

Saugus Board of Selectmen
October 6, 2009

The Saugus Board of Selectmen met on October 6, 2009 at 7:00 PM in the Town Hall Auditorium, 298 Central Street. Present were: Selectmen Stephen Castinetti, Stephen Horlick, Michael Kelleher, Peter Rossetti Jr. and the Chairman Donald Wong.

The Chair called the meeting to order and said he will abstain and excused himself from the table. Vice Chair Castinetti took the Chair.

Show Cause Hearing on:

JIN Restaurant Group, LLC d/b/a JIN Asian Cuisine, 20 Frank Bennett Highway

Mr. Castinetti read notice of hearing and noted Special Counsel Ira Zaleznik present. Special Counsel said Counsel for JIN transmitted a letter to him and it was circulated to Board Members and asked the Board if they wanted to speak on that and said Counsel for JIN has preliminary motions to present and said the Police Chief Domenic DiMella and Detective Thomas Brooks, Boston Police are present to testify and explained Detective Brooks works in the Youth Violence Task Force and will testify in a general way on gang violence and said the matter before them is still an active investigation, but feels the testimony is important for the Board to understand what they are dealing with.

Attorney Frank Russell representing JIN was present and said he circulated a letter to the Board through their attorney and to the Police Chief and said the license holder takes the incident seriously and recognized changes need to be made and made a proposal and his client is prepared to voluntarily close from October 6 to October 30 for purpose to change the name, entertainment and focus it has had and to attract a different demographic of patrons and recognize that issues need to be addressed and said the letter details the proposal for new name "Studio 20 discothèque" but still have functions such as weddings, reunions and fundraisers and food in the restaurant will continue and said he feels by closing it will address the concerns of the Chief and while they prepare a new business plan before reopening.

Mr. Castinetti said the Board will take it under consideration but wants to hear from the Chief.

Police Chief Domenic DiMella was present and said he just got the proposal and did have some discussion 2 nights ago regarding reducing the capacity to 350 and change in entertainment and said the Town can't handle it and wants guarantee that it won't morph into what it is now and said he will not recommend if capacity and entertainment doesn't change. Mr. Rossetti asked his recommendation regarding hours. The Chief said his recommendation prepared for tonight with JIN as it is was to roll back hours to midnight and explained and said with 350 people and change in entertainment is a big difference and it's up to the Board. Mr. Horlick said when they opened they said jazz, 80's -90's music and karaoke and it changed and asked how they know it won't happen again. The Chief said by putting restrictions in place. Mr. Horlick said they did and described what they had in place and asked why take the chance again. The Chief said as it is now he recommends a roll back of hours, but if entertainment offered with restrictions not a problem for police. Atty. Russell said he wasn't here when they got the licenses and said the Board can make conditions of license. Mr. Horlick said it's on there now and read and said the Board did receive updated plan, but that was pulled back and never heard it. Atty. Russell said the license doesn't state that. Special Counsel said if agree as expressed conditions there is no confusion and asked the chief on the 350

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capacity for entire place or nightclub portion. The Chief said nightclub portion. Special Counsel asked other rooms included. The Chief said the restaurant and function rooms are not a problem and said to make his point that he is prepared to go forward with recommendation to roll back hours if there are no changes and the Board wants to but restrictions on entertainment so it doesn't morph into this again.

Mr. Castinetti called Detective Brooks to testify.

Detective Thomas Brooks Boston PD was present. Special Counsel said he appreciates him coming and explained administrative proceedings. Vice Chair administered oath. Special Counsel asked he state his name and position. Detective stated his name and said he works Boston Police Department Special Investigations Unit better known as the gang unit. Special Counsel asked cases he deals with generally. Detective said homicides, shootings, stabbings, kidnappings etc. and explained they are a proactive unit using informants and surveillance to thwart violence. Special Counsel asked they prevent by making arrests for violation of gun laws and other weapons and if guns are a high percentage of his arrests. Detective said yes. Special Counsel asked the level of sophistication of guns. Detective explained. Special Counsel asked if it's a general matter that firearms are illegally possessed. Detective said yes and explained. Special Counsel asked if it's fair to say the level of gang violence run into the use of firearms as a weapon of choice. Detective said yes. Special Counsel asked if high percentage are gang related shootings. Detective said unlawful possession and at a guess about 70% or better. Special Counsel asked generally if it's fair to say a violent act will be followed by another violent act or retribution. Detective said yes. Special Counsel asked if it's a fact of life for gangs to be in constant state of retribution. Detective described the growth of organized gangs. Special Counsel asked if organized. Detective said it varies. Special Counsel asked if a gang of 30-40 how many would be characterized as influential. Detective said 4 or 5 but it varies. Special Counsel asked if they are not recognized as influential to achieve it through retribution to elevate in gang status. Detective said yes. Special Counsel asked if the popular perception of turf or territory is true these days. Detective said its gang specific and explained. Special Counsel asked if you have an establishment where an incident of 2 gangs involved what is the significance. Detective said at a particular location it is not uncommon where they see each other for violence. Special Counsel asked if the location where they would bump into each other again and in his experience if they met in the past it's a good likelihood they would be at the location again. Detective said yes. Special Counsel asked if the likelihood for retribution is very high if seeking retribution would be an act less than a shooting. Detective said if legitimate gang, yes. Special Counsel asked regarding alcohol. Detective said in general it would exasperate. Special Counsel asked if there is any respect for human life or of innocent bystanders or if the public at large in danger. Detective said it's evident.

Attorney Russell asked he works in Boston and prior to this month if he interacted with Saugus Police Dept. Detective said no. Atty. asked when he was contacted by SPD. Detective said 3 or 4 hours ago. Atty. asked if he was familiar with incidents. Detective said yes. Atty. asked if he was involved in investigation. Mr. Castinetti said they are not to ask about incidents and the detective is present for general information. Detective said he heard about the incidents but not through SPD. Atty. asked if his involvement is with 1 or 2 or both. Detective said 1. Atty. asked if he trace incidents (in general) back to the source months or years ago. Detective said yes. Atty. asked how old between incidents.

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Detective said he was asked to give general brief testimony on gangs and doesn't want to speak on specifics at this location. Atty. asked if he knew if the "issue" predates incidents. Detective said yes. Atty. asked if prior to the 19th if there was history between them. Detective said yes. Atty. asked if he knew of any part of nightclub activity exasperated the situation. Detective said it now looks like it set off a new level of problem. Atty. asked regarding groups involved what period of time for retribution more likely. Detective said the problem is at a lull now but can't say. Atty. asked if it could happen at any time or any place. Detective said he would be leery of any evening they may get together again. Atty. asked if retribution will happen anyway no matter the entertainment or alcohol. Detective said yes. Atty. asked if incident outside was related to something inside. Detective said SPD can answer that and said he did not read the details of the case. Atty. asked if there are other places 2 groups could meet. Detective said yes. Atty. asked with proposal to close if that's something that tends to help alleviate problem or will they come back to location. Detective said they may, and said it's not about location. Atty. asked if gangs coming to Saugus exists here. Detective said to try to predict the next spot he would post the location. Atty. asked if SPD on gang issues. Detective said he doesn't know of. Atty. said he would prefer to ask more specific questions and asked if anything that connects the people from the 12th incident to the 19th incident. Detective said he does not know.

Mr. Horlick asked with today's technology is it probable if a gang is at a location to report to other members. Detective said that's how it usually happens.

Mr. Castinetti thanked the detective and asked Attorney Russell if he had motions. Atty. Russell explained proposal with capacity limited to 350 with conditions on license and if acceptable would reduce to writing they voluntarily close while they do that for a period / cool down period would be beneficial to everyone.

Mr. Horlick said he thinks they should continue with show cause. Mr. Rossetti said he thinks they should discuss the possibilities. Mr. Kelleher said he agrees with both and open communication, a proposal but he has 1 simple goal in mind to end the violence and if this ends the violence, mission accomplished and said he has been through hearings and have taken action and has been turned over and said conversation has to be had. Mr. Horlick said as he stated earlier they were to have jazz bar etc. and it turned into this and asked how to know their intent won't change. Mr. Kelleher said the Board would have to be comfortable with agreement and the Board has the ability to take immediate action and said his point is the agreement would have more teeth and feels they are in a better seat than the roll of the dice in court. Mr. Castinetti asked what if they pre-agreed to penalties. Mr. Horlick said no and said he made several motions to have them in to discuss what's going on and now look at the horrific violence and if they had them in earlier it could have resolved it. Atty. Russell said the Board already closed them down and they already suffered and said the business isn't there and am giving the Board what they want with no litigation and no appeals.

Anthony Cogliano was present and said he will not change all entertainment, just Friday night and will agree to eliminate it in the agreement. Mr. Castinetti asked if he could make a living on disco music. Mr. Cogliano said he wants to work with the Town and will work out the details with 350 capacity and entertainment change. Special Counsel asked his relationship to the business. Mr. Cogliano said he works with Wei. Special Counsel asked if he is an employee or independent. Mr. Cogliano said somewhat.

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Special Counsel asked his level of involvement with types or forms of entertainment. Mr. Cogliano said he meets every week. Atty. Russell said not to get hung up on other issues and said the agreement will be between the Town and the license holder. Special Counsel asked if he had authority to represent. Atty. Russell said yes. Mr. Horlick said it's clear in the rules & regulations not to be a nuisance and asked how they would resolve it. Special Counsel suggested that they are willing to voluntarily close pending negotiations of an agreement and will work it out and present it to the Board to vote and said there may or may not be an agreement, but they will keep it close pending an agreement. Atty. Russell said yes. Mr. Kelleher asked if an agreement is not reached they will come back and asked if it is possible if they deviate the Board has something kick in and shut down. Special Counsel said in his view the Board has more flexibility to introduce creative solutions that they could not impose by regulation. Mr. Kelleher said when the Board met with the Chief they talked about the lack of General Law and feels agreement will be stronger than General Law. Special Counsel said yes. Mr. Kelleher said his concern is to not have to come back and his one goal was to close it and that night the court overturned and asked if the court would look in favor when an agreement is broken. Special Counsel said the Town has a clear and strong position and remedy in agreement courts frequently enforce agreements. Mr. Kelleher said he doesn't want to see Orchid Nightclub ever opened again and asked if more successful with agreement or by hearing. Special Counsel said ultimately at the end of the day the court will permit an establishment to be open pending and in time get to the point take longer but if agreement benefit is get there sooner voluntarily and explained. Mr. Rossetti said he attended court hearings and heard judges agree with Town and also agree with opposition and said at least to bring into compliance temporary defense will be final and feels the Town take proper action and want to see progressive discipline and Counsel recommends negotiations are a more receptive vehicle by negotiating an agreement and not worry for 3+ weeks, no activity, and said he firmly believes negotiations are better process. Mr. Horlick said Orchid goes away and just change the name and said regarding progressive discipline that its hard when they have a business plan they didn't adhere to and they have one now not adhered to and read and said they are already in violation. Atty. Russell said that's different, not a business plan, and they will have an agreement and will work with the Town and will be happy to meet with the neighbors to address issues before they come back and said in essence they have already had a 6 day suspension and they don't take it lightly. Mr. Horlick said they submitted the plan, we didn't impose it and over a year ago the previous manager was in on incident and he said no more nightclub. Atty. Russell said that's subject for hearing. Mr. Kelleher said the Board must be comfortable with agreement, an agreement with teeth and doesn't disagree and said we're upset at incidents and there's a sense of harsh punishment, but feel and concern an agreement can be worked out and will be closed until all in agreement and want to make sure what tomorrow looks like so it never happens again.

The Chief said he came prepared for show cause recommendation to roll back hours to midnight and agree with Mr. Kelleher they need teeth and need agreement with teeth and he is worried for the community, patrons and officers and said they did have a police presence on the 19th and explained they were there with lights on towing vehicles and it still happened with police presence. Mr. Kelleher said he seeks advice from Counsel and Police Chief and if they agree and asked the Chief if he is comfortable with

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the process. The Chief said yes if closed in meantime. Special Counsel said to make clear only Orchid portion will close but functions and restaurant open. The Chief said yes. Mr. Kelleher said he would like the agreement to state nothing to be operating as a nightclub. Atty. Russell said he will draft letter to counsel.

Mr. Castinetti asked functions that are booked. Mr. Cogliano said weddings, shower, christening, class reunion and fundraiser. Special Counsel asked if they were all private functions. Mr. Cogliano said yes. Mr. Horlick asked about "men in motion" and other. Mr. Cogliano said it ended October 5. Mr. Kelleher said if both don't sign off and not go well the Board still has tomorrow evening to move forward. Atty. Russell said it will be done and will meet with the Chief and neighbors. Mr. Castinetti said he offers to close Oct. 5 – Oct. 30 and asked what's planned for Oct. 31. Atty. said nothing. Mr. Castinetti asked why not close through Oct. 31. Mr. Cogliano said a responsible '70's – '80's costume ball to kick off the new club. Mr. Castinetti said the violence has to stop. Mr. Cogliano agreed. Mr. Castinetti said Town Meeting Members presented a petition for 1:00AM closing and at some point they will face it and asked if they would voluntarily agree to 1:00AM. Mr. Cogliano said he's not in favor and explained problems start when club closes and trying to push people out the door in a half hour does nothing to alleviate the problem and said they're not coming from other communities. Mr. Kelleher said moving toward an agreement if voted to revoke they would be in court tomorrow and said tonight they are committing to nothing and the nightclub closed for 3 weeks.

David Janda, 15 Enmore Rd, was sworn and said noise problems and would like to see less noise and overflow parking in neighborhood is a problem and asked for soundproofing. Mr. Castinetti asked number of people. Mr. Cogliano said 350 and said he picked up trash in the neighborhood. Mr. Kelleher said they will close for 3 weeks and neighbors will be involved and will go from 1,000 to 350 capacity.

Janet Leuci, 35 Wilbur Ave, TMMP4 said she was contacted by several neighbors and read comments and said closing hour is critical to protect neighborhood and Town. Mr. Kelleher asked if she was comfortable with how they are moving forward. Ms. Leuci said she didn't see the agreement but hope protections are in place. Mr. Kelleher said no agreement yet. Ms. Leuci said not want to see open in another room. Mr. Kelleher said no nightclub operating. Atty. Russell asked over what period of time her observations. Ms. Leuci said she went on 24th & 26th of Sept. Atty. asked if she had opportunity to relay to JIN management. Ms. Leuci said no. Mr. Horlick asked for copy for the record. Ms. Leuci gave to clerk.

Rita Passanisi, 15 Enmore Rd. was sworn and said the noise is unbelievable and she's a cancer survivor and need sleep or will further compromise her health. Mr. Kelleher apologized and said it won't happen again. Atty. Russell asked if she called management. Ms. Passanisi said no, but did call police. Mr. Kelleher said it's not incumbent on neighbors to call the place. Atty. Russell said he wants to meet with the neighbors to be aware of the issues. Ms. Passanisi said they have no consideration for neighbors. Mr. Castinetti said to contact the Board to deal with any issues.

Ramon Quiles, 1 Griswold St. was sworn and said he was here when they got license and he has called police and the Board should take the license away. Mr. Kelleher said he doesn't believe they can but will draft agreement with teeth.

Mr. Kelleher moved the Board vote to instruct Special Counsel to work toward an agreement to include the nightclub being closed through Oct. 30 and in absence of

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agreement the show cause would continue. Mr. Castinetti added with no objection the agreement be acceptable to the Board, the Police Chief and the neighborhood. Mr. Castinetti seconds.

Atty. Russell said he will provide a letter outline they will close through Oct. 30, nightclub portion while agreement is being worked out. Mr. Horlick speaking on the motion said as he said earlier the Board has an agreement not adhered to and can't support and said his concern is last time it was said by management no nightclub and there's one there and can't take chance of violence or something happening up there and the Board should continue the hearing. Mr. Kelleher said he depends on legal counsel and police chief and said the point is to make it stop and we did it tonight it is closed and agreement must have chief, us, neighborhood happy. Mr. Horlick said in the past he made different motions and could have addressed this in March and he will not support and said in his opinion they could have addressed it and would not be here today and instead they're looking at a blanket 1AM closing. Mr. Castinetti said every instance the chief recommended not to take action and now he recommends agreement and will support the chief's recommendation and he can support the chief or not, but they accomplished tonight is Orchid is done with in essence a 24 day suspension.

Mr. Rossetti moved the question. Vice Chair seconds. Vote: 3-1 with Mr. Horlick voting in opposition.

Vote on main motion: 3-1 with Mr. Horlick voting in opposition.

The Board discussed possible meeting dates.

Their clerk announced reminder last regular Board meeting before election October 20 and there will be no Member's Motions and no Citizen's Forum.

Special Counsel said he has and will provide to the Board information on emergency action regulation for discussion at Thursday's meeting.

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

Meeting adjourned at 9:27PM.

Respectfully submitted,

Wendy Reed, Clerk