4am opening. Mr. Crabtree asked if there're deliveries before 6am. Mr. Bunker said no. Mr. Horlick said there will be more cars and more noise and cannot support. Mr. Bunker said most customers are from the neighborhood. Mr. Crabtree asked if notice was given to the residents on the issue. Mr. Bunker said no. Mr. Kelleher said if granted it would be on a conditional basis. The Chair asked the delivery trucks to shut off engines. Mr. Bunker said that's standard procedure. Mr. Crabtree said he would have liked notice to abutters for feed back. Mr. Kelleher said if it's a problem the Board does review every year at license renewal. Mr. Serino said the License allows them to open at 6AM and there's no restriction on deliveries but the By-Law doesn't allow deliveries before 7AM. Mr. Kelleher said the By-Law covers dumpsters as well.

Any in favor? Jean Bartolo, TMMP6, asked what time employees arrive. Mr. Bunker said shortly before opening.

Any in opposition? Bill Kramich, 12 Emory Street, said he wouldn't want people coming and going and trucks at 4am at his house and said Essex St. Dunkin Donuts is a problem. Mr. Bunker said they will not have additional deliveries and they don't own Essex St. location.

Bob Cox, TMMP4, said he thinks they should schedule opening a half hour before the 1st bus and said regarding the location that handicapped parking is in rear but entrance is in front and the rear stairs are a hazard and should be addressed.

Ms. Bartolo said there's trash around on the ground. Mr. Bunker said they can put more trash cans out front. Mr. Kelleher asked he look at stair issue also. Mr. Bunker said he will. Mr. Kelleher asked he report back to the Board. Mr. Bunker said he

Saugus Board of Selectmen

June 16, 2010

will. The Chair said the Building Inspector should look at it. Mr. Crabtree explained parking and location for those unfamiliar with the area.

Mr. Kelleher moved to refer the matter to the Building Inspector with report back. Chair seconds. Vote: 5-0.

Mr. Serino said regarding Essex St. location that the Town voted against the drive through and they appealed and explained the Town passed a drive through By-Law to address issues and said that is not the issue before them tonight.

Rick Smith, TMMP3, said he received concerns from constituents and feels 14 additional hours will require additional services like deliveries and dumpster pick up and said the Board looks at the public need and feels family owned businesses in the area and this is a franchise and asked they look at what the future will hold if granted and must look long term on this because if they say yes to one how can you say no to others. Mr. Bunker said he did survey and they have plenty of room for stock and said most places are already open 24 hours or before 6am.

Joan Denahy, 18 Smith Road, said she lives in the neighborhood and noise echoes and objects to dumpster pick up at 3am and submitted a letter from another neighbor to the Board. Mr. Serino said this is the 3rd meeting on this issue and no one came and the Board needs to look at the By-Law to require applicants to notify abutters and withdrew his support for 5am opening.

The Chair read letter from Donna Federico, 7 Smith Road in opposition.

Mr. Cox said he was on the Board of Appeals when Essex St. Dunkin Donuts was voted down and they took the Town to court and sued us and we lost and that's why the drive through window is a safety issue. Mr. Crabtree asked the previous speaker if there are noise issues and traffic issues at 6am. Ms. Denahy said no, not at 6am, just the dumpster pick up. Mr. Crabtree said the Board may consider a provisional opening at 5am and don't want neighbors disturbed, but other businesses open and want to be fair. Ms. Denahy said when they first opened she came and objected and still has concern with deliveries because they were suppose to deliver by small van but they have large trucks and is concerned with delivery times. Mr. Kelleher said he cannot support this and the Board can't consider competition but can consider residential neighborhood objection. Mr. Horlick said he won't support it because of noise and disturbing the neighborhood and asked the applicant to check the dumpster schedule. Mr. Crabtree said he has the same concerns he started with and said with talking with neighbors about parking and disturbances and said there are residences there. Mr. Serino said he asked if the residences were notified and there was no notification to abutters and that's something the Board has to look at. Mr. Crabtree agreed.

Mr. Serino moved to close the hearing. Chair seconds. Vote: 5-0.

Mr. Serino moved to deny the request for the following reasons: the proximity to residential neighbors; neighborhood objection; concern of deliveries; noise complaints regarding dumpster pick up; and it does not serve a public need. Chair seconds. Mr. Kelleher speaking on the motion said the parking lot is right next to a neighborhood and touches residential property and supports the motion. Vote: 5-0.

Mr. Kelleher said regarding the issue of early dumpster pick up noted tonight that we do have a By-Law.

The Chair said he will abstain from the following hearings. Mr. Wong excused himself from the table and Vice Chair Crabtree took the Chair.

Saugus Board of Selectmen

June 16, 2010

Continued hearing: - Liquor & Entertainment Rules & Regulations from 12/16/09
Public hearing to amend the Town's Liquor Rules & Regulations 1.05 HOURS OF OPERATION for consideration of "roll back" to 1:00AM closing time; and for consideration of amending the Town's Liquor Rules & Regulations by amending section 1.12 to include a new section "Guidelines for Progressive Discipline, or any other action thereto. This hearing is being held under MGL c.138 and the Town of Saugus Liquor Rules & Regulations.

Public hearing to amend the Town's Entertainment Rules & Regulations 1.05 HOURS OF OPERATION for consideration of "roll back" to 1:00AM closing time; and for consideration of amending the Town's Entertainment Rules & Regulations by amending section 1.12 to include a new section "Guidelines for Progressive Discipline, or any other action thereto.

Vice Chair explained the two hearing will be taken up together and said a few groups spoke on the issue and the Board invited views and opinions at last meeting and the Board did hear from the public.

Any in favor? Bill Kramich, 12 Emory Street, in favor because all communities around us close at 1am and don't want last call customers coming here.

Any against?: Anthony Guthro, 86 Hobson Street, said a few bad apples shouldn't spoil the bunch and it would be a shame if good businesses had to suffer for the bad.

Any in favor? Joyce Rodenhiser, TMMP1, said this is a golden opportunity to help the people before someone gets hurt and to help improve the reputation of Saugus and to join the Towns around us that rolled back to 1am.

Any against?: none

Any in favor? Rick Smith, TMMP3, said since November the Board has done a good job and have seen incidents go down and read from a May 28, 2010 Article in the Lynn Item and said every North Shore Community has rolled back except Saugus and said the residents voted for candidates that wanted a roll back and said we need to be consistent and said food is not a problem, it's the liquor and said in the past few months the time was spent on other important issues in Town rather than parking lot incidents and show cause hearings.

Any against? Stanley Wong, Kowloon said they submitted a petition with signatures of Saugus residents and his business supports the local groups and has been in business for 60 years, a family business and a great partner of the Town with no major incidents and said people say it's only 1 hour, but his business is the only business adversely effected by the 1st roll back and will be the only business effected by this rollback and believe the Board has done a good job and said he doesn't believe it's what the majority of the people of Saugus want.

Any in favor? Bob Cox, TMMP4, said the previous speaker was allowed to speak. The Vice Chair clarified he would allow previous speakers to recap and for new information to be presented. Mr. Cox said as new information that the Town has improved the image of Saugus and some Selectmen supported the rollback before the election and have now retracted and the voters will hold them accountable and described past incidents in his neighborhood because of a liquor establishment and said the petition a previous speaker described stated "if the rollback passes, they will close at 12:00" and said this is not a

Saugus Board of Selectmen

June 16, 2010

personal issue, it's not against Kowloon, it's a pro-Town. Vice Chair said this is an emotional issue for some and said he takes all comments in consideration.

Karla de Steuben, 172 Forest Street, in favor, said it's not about Kowloon, it's about the future of Saugus and because all the communities around us close at 1AM and asked they consider the rollback and to attract businesses that will make Saugus better.

A woman employee of Kowloon asked why Kowloon, why not go after the problems, why not restrict new businesses and said she heard discussion earlier that Kane's (a family business) may open early but the Board denied Dunkin Donuts, and asked why they can't allow them to continue to be open until 2am.

Peter Maher, 11 Holden Avenue, said this is pre emptive and we have seen what has happened in the past and want it to stop and we are talking alcohol problems not donut problems.

Janet Nichols, 8 Hurd Avenue, a life long resident of Saugus said all her children live in Saugus and is in favor of rollback of alcohol and entertainment because, as taxpaying residents they want peaceful community and said other communities are in the process or have rolled back hours and feels we should to stop the negative publicity and stop incidents and feels its time to set a standard.

Janet Leuci, TMMP4, said she has an addendum to handouts she submitted previously and passed them out to Board Members and said the Board may feel they have dealt with problem locations, but at what cost, legal fees, police overtime, custodial overtime for hearings and said liquor issues has monopolized the Board's time and said the Board has recognized it because they have issued 1am licenses and said there are only 3 establishments open that late Zaza, Kowloon and Maddy's and said they are not resolving the problems, they are moving somewhere else and said Zaza has a new LLC and they did come for new d/b/a and read an advertisement and said Tabu's license is before the ABCC for appeal hearing and said Saugus is a small Town between Revere and Lynn that both have rolled back hours and they have seen a 15% & 12% reduction in crime and this is simply a matter of doing what's right for the Town.

Joan Denahy, 18 Smith Road, in favor and agree with previous speakers.

Andrew Wong, Kowloon, said he wants to create a win-win situation and said they have not had any major incidents and the Board should look at the troubled locations and they have been taken care of and said he respects the comments, but their past has had no problems and they do employ police details and explained policy and procedures and they have been a responsible business for 60 years and said they have had celebrities in after 1am and they provide a service and provide positive press for Saugus and they give to the Town and aren't against anyone.

Peter Manoogian, TMMP10, agreed with the previous speaker and believes they can craft a win-win situation and said the reputation of the Town is safe in the hands of businesses like that, but not safe with someone that comes in as food and drink and then the business changes and said he understands the system works but what we spent in legal fees and said they are the only community open until 2am and that attracts that type of business and asked they find a creative solution, if we can draft legislation or put the question on the ballot and let the people decide.

Mr. Serino said he spoke with their attorney and the Board can divide alcohol from Common Victualer's and the Board has that option.

Saugus Board of Selectmen

June 16, 2010

Florence Chandler, 220 Water Street, congratulated the Board on the money for the library and said this is about pride and integrity of the community and said the citizens have stood up and our elected representatives need to do what is necessary and once done, no one will go out of business.

Stanly Wong, Kowloon, explained the loss of 7 hours and the previous rollback was a loss of 14 hours and this will affect every employee with a loss of 21 hours of lost business.

Michael Reppucci, manager of Zaza Restaurant, said he wants to clarify what was said and said all they did was change the name of the business. Vice Chair said this hearing is for the Rules & Regulations and that is outside the scope of the hearing.

Ms. Leuci said she would like to respond to previous comments about taking hours away, that Town Meeting passed a By-Law that a Permit would be needed to operate between 2am-6am and Kowloon did come for a Permit and the Board denied it and they did file suit against the Town and later withdrew and said nothing was taken away.

Mr. Horlick moved for recess. Vice Chair seconds. Vote: 4-0.

Meeting recessed at 9:29pm.

Vice Chair called the meeting back to order at 9:41pm.

Any in favor or in opposition? Fae Saulenas, 26 Beachview Avenue, asked the Board take responsibility and read quotes from old campaign literature and said all they want is for everyone to be safe and said it is a privilege to stand before elected officials and feels the citizen messages has resonated deeply and decisions may be hard but is what they put in print.

Sean Maltais, TMMP6, asked they think outside the box and let the voters decide, make it nonbinding because it is a Saugus issue.

Mr. Kelleher said all things said he thinks they should get together and come up with a solution and can allow Saugus to speak by putting it on the ballot and said things did occur that shouldn't have, but let's get together and find the best creative solution.

Any in favor or in opposition? Anthony Guthro said he agrees and thinks they should help good businesses maybe grandfathering them in.

Mr. Serino said they have talked about a possible faze in and that is an option.

Maureen Dever, TMMP3, said she sat in their seats and the issue has taken a toll on the community with 7 years of legal fees in the \$100,000's and some are pocket licenses the Board takes and the State gives it back and there are bad apples and asked if they are really gone and said Tabu has an application coming before the Board next week, and a history of 7 years that 75% of the Board's time is spent on licensing issues and said Police Chiefs in every other community consider this a benefit and asked is there a desire for rollback with over 30% of Town Meeting supporting it and asked is there a public need and said yes the safety and reputation of the community and said Town Counsel has said the issue is time sensitive and the Board must make a decision. Vice Chair said he's not sure it's time sensitive. Ms. Dever said the Board wanted to wait and Town Counsel advised not to. Vice Chair explained the response was to a question regarding separating action to aloe redrafting of Rules & Regulations and said it's not time sensitive. Ms. Dever said it has been 6 months and hopes they make a decision.

Mr. Cox asked they consider a roll call vote and requested copy of the minutes once the hearing is closed.

Saugus Board of Selectmen

June 16, 2010

Vice Chair said most Board Members discuss and have discussion on votes and feels they will. Mr. Serino said he will be speaking on the motion and feels other Board Members will.

Ann Devlin, TMMP, TMMP1, in favor of rollback and feels its important to be consistent with other communities around us and doesn't want the something special about Saugus be last call.

Mr. Kelleher moved to close the hearing. Vice Chair seconds. Vote: 4-0.

The Vice Chair said this is a tough decision and there are many things to consider and said the past premise to rollback was based on violence and disturbances and those have gone away and is not so convinced it is necessary but is committed to rebuilding the reputation of Saugus and take a strong position on liquor issues as a past police officer for 11 years in Saugus and dealing with these issues and as a person with a family here and feels it is the responsibility of the Board as liquor board to take responsibility no matter what it takes and to try effective action with the least amount of negative impact and it's a difficult decision and has concern if not deal with individual establishments and worries about painting a broad brush if they are doing the right thing and said the Board as policy makers have a responsibility to try different action and said so far they have dealt with establishments and so far they have eliminated some issues and from that stand point he doesn't support a blanket rollback at this time and feels there are creative solutions and said its hard to compare other communities with Saugus that has Rte. 1 but is open to try and will look at other communities' Rules & Regulations and is committed to resolving issues.

Mr. Serino said there is no one more proactive on the Board than himself and said he was on the Boards that rewrote the Rules & Regulations, rolled back the Palace license, rolled back & revoked Jin's license, and Tabu's license revoked and said the Board has spent money to fight these battles and said he is going to suggest they discourage nightclubs and encourage restaurants by limiting entertainment to 1am with liquor to 2am which will discourage nightclub business and maybe fazing in a rollback or only on new licenses but thinks entertainment is the way to go.

Mr. Serino moved the Board vote to amend section 1.05 of the Town's Entertainment Rules & Regulations to limit hours of operation to 1am for liquor licensed establishments effective January 1, 2011. Vice Chair seconds. Mr. Serino speaking on the motion said the Charter proposal had a licensing board and feels the Selectmen have done a fabulous job and feels entertainment licenses are the key. Mr. Kelleher speaking on the motion said he made comments earlier that he was supportive of the idea for creative solution. Mr. Horlick speaking on the motion said last year there were incidents and he couldn't get the votes to take action and felt he had no other choice but to look at a blanket rollback for the whole Town but after the election this Board has taken action and said regarding other communities you must look at the demographics and how Saugus doesn't have places in neighborhoods like other communities and doesn't have the issues those communities have and said with Oasis, Palace, Jin & Tabu gone he cannot support a blanket rollback and in his opinion the Board has corrected the problem.

Mr. Kelleher moved a substitute motion to formulate a committee consisting of two Selectmen, 4 Town Meeting Members and members of the business community to look at creative solution. Vice Chair seconds. Mr. Horlick speaking on the substitute motion said the Board should vote the main motion and can still put a committee together

Saugus Board of Selectmen

June 16, 2010

and thinks the Board should vote yes or no on the rollback issue. Mr. Serino said he was elected to deal with liquor issues and listed actions the Board has taken and said the Board doesn't need a committee to do that. Mr. Kelleher said he's not concerned with voting tonight. Vice Chair suggested somewhere in the middle and maybe just the Selectmen come up with some proposals. Mr. Serino said they can meet with attorney. Mr. Kelleher said there has been a lot of talk about nightclub issues and Melrose Rules & Regulations have stipulation you buy food with drink and withdrew his substitute motion with no objection.

Vice Chair said everyone is trying to come up with a solution and part of the overall issue is we assume a nightclub brings violence but we have seen other type business have rave parties with no liquor and feels how to resolve needs more discussion and thinking. Mr. Horlick said he talked to the neighbors behind Jin the problems and incidents are gone there is no noise or disturbances. Mr. Kelleher said its not out of a lack of respect, but he will not support the motion because as you take options off the table it takes away from a creative solution.

Roll call vote: Mr. Crabtree, no; Mr. Horlick, no; Mr. Kelleher, no; Mr. Serino, yes.
Vote: 1-3. Motion fails.

Mr. Horlick moved the Board vote to take no action at this time. Vice Chair seconds.

Roll call vote: Mr. Crabtree, yes; Mr. Horlick, yes; Mr. Kelleher, yes; Mr. Serino, yes.
Motion passes 4-0.

Mr. Kelleher said the Board will speak with attorney and move forward and said we are not that far apart.

Mr. Wong returned to the table and resumed the Chair.

Member's Motions

Mr. Crabtree: Nothing this evening.

Mr. Serino: Nothing this evening.

Mr. Horlick: Nothing this evening.

Mr. Kelleher: Nothing this evening.

The Chair announced a newly formed Mothers of Military and read and reminded all about the welcome home banner.

Citizen's forum:

Bill Kramich, 12 Emory Street, said he requested information on the univents and has not heard anything. Mr. Kelleher said he spoke with the Manager and will follow up.

Peter Maher, 11 Holden Avenue, trying to improve Saugus one way is not investing in Rails to Trails and feels it's a perfect opportunity. The Chair said Saugus is looking at it. Mr. Kelleher explained the Bike-to-the-Sea project. Mr. Serino said he was on the Conservation Commission and supported this for years but it is a slow process.

Ray Lawrence, TMMP8, said about overnight parking that maybe only one side should be parking over night and asked the Board look into it.

The Chair thanked everyone for coming and speaking to the Board.

Mr. Kelleher moved to adjourn. Chair seconds. Vote: 5-0.

Meeting adjourned at 10:42pm.

Respectfully submitted,

Wendy Reed, Clerk