

Saugus Board of Selectmen
December 17, 2009

The Saugus Board of Selectmen met on December 17, 2009 at 6:45PM in the Town Hall first floor conference room, 298 Central Street. Present were: Selectmen Scott Crabtree, Stephen Horlick, Michael Serino and the Chairman Donald Wong.

Interviews

Karen Guarino request for reappointment to Cemetery Commission and gave her background and interests. Board Members asked questions.

Deanna Ramsden request for appointment to the Affordable Housing Trust Board of Trustees and gave her background and interests. Board Members asked questions.

The Board voted to recess to the 7PM meeting.

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The Saugus Board of Selectmen met on December 17, 2009 at 7:00 PM in the Town Hall Auditorium, 298 Central Street. Present were: Selectmen Scott Crabtree, Stephen Horlick, Michael Serino and the Chairman Donald Wong. Mr. Kelleher was not present.

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

Vice Chair said he would like to meet in executive session to discuss a legal matter before the hearing.

Mr. Horlick moved the Board vote to go into executive session to discuss a legal matter in the 1st floor conference room and to reconvene in open session. Those to be present: Selectmen Scott Crabtree, Stephen Horlick and Michael Serino; their clerk Wendy Reed, Special Counsel Ira Zaleznik and Police Chief Dominic DiMella. Vice Chair seconds.

Roll call vote: Mr. Crabtree, yes; Mr. Horlick, yes; Mr. Serino, yes. Vote: 3-0.

The Board entered into executive session at 7:12 PM.

The Board reconvened in open session at 7:40 PM.

Vice Chair said the Board has some housekeeping items first. Special Counsel said the ABCC dismissed the appeal on the 4 day suspension and it's up to the Board to select new days for when the suspension is to be served on liquor license, not entertainment, that is still under Superior Court review. Mr. Horlick asked if suspension on days they are not normally open or a day of under 18 party it could not be counted as a day of suspension. Special Counsel said it's up to the Board to select dates. Mr. Horlick suggested Saturday December 26, Sunday 27th, Monday 28th, and Thursday 31st.

Mr. Horlick moved the Board vote Tabu Liquor License suspension to be served on December 26, 27, 30 & 31st. Vice Chair seconds. Vote: 3-0.

Vice Chair asked Special Counsel about another housekeeping matter. Special Counsel said the show cause hearing directed by incident that took place on or about 11/22/09, but there has been another incident the Board may wish to consider for future show cause hearing. Police Chief Dominic DiMella was present and said on 12/13/09 there was a call for shots fired and further investigation, the parties admitted being at Tabu. Vice Chair asked time. Chief said 1:54AM. Vice Chair asked if it was still under investigation. Chief said yes.

Mr. Serino moved the Board vote to schedule a show cause hearing on that incident on February 2, 2010. Vice Chair seconds. Vote: 3-0.

Special Counsel said they are present, but written notice will still go out to licensee. Attorney Frank Russell was present. Vice Chair asked if the date works for them. Atty. Russell said yes.

7:00PM Show Cause hearing on JLMT Enterprises, Inc. d/b/a Tabu Ultra Lounge and Nightclub, Carl Amato, manager, 168 Broadway. At the hearing, the above referenced licensee is hereby directed to show cause as to why its licenses should not be revoked, suspended, modified, canceled, or why additional conditions upon the exercise of the licenses ought not to be imposed. The licensee is directed to show cause that it did not permit any disorder, disturbance, or illegality to take place in or on the licensed premises in violation of the Alcoholic License Rules and Regulations of the Entertainment License Rules and Regulations of the Town of Saugus. The licensee is further directed to show cause that it did not allow an unreasonable increase in the level

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of noise in the area of the licensed premises of the Alcoholic License Rules and Regulations, and of the Entertainment License Rules and Regulations. The Board of Selectmen has scheduled this hearing based on a report of the Chief of Police submitted to the Saugus Board of Selectmen alleging that there may have been violations of the above listed laws, rules and regulations. The Board will also hear evidence as to the public need for the licensed premises to remain open until 2:00 AM.

Present were: Special Counsel Ira Zaleznik on behalf of the Board and Atty. Frank Russell, 11 Dartmouth St., Malden representing JLMT Enterprises.

Atty. Russell noted only three Board Members present and said his client has a right to be heard before a full Board and would make himself available for a future date. Special Counsel said his objection is noted but suggested it be overruled and said there is a quorum. Vice Chair noted objection and overruled.

Special Counsel said as opening statement that he will discuss with the Board context and background of tonight's hearing to take administrative notice of prior proceedings of this licensee and said in reverse order, the Board issued decision on June 18 that resulted in a 4 day suspension discussed earlier, the appeal on it has not yet run and entertainment appeal is at Superior Court still pending and prior to that time, he suggested they take notice of decision of May 19, 2009 and read and said there have been a series of violent incidents and a shooting on May 10, 2009 and said tonight is not the 1st time they hear of violent incidents at this location and said prior to June agreement, in March 10, 2009 they took a 3 day voluntary suspension and September 2008 there were a number of violent incidents resulting in a letter adding additional security measures etc. and November 2006 another agreement again resolved a series of violent incidents and because the agreement with the previous licensee, said they will hear evidence of a stabbing that took place at the location on November 22 and will hear testimony and make a determination if the licensee violated any Rules or Regulations or conditions of licenses and suggest the Vice Chair administer oath to those that will testify.

Vice Chair administered oath to those that would testify.

Special Counsel called on the Chief of Police and asked he provide particulars of November 22. Police Chief Dominic DiMella was present and explained at 1:44AM a call came in for a stab victim in the parking lot of Tabu and read report. Special Counsel asked where it took place. Chief said they believe in the parking lot outside Tabu. Special Counsel asked area. Chief said he believes in the rear of the nightclub. Counsel said officers are here tonight. Chief said yes Det. Sgt. Gecoya and Det. Lt. Giorgetti Counsel asked as a result of the incident was an arrest made. Chief said yes and explained the victim not cooperative and no suspects at that time. Counsel asked if the person arrested was the actual stabber. Chief said no. Counsel asked he describe efforts to move investigation. Chief explained the officers went to the hospital to interview victim but was not cooperative. Counsel asked the incident that took place if 2 groups or more. Chief said he believes it was 2 groups. Counsel asked if his understanding all involved came from Tabu that evening. Chief said yes. Counsel asked if any came from any other establishment. Chief said no. Counsel asked if he knew if any measures employees took to prevent or stop it. Chief said 2 went with officers. Counsel asked if officer called 1st or did they call on their own. Chief said the detail officer called for back up. Counsel asked if any video of individuals. Chief said he doesn't know. Counsel asked if subsequent identification was made. Chief said the victim and others in the other vehicles. Counsel

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asked what identified gang affiliation. Chief said they contact Boston PD Gang Unit and they identified them. Counsel presented documents: copy of police log; copy 01-843F; narrative of Officer Vecchio; Lt. Giorgetti narrative; narrative of Officer Palumbo; narrative of Det. Sgt. Gecoya; supplemental report of Officer Wing; arrest report; and requested it be introduced into evidence. Atty. Russell noted his objection because he doesn't feel have full complete report and said there were two statements not included or provided. Counsel agreed to keep it open to include those statements. Atty. Russell said he requested them and they were not produced. Chief said it's still an open investigation. Vice Chair asked who the statements were from. Atty. said 2 bouncers and the victim. Chief noted the victim statement was not written. Special Counsel said he hasn't seen either statement and said he doesn't see reason to delay. Chief said copies are on the way. Atty. said for the record he objects they were not provided. Special Counsel said his objection may be noted and would like documents listed marked as "Exhibit 1" collectively.

Special Counsel asked the Chief if meetings with new security director ever took place. Chief said on 1 or 2 occasions. Counsel asked if any new security plan was presented. Chief said yes. Counsel asked if it was subsequent to decision of 6/18/09. Chief said yes and explained. Counsel asked in his view has security accomplished purpose. Chief said it was quiet for a little while. Special Counsel said he has no further questions at this time. Vice Chair asked staffing levels on the morning of incident. Chief said probably 4 officers. Atty. said they met on security in May and June. Chief said around then. Atty. said no incidents since implemented, but this. Chief said yes. Atty. said Nov. & Dec. escalating violence and asked besides these incidents if any other. Chief said a stabbing is escalating violence. Atty. asked period of time since adopted plan. Chief said no incidents this high in this period and believe there were small incidents but nothing escalating to this. Atty. asked if fair to say during months past only this incident to bring to Board's attention. Chief said yes. Atty. asked if there has been improvement. Chief said yes. Vice Chair said during time period an incident occurred and police were trying to gather information but staff was not cooperative. Chief said he is prepared to discuss stabbing incident and doesn't have other documents. Special Counsel said copy of statements arrived and instructed copy be given to Atty. Russell and added them to "Exhibit 1".

Mr. Serino moved for recess. Vice Chair seconds. Vote: 3-0.

Meeting recessed at 8:32PM.

Vice Chair called the meeting back to order at 9:53PM.

Vice Chair asked Atty. if he had adequate time to review statements. Atty. Russell said yes.

Atty. Russell asked Chief testimony based on review of department report. Chief said correct. Atty. asked if he did anything to prepare. Chief said he talked with officers and reviewed reports. Atty. said he did provide statements not set out in report and asked anything else is not in reports. Chief said it's basically the whole story. Atty. asked what is not in reports. Chief said some gang information. Atty. said he was not at the scene. Chief said no. Atty. said he testified he believes it took place in the parking lot. Chief said yes. Atty. said Georgetti's report states "unable to locate location of assault". Chief said Officer Vecchio's report does. Atty. asked he direct him to it. Chief read. Atty. asked what information that it occurred in parking lot. Chief said the victim was there. Atty.

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said there was a search of the area. Chief said yes. Atty. said they did not find weapon. Chief said no. Atty. said the Statement of Mr. Orlon that he observed the victim come down the hill. Chief said it does say that. Atty. said the victim was not initially in the parking lot. Chief said he was quoted as saying "just stabbed me". Atty. said its unusual at 2AM, in November to have no shirt on and asked if found the shirt. Chief said no. Atty. asked if it may have occurred up the hill and said he didn't provide a written statement and was uncooperative, but Mr. Orlon and his colleague provided written statements. Chief said yes. Atty. asked reason to disbelieve them. Chief said it's still under investigation. Atty. asked if dept. intended to get statement. Chief said yes, but he wouldn't. Atty. asked if they reached out to him after. Chief said he would need to ask Det. Gecoya. Atty. asked if they located the shirt. Chief said he doesn't believe so. Atty. said they don't have the shirt or the weapon. Chief said correct. Atty. asked about altercation inside. Chief said according to the victim statement there was. Atty. said no evidence of a weapon in Tabu. Chief said no. Atty. said they still use medal detectors. Chief said yes. Atty. asked if effectively prevent. Chief said to his knowledge. Atty. said in the statement is says 6 kids argument is different than altercation. Chief said it's in the report. Atty. said he doesn't know if just verbal or more. Chief said no, just what led to it. Atty. said there's no mention security interceded and no information the argument reached a level warranted security and the victim said he defused it. Chief said he assumed he did. Atty. asked on what basis the license holder could have foreseen. Chief said they are supposed to hire security in parking lot. Atty. said for guidance received some element of knowledge of something inside. Special Counsel said it's a legal question and should inquire about facts and suggested he ask another question. Atty. asked if there was any evidence they knew about the argument. Chief said it rose to a level where he acted to defuse it so they should have known. Atty. said he doesn't know what happened. Chief said no. Atty. asked if exchanged words outside. Chief said yes. Atty. said they arrived at 11PM and incident was at 1:30AM and asked if any information on time of argument. Chief said no. Atty. said report indicates lacerations were not life threatening. Chief said it was long but not very deep, correct. Atty. asked in his view who was more cooperative the license holder or the victim. Chief said license holder. Atty. said according to statements all people were in Tabu, an arrest for disorderly conduct was made outside not inside, one person was arrested but not for anything done inside and asked who assisted in the arrest. The Chief said he assumes it was the bouncers and read from report.

Special Counsel asked if he had opportunity to review roster of assignments for that evening and asked staffing levels. Chief said they had 6 officers on duty. Counsel said and all available units were dispatched. Chief said yes, 4 cruisers and patrol supervisor. Counsel asked if another call for police during that period would they have been able to respond. Chief read 3 other calls. Vice Chair said stabbing didn't occur in the club. Chief said there is no definite location. Mr. Serino said the victim bought 6 drinks. Chief said yes, a round. Atty. said there were 2 detail officers and prior to the incident there were 4 cruisers in the parking lot. Chief said he didn't know.

Special Counsel called Lt. Giorgetti. Lt. Det. Ronald Giorgetti was present. Special Counsel asked if on duty 11/22/09. Lt. Giorgetti said he was assigned as Patrol Supervisor 1-9 division. Counsel asked his duties and responsibilities. Lt. said to verse patrolmen. Counsel asked where that's typically performed. Lt. said on the road. Counsel

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asked if accompanied by anyone. Lt. said it's a single unit. Counsel asked number of units out that night. Lt. said 4 marked cruisers. Counsel asked if he had occasion to go to Tabu. Lt. said yes. Counsel asked how it came to be he was at Tabu. Lt. said he heard a request for ambulance for stab victim. Counsel asked where he was. Lt. said liquor inspection at ZAZA. Counsel asked how far away. Lt. said approximately 500' north. Counsel asked if it only took moments to get there. Lt. said he had to go Rte. 1 north to Lynnfield and return. Counsel asked when he arrived. Lt. said he estimates around 1:40-1:45AM. Counsel said he had lights and was traveling at high rate of speed. Lt. said correct. Counsel asked when he got there what did he see. Lt. said ambulance and security. Counsel asked about lighting. Lt. said classify as dimly lit. Counsel asked compared to rest of parking lot. Lt. said more lighting then rest of lot. Counsel asked if not well lit. Lt. said it's lit adequately. Counsel asked who he spoke to. Lt. said he spoke with Officer Vecchio who said a man was stabbed and had 1 in custody. Counsel asked if officer followed ambulance. Lt. said the on-call detective was dispatched to MA General Hospital. Counsel asked who it was. Lt. said Sgt. Det. Gecoya. Counsel asked role of on-call detective. Lt. explained. Counsel asked if people were dispersed. Lt. said correct. Counsel asked if found shirt. Lt. said they were unable to find it in parking lot or upper. Counsel asked if located knife. Lt. said not on premises or off premises. Counsel asked if they looked inside. Lt. said no. Counsel asked if he observed blood at the scene. Lt. said was unable to locate other than at scene. Counsel asked where. Lt. explained location. Counsel asked if anyplace else was open. Lt. said he didn't recall and Boston Market was not open. Counsel asked if he made a determination who the owner / user of SUV. Lt. said he stopped the SUV and directed they shut it off and 4 were identified. Counsel asked what he learned. Lt. said they had prior activities with law enforcement. Counsel asked if he located witnesses. Lt. said the only witness was the victim. Counsel asked if he made effort to locate witnesses. Lt. said yes he attempted to speak, but was unable to locate witness and spoke with several security staff and no one made statement they observed incident. Counsel asked to be clear, after speaking with employees they directed you to next property. Lt. said yes. Counsel asked if searched property. Lt. said yes and no evidence was found, no blood, no knife, and no shirt.

Atty. Russell read a part from page 2 of his report where he talks about adjacent property and asked what he was referring to. Lt. Giorgetti explained paved parking area. Atty. said he also searched auto lot. Lt. said yes. Atty. said he was still unable to locate. Atty. asked what the license holder did wrong. Lt. said he was not aware done anything wrong. Atty. asked if he was present when arrest for disorderly conduct. Lt. said he was already in custody. Atty. said police were assisted by Mr. Orlon. Lt. said Mr. Orlon provided statement he assisted. Atty. asked if able to locate black vehicles. Lt. said not black, but silver car.

Special Counsel called Sgt. Det. Gecoya. Sgt. Det. David Gecoya was present. Special Counsel asked what he was doing on 11/22/09. Sgt. Det. Gecoya said he was sleeping and was contacted to come in at approximately 2AM for a stabbing and he contacted Lt. Giorgetti and went straight to MG Hospital. Counsel asked how long to get there. Sgt. Said 20-25 minutes. Counsel asked when he arrived if able to speak to victim. Sgt. Said yes. Counsel asked where. Sgt. Said in the emergency room. Counsel asked what he said if anything. Sgt. Said initially he didn't want to speak, but had a conversation and asked what happened and he said it happened outside. Counsel asked

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where the crime scene was. Sgt. Said the crime scene was the white Toyota. Counsel asked if he said who did this. Sgt. Said the same individual he had confrontation with earlier inside and said he thought he defused it and said his brother was drunk and explained information was in his notes. Counsel asked if he told him anything else. Sgt. Said he told him the gray SUV was individual that stabbed him. Counsel asked if that statement was made at the hospital. Sgt. Said yes. Counsel asked if able to identify the individual in the car. Sgt. Said the person arrested was in that group. Counsel asked if he spoke with him. Sgt. Said yes at the station when he returned from the hospital. Counsel asked about his friends. Sgt. Said he was not forthcoming. Counsel asked about victim. Sgt. Said he spoke to him the next day and was willing to go forward and identify and appeared cooperative. Counsel asked if he met with him. Sgt. Said yes with Giorgetti and he was in good spirits, very non concerned and showed him photo array and he looked through and dismissed them. Counsel asked if the photos were people at the scene. Sgt. Said yes, they were included. Counsel asked how carefully he looked at the photos. Sgt. Said he appeared disconnected. Counsel asked in his opinion if he was fearful of retribution. Sgt. Said its possible. Counsel asked if he discussed the photos with Boston. Sgt. Said he did and about the people mentioned in the report and they were described as street gangs. Counsel asked if in progress. Sgt. Said no. Counsel asked any details not touched on. Sgt. Said more suspect information, not able to add to report at this time.

Vice Chair asked he explain how "on call" works. Sgt. Gecoya explained there are 6 detectives that work Monday through Friday and rotate on call 24 hours. Vice Chair asked how compensated. Sgt. Said overtime. Mr. Horlick asked if the victim went to the hospital on his own free will. Sgt. Said yes.

Attorney Russell said in his report it states he said he was stabbed by 2 black males. Sgt. Gecoya said it says 2 guys. Atty. asked how many in silver Buick. Sgt. Said he was not on scene. Atty. asked ethnicity of. Sgt. Said black and Spanish. Atty. asked if those in gray car were same as those in argument inside. Sgt. Said the victim stated the 6 people were the same as those in the argument. Atty. asked based on. Sgt. Said the victim told him. Atty. said not identified. Sgt. Said he didn't identify anyone. Atty. asked if possible the people inside were not the people in the car. Sgt. Said he doesn't believe so and said based on conversation and the arrested person confirmed there was an argument and the victim bought a round of drinks and thought it was defused. Atty. asked if anything the license holder did. Special Counsel objected, asking for legal conclusion. Atty. Russell said he asks based on his understanding if there was anything that would call attention and put the license holder on notice. Sgt. Said they didn't witness.

Special Counsel said he has no other witnesses.

Atty. Russell called John Orlon, security manager. John Orlon was present. Atty. said he is employed as security manager and was brought on by license holder after previous hearings. Mr. Orlon said correct. Atty. asked if he developed a security plan. Mr. Orlon said yes. Atty. asked if he was working on the date of the alleged incident on 11/22/09. Mr. Orlon said yes. Atty. asked what he saw that evening. Mr. Orlon said they were clearing the zones and explained and he was positioned by Boston Market "zone 4" and observed a clack BMW off Rte.1 pulled up by the auto lot and was called over to the side of Boston Market for an issue over there and he saw a man run over, he came from around the corner, he thinks it was a Spanish guy came over the hill with no shirt on coming into the parking lot, then chaos. Atty. asked when he saw the man what he

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observed. Mr. Orlon said he observed him come down over the hill and security staff was coming around and he saw cars pull out of the dealership. Atty. asked if he assisted in the arrest for disorderly. Mr. Orlon said yes, he had the subject and he was very aggressive and detained him. Atty. asked if there were 2 police details that night. Mr. Orlon said yes. Atty. asked before the incident how many cruisers were in the lot. Mr. Orlon said at the time 2 or 3. Atty. asked why they were there. Mr. Orlon said he thinks they were already there in the lot for closing. Atty. asked number of security. Mr. Orlon said 15 or 16. Atty. asked about argument inside and asked if he was working inside. Mr. Orlon said he was working in and out. Atty. asked if he was made aware of any argument inside. Mr. Orlon said no. Atty. asked procedure if. Mr. Orlon said try to approach and be nice. Atty. said nothing rose to the level to warrant intervention. Mr. Orlon said he would have been notified. Atty. said no knife was found inside and the stabbing wasn't inside. Mr. Orlon said correct. Atty. asked when he saw the man come down the hill did he have a laceration or wound. Mr. Orlon said he couldn't tell.

Special Counsel said he testified he saw a black BMW off Rte. 1 and asked if that's the car referred to in statement. Mr. Orlon said yes. Counsel said he made reference to a silver car and asked if identification was made. Mr. Orlon said no. Counsel said there were 2 other cars, a white SUV and a gray SUV. Mr. Orlon said correct. Counsel asked if he referred to the white SUV in his statement. Mr. Orlon said it may have been a SUV. Counsel asked what drew his attention to this area. Mr. Orlon said his security staff. Counsel said 15 people work in the lot. Mr. Orlon said correct. Counsel asked if everyone has radios. Mr. Orlon said it varies, most do, the lead guys do. Counsel asked if a lead person made the call. Mr. Orlon described the area more toward the highway. Counsel asked if he remembered who. Mr. Orlon said Robert. Counsel asked if he was 1st on scene. Mr. Orlon said to his knowledge. Counsel asked if Robert or William was working. Mr. Orlon explained back zone. Counsel asked if those were the 2 gentlemen here this evening. Mr. Orlon said no. Counsel asked who they were. Atty. Russell asked relevance. Mr. Horlick said he would like to know where they are because they have been gone a long time. Mr. Orlon said they came with him. Vice Chair asked someone to take a look around. Atty. Russell said to ask who the people are is offensive and said this is a public meeting. Special Counsel asked as security manager is he responsible to look at and review who patronizes the establishment. Mr. Orlon said yes. Counsel said he knows the regulars. Mr. Orlon said some. Counsel said he is familiar with dress / clothing style maybe associated with gangs or groups. Mr. Orlon said yes. Counsel asked if on that evening he recognized any. Mr. Orlon said no and if he did, they were turned away and not allowed in. Counsel asked if he was familiar with street gangs in Boston and asked if any employees are affiliated with groups or gangs. Atty. Russell objected. Counsel withdrew. Counsel said he testified he saw an individual with no shirt and saw blood and asked if he could tell if it was his blood or someone else's. Mr. Orlon said correct. Counsel said he saw the individual come from the car dealership and asked if before or after the call. Mr. Orlon said after. Counsel said he was called for a disturbance and asked if the individual jumped into a disturbance already bleeding. Mr. Orlon said correct.

Mr. Serino asked if any security video in or outside. Mr. Orlon said yes. Mr. Serino asked if they were working that night. Mr. Orlon said he believes it was running. Mr. Serino asked if he looked at the tape. Mr. Orlon said no. Mr. Serino asked if they don't have as security agreement to have video inside. Atty. Russell said they do and they

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maintain the tapes for 10 days. Vice Chair asked if they review tapes on different nights for security reasons. Mr. Orlon said yes. Vice Chair asked if they are ever used for staff training for identification purposes. Mr. Orlon said yes, but not for training. Vice Chair asked if he had occasion to view video from that evening. Mr. Orlon said no. Mr. Horlick asked he explain security. Mr. Orlon said they arrive about 9:30PM doors open at 10PM and explained. Mr. Horlick asked if it was busy that night. Mr. Orlon said he doesn't remember. Mr. Horlick asked if there's a cover charge. Mr. Orlon said yes. Mr. Horlick asked if he knew how many people. Mr. Orlon said he doesn't remember. Mr. Horlick asked after 12 – 1AM how many people were there. Mr. Orlon said he can't give a count. Mr. Horlick asked if it was tough to see everything that happens in there. Mr. Orlon said staff does a great job inside. Mr. Horlick said he testified there were 2 security outside there and if he says he saw the man come off the hill, then security there should have seen also. Atty. Russell objected. Vice Chair said they don't know why security did or did not make statement. Mr. Horlick said they would have seen more because they were there before him. Vice Chair asked if disturbance is not in parking lot what are staff directed to do. Mr. Orlon said approach to make sure everything is ok and if can't handle to notify him or general management.

Special Counsel asked if it's atty's intention not to call Mr. Lewis to testify. Atty. Russell said that is his intention. Special Counsel said there was a noise complaint and asked if familiar with electronic equipment. Mr. Orlon said no. Counsel showed photo to witness and asked if he recognized it. Mr. Orlon said no. Counsel asked if equipment has been changed. Mr. Orlon said he doesn't know. Counsel said since the witness doesn't know he asked Atty. Russell. Atty. Russell said he is familiar with the photo. Counsel explained it was part of past agreement and explained they set sound levels and not to have sound travel to neighborhood. Atty. Russell said the equipment is the same today and will welcome to view it and said the settings remain as on 11/2006. Mr. Serino asked who has key. Atty. Russell said they are marked to verify. Counsel suggested it be part of inspections. Vice Chair asked if part of security to deal with noise complaints. Mr. Orlon said no and he's not aware of. Vice Chair asked if he had occasion to discuss with management turning the music down. Mr. Orlon said no. Vice Chair asked if he was aware of agreement and level restrictions. Mr. Orlon said no.

Vice Chair asked if anyone was present regarding noise complaint. No one was present. Vice Chair asked the Police Chief about complaint. The Chief said there have been a number of complaints and ongoing problem set the agreement in place.

Any in favor or in opposition? None.

Mr. Horlick asked the Chief's recommendation. Chief said they have had several different agreements and they work for a period of time and then back and discussed that if they are attracting people not respectful of law and order. Mr. Horlick said didn't the license holder say they would stop certain type entertainment. Chief said the type of entertainment to attract another demographic. Special Counsel said the Board has seen evidence of extremely violent incident took place in the parking area of the establishment and its fair to say a dispute took place inside then outside resulting in a stabbing and the license holders must provide to protect the safety and welfare of patrons and employees and have failed in that duty and said this isn't one random incident, but it has happened continually and suggested the licensees violated the law, rules and regulations of the licenses and appropriate discipline ought be imposed. Atty. Russell said there is no

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evidence a license violation and said the evidence shows they were and are compliant with security agreement and incident occurring in parking area, not inside and said the evidence showed the argument wasn't physical and no reason to foresee something would occur outside it was resolved inside and said the licensee has to have some notice that something was going to happen and said there was no incident inside, no evidence that entertainment contributed or caused and said the simple fact is its still under investigation and said the licensee had no way to know what would happen and they do have policies and procedures to handle those things but this was an unforeseeable incident and no basis for disciplinary action.

Mr. Serino moved to close the public hearing. Vice Chair seconds. Vote: 3-0.

The Chief said he has recommended hearings many times over the past the level of violence seems to keep happening and progressive discipline recommends a 6 day suspension with 1AM closing rollback.

Mr. Serino moved based on the evidence that that the incident did start inside and spill outside and security personnel couldn't prevent and didn't have video clear violation and noise issue and said the poor neighbors and the licensees don't get it to turn it down and the Police Dept. had to go back to Tabu and ask again to turn it down and doesn't know what can do to stop and doesn't see an end to this and said a six day suspension with roll back of all alcoholic license and entertainment license to 1AM. Mr. Horlick agreed and added the head of security couldn't tell him how many in the club and he believes the testimony of officers are credible and believes the witness gave a truthful statement at the time and will support a 6 days suspension and 1AM closing. Vice Chair said based on evidence and testimony he believes it started in the club and spilled outside and the club is responsible for safety and is concerned with amount of disturbances that draw on our resources and based on the fact they have been before the Board and on the Chief's recommendation of progressive discipline will also support a 6 day suspension with rollback to 1AM and seconded the motion. The Board discussed adoption of decision. Mr. Serino withdrew his motion and moved a recess. Vice Chair seconds. Vote: 3-0.

Meeting recessed at 11:20PM.

Vice Chair called the meeting back to order at 11:29PM.

Vice Chair explained the findings will be drafted by Special Counsel to be served on licensee.

Mr. Serino moved the Board vote a six day suspension of all alcoholic and entertainment licenses; and a rollback to 1AM closing time with all reasons previously stated that will be drafted by Special Counsel. Vice Chair seconds. Vote: 3-0.

Mr. Horlick moved to adjourn. Vice Chair seconds. Vote: 3-0.

Meeting adjourned at 11:32PM.

Respectfully submitted,
Wendy Reed, Clerk