

Saugus Board of Selectmen  
October 21, 2008

The Saugus Board of Selectmen met on October 21, 2008 at 7:0 PM in the Town Hall Auditorium, 298 Central Street. Present were: Selectmen Stephen Horlick, Michael Kelleher, Peter Rossetti Jr. and Vice Chairman Stephen Castinetti presiding as Chair. Mr. Wong was not present. Special Counsel Ira Zaleznik was also present.

7:00 PM Show Cause Hearing being held under MGL c.138 Section 12 & MGL c. 140 Section 183A and the Town of Saugus Liquor Rules & Regulations and the Town of Saugus Entertainment Rules & Regulations, for the purpose of the possible suspension, modification, revocation and / or cancellation of the of the Entertainment License and the All Alcoholic Beverages License of JLMT Enterprises, Inc. d/b/a Tabu Ultra Lounge and Nightclub, Carl Amato, manager, 168 Broadway and / or any such other action the Board deems necessary or appropriate. Said action is based on police reports submitted to the Saugus Board of Selectmen alleging violation of MGL c. 138 section 64 and violation of Sections 1.12(a)(1), (2), (3) & (5) and Section 1.04(a) of the Town of Saugus Liquor Rules & Regulations and Sections 1.12(a)(2) & (4) and Section 1.04(a) of the Town of Saugus Entertainment Rules & Regulations. Full reports are on file in the Board of Selectmen's Office. The Board will also hear evidence pursuant to the provisions of MGL c. 138, Section 12, sixth paragraph, as to the public need for the licensed premises to remain open until 2:00 AM.

The Chairman read letter from the Police Chief dated 9/30/08 for the record. Police Chief Domenic DiMella was present and explained his recommendation to continue the hearing for 6 months and said he met with the owners on a couple of occasions and they are showing a willingness to work with the Town and outlined his suggestions to hire a cruiser with detail on Friday & Saturday 12-2AM; increase security by 2 including a female; Thursdays a minimum of 9 security and minimum of 5 in parking lot; on Fridays and Saturdays a minimum of 14 with minimum of 8 in parking lot; lighting for internal cameras and to keep security tapes for an additional 6 days (10 days total); additional cameras outside in front and in side parking lot; and said he feels with all in place it is worth putting the hearing in abeyance for 6 months to see how the new security plan works and they reserve the right to call a show cause hearing at any time. Mr. Horlick said after the Chief's letter the police log showed incidents and asked the Chief's opinion. The Chief said after speaking with the owners and looking over time they are looking to change the image of the club / new theme and said the incidents were reported to police to prosecute and explained with nightclubs, even with security plan, incidents will happen and if they report and investigate that is what he is looking for and said not all additional incidents were prior to changes. Mr. Horlick said the security agreement was modified once before and it had to come before the Board to accept amendments. Special Counsel said he received copy of a letter memorializing conditions and put in writing from Tabu's counsel and has no problem with that approach to make sure there's no room for future misunderstandings and have drafted specific language with Atty. Russell that incorporates the terms and conditions specified by the Chief and it's his hope the Board looks favorably on continuing the show cause hearing and read last paragraph of draft agreement and recommended to the Board to adopt the recommendation of the Chief and continue the show cause hearing. The Chair asked if that addressed Mr. Horlick's concerns. Mr. Horlick said yes. Mr. Horlick said when the

Saugus Board of Selectmen  
October 21, 2008

new owners came before the Board their attorney assured the Board the new owners would not fall into the same problems and he did not vote for transfer of entertainment license because the previous owners problems and because the new owners did not have experience. The Chief said he will not diminish the seriousness of any activity on the premises, but wants to put them on notice and did come up with a plan and to make it clear he doesn't condone anything going on and this is a last ditch effort to cooperate with the Town. Mr. Kelleher said he appreciates the Chief and license holder getting together on the recommendation plan and said the point is to make sure it is run safely and concerned because whenever the Board gets a license holder in, then recommendations and plans are made and suggested to have a suspension for a short period of time and continue to work with the Chief and said we need to have something on record. The Chief said the ABCC will look for progressive discipline and this is. Mr. Kelleher said the Board has to be consistent. Mr. Rossetti said he will support the Chief's recommendation.

Mr. Rossetti moved to continue the hearing for 6 months. Chair seconds.

Mr. Kelleher moved a substitute motion for 3 day suspension within a 14 day period of their choosing. Chair seconds.

Special Counsel said the Chief's point on progressive discipline in his prospective the proceeding today is a statement to the owners and explained for suspension the Board would need to hear evidence and have not expanded the proceedings at this point and in disciplinary mode instead of 1<sup>st</sup> step in disciplinary action of a warning and unless it is consensual will not be upheld in court. Mr. Rossetti agreed and said in disciplinary action it creates a record for issues in the future. Mr. Kelleher asked if the license holder will make an offer to suspend. Atty. Frank Russell, 15 Ferry Street, Malden was present and said he appreciates the gravity of the situation, but will decline the request on behalf of his clients and said they have drafted a security agreement and given the opportunity he is sure it will work. Mr. Kelleher asked if they are willing to offer any form of voluntary suspension. Atty. Russell said he is not prepared to offer at this time. Mr. Horlick said only problem with any kind of suspension should not be at their choosing. Mr. Kelleher moved the question.

On substitute motion for 3 day suspension. Vote: 1-3 with Mr. Horlick, Mr. Rossetti and Mr. Castinetti voting in opposition.

On main motion to continue for 6 months. Mr. Horlick speaking on the motion said he cannot support the motion because the owners were aware of what they were getting into and assured the Board. Vote: 2-2 with Mr. Horlick and Mr. Kelleher voting in opposition.

Special Counsel said in proceeding this evening, they don't have witnesses here and would need to continue and explained the 2-2 vote means the motion did not pass, but it did not fail either and would need resolution from the Board to proceed.

Mr. Rossetti moved to continue the hearing. Chair seconds. Vote: 4-0.

#### Correspondence

1.) Iron Works Grill, 1185 Broadway re: response to letter requesting update.

The Chair read letter sent and response. Paul Maganzini, 28 Orsini Dr., Wakefield was present and said he's not sure how long they will be closed and is actively looking for a new owner. Mr. Kelleher said he is moving toward resolving the issue.

Saugus Board of Selectmen  
October 21, 2008

Mr. Kelleher moved the Board vote to take no action at this time. Chair seconds.  
Vote: 4-0.

Mr. Rossetti said the Board received memo from the Building Inspector re: Halloween on Auburn Street and noted the police should monitor the event.

Mr. Horlick said the Board received memo from the Building Inspector re: Jin Restaurant and said he respectfully disagrees and said he feels the business plan has changed and when the Board was there on liquor inspection he noticed construction was done and the license condition they must come back before the Board.

Mr. Horlick moved to request building permit layout before and after and for the Building Inspector to submit in a timely fashion.

Mr. Rossetti said the Building Inspector clearly states there was no structural work done. Mr. Horlick said he called the ABCC and they said according to MGL and our Rules & Regulations that change in capacity is a change in licensed premise and requires a public hearing. Mr. Kelleher said he spoke with the Building Inspector and he said nothing has changed and no activities are taking place that are not allowed. Mr. Horlick said he is concerned changes and possible other rooms being changed also. The Chair said until something happens, the Board can't speculate. Mr. Kelleher said the Board did condition the licenses, but have no evidence and no report from police and cannot do anything unless there's a violation. The Chair said he has been there before and after the changes and said they are material changes and thinks they are insignificant to warrant a modification. Mr. Horlick said when the owner came he said no nightclubs and there was an incident there and a new manager and the new manager said no nightclubs and here we are and said Lt. Sweezey worked on this and wants to get something from him.

Mr. Horlick moved to request a letter from Lt. Sweezey on what he was told regarding this business. Chair seconds. Mr. Kelleher asked the Chief to keep the Board aware and if there are any violations. Vote: 1-3 with Mr. Kelleher, Mr. Rossetti and Mr. Castinetti voting in opposition.

The Chief said he will confer with Lt. Sweezey and said the main concern is public safety.

Mr. Kelleher said everyone's aware of the Governor's drastic budget cuts and he cut funding for our senior center.

Mr. Kelleher moved the Board vote to call a Special within the Special Town Meeting for the purpose of inserting an Article. Chair seconds. Vote: 4-0.

Mr. Kelleher moved to insert his Article for funding the senior center (and read) into the Special within the Special Town Meeting Warrant. Chair seconds. Vote: 4-0.

Mr. Kelleher moved to keep the Warrant open until Tuesday (10/28/08) for the Town Manager. Chair seconds. Vote: 3-1 with Mr. Horlick voting in opposition.

Mr. Rossetti moved to adjourn. Chair seconds. Vote: 4-0.  
Meeting adjourned at 8:00 PM.

Respectfully submitted,  
Wendy Reed, Clerk