

Saugus Board of Selectmen
July 20, 2010

AGENDA
July 20, 2010 at 7:30 PM
Town Hall Auditorium
298 Central Street

1. Call to order.
2. Invited guests: 0
3. Approval of minutes: June 16; June 22; June 25; & July 7, 2010
4. Continued hearings: - Hot Topic for Entertainment License from 1/26; 3/16; & 6/22.
- Jalapenos transfer of License from 6/22.

5. Public hearings:

- 7:30 PAM, Inc. d/b/a LAVO Ristorante, 114 Broadway, Michael Reppucci, manager
Show Cause Hearing on allegedly closing premises without prior notice; and on allegedly performing renovations without prior approval.
- 7:45 LinXia Tian d/b/a XUT Health Center, for modification of Special Permit (S-2) voted
03/16/10 to allow massage therapy at store # E223, BY changing location to: store #S231, 1201 Broadway, Square One Mall,
- 7:55 Amy Amirault d/b/a Tiger Institute, for Special Permit (S-2) to allow a Karate /Tae Kwon
Do studio, to be located at 375 Central Street,
- 8:05 Yeung De Wong d/b/a Xing Long Chinese Restaurant, for Common Victualer's License
to be exercised at 467 Essex Street.
- 8:15 C & Y Good Pie, LLC d/b/a Domino's Pizza, for Common Victualer's License to be
located at 1268 Broadway. Application is also made for a variance to waiver the external grease trap requirement under Article IV, section 21 of the Town of Saugus Sewer Rules & Regulations.
- 8:25 DePaolis Group, Inc., located at 43 Jackson Street, for change of d/b/a from Nico's Pasta
& Panini to Urban Crust; Application is also being made to modify conditions on existing Common Victualer's License by changing the hours of operation. Application is also being made for Entertainment License for television only; and Application is also made for determination a variance to waiver the external grease trap requirement issued on 9/14/1999.

Correspondence

- 1.) School Committee re: request for Article in next Special Town Meeting Warrant.
- 2.) Police Dept. re: request for 2 Articles inserted in next Special Town Meeting Warrant.
- 3.) Border Café re: request for change of manager.
- 4.) Mr. Slattery re: request for reappointment as constable.
- 5.) Independent Living Center re; ADA Day Proclamation.

Manager's Report
Member's Motions
Citizen's Forum

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The Saugus Board of Selectmen met on July 20, 2010 at 7:30pm in the Town Hall Auditorium, 298 Central Street. Present: Selectmen Scott Crabtree, Stephen Horlick, Michael Kelleher, Michael Serino and the Chairman Donald Wong.

The Board held a moment of silence for Fred Brooks.

Approval of minutes:

Mr. Serino moved to approve the June 16, 2010 minutes. Chair seconds. Vote: 5-0.

Mr. Serino moved to approve the June 22, 2010 minutes. Chair seconds. Vote: 5-0.

Mr. Serino moved to approve the June 25, 2010 minutes. Chair seconds. Vote: 5-0.

Mr. Serino moved to approve the July 7, 2010 minutes. Chair seconds. Vote: 5-0.

Continued hearings: - Hot Topic for Entertainment License from 1/26; 3/16; & 6/22.
- Jalapenos transfer of License from 6/22.

Hot Topic, Inc., for Entertainment License located at 1277 Broadway, Unit #E-215 Square One Mall.

Susan Yee, General Manager Square One Mall was present and said the applicant is not present and asked for time to contact her tenant.

Mr. Kelleher moved to continue the hearing. Chair seconds. Vote: 5-0.

Mr. Wong excused himself from the table and Vice Chair Crabtree took the Chair. De La Mora, Inc. d/b/a Jalapenos Saugus, 168 Broadway, Alejandro Pardo, Manager for transfer of All Alcoholic Common Victualer's License FROM: JLMT Enterprises, Inc. d/b/a Tabu Ultra Lounge and Nightclub, 168 Broadway. Application is also made for Entertainment License.

Attorney Wei Jai, Temple Place, Boston was present with applicant Alex Pardo and said at last meeting there were issues and believes the concerns were addressed, money has been paid and the alarm has been scheduled for installation. Mr. Serino said the Board received their revised financial page also. Vice Chair asked if the transferee was present. Attorney Frank Russell, 11 Dartmouth St. was present with Frank Amato foreclosing party and explained payments were made and believed the fire alarm issue was resolved to the Fire Dept's satisfaction. Vice Chair said due to the extensive hearings regarding this license, the Board is looking to request and asked if his client is willing to reimburse the Town for some of those expenses. Atty. Russell said he was not aware of any request and said he doesn't represent JLMT, he does represent Mezzanotte the foreclosing authority and is not authorized to speak for JLMT and said Mr. Amato isn't in possession of the license. Vice Chair said he agrees in part, but part of the hearings dealt with and took action on his client's involvement in operating the license and asked if he's willing to reimburse \$5,000 in legal fees and asked if he wanted time to speak with his client. Atty. Russell said he would like to see the time incurred and if presented with bills and would like to see how he arrived at that figure and would ask for supporting documentation. Vice Chair asked he take 2 minutes to see if his client is willing and said they will work out the figure and asked Special Counsel if he had an idea on cost. Special Counsel Ira Zaleznik was present and said he does not. Vice Chair asked for suggestion. Special Counsel said the Board may set a starting point and ending point and see what is included. Vice Chair said they can cap it so as not to exceed \$5,000. Atty. Russell thanked the Board for the opportunity to confer with his client and said he is willing to agree to up to \$5,000 pending documentation of actual expenses. Mr. Serino asked hours of operation. Mr. Pardo said 4-11pm or 12:30 and is not open for lunch. Vice Chair said if the Board wants to vote the transfer they must first vote to rescind the revocation for

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sole purpose of transfer license and approval of ABCC. Special Counsel agreed and explained process. Mr. Serino asked number of televisions. Mr. Pardo said 10 televisions. Mr. Kelleher said he if decides he wants to open earlier he would need to come back before the Board. Mr. Pardo said he understands.

Any in favor or in opposition? None.

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

Mr. Serino moved the Board vote to rescind the revocation of the All Alcoholic Beverages License of Tabu subject to Mezzanotte's agreement to pay up to \$5,000 reimbursement to the Town pending documentation of expenses actually incurred. Vice Chair seconds. Vote: 4-0.

Mr. Serino moved to grant the request for transfer to De La Mora, Inc. d/b/a Jalapenos Saugus, 168 Broadway the All Alcoholic Beverages Common Victualer's License with hours of operation 2pm to 12 midnight and a total of 246 people; to approve Entertainment License with hours of operation 2pm to 12 midnight and a total of 246 people and 10 televisions, radio and live three piece band. Vice Chair seconds. Mr. Horlick added without objection: recommendation of Fire Dept. and other departments before license is issued. Mr. Serino speaking on the motion said the Board has requested reimbursement of legal expenses and it's a good policy because he knows legal fees are an issue in Town. Vice Chair speaking on the motion said he will support the transfer because he feels it's in the best interest of the Town and for all parties involved and saves in legal fees. Mr. Horlick speaking on the motion said it has been quiet since they closed and feels with limited entertainment he feels it will be back to what the neighbors wanted, a family style restaurant and it won't be a vacant building. Mr. Kelleher agreed the building would most likely be vacant and welcomes the change. Vote: 4-0.

Mr. Kelleher moved to take up the 7:30 public hearing. Vice Chair seconds. Vote: 4-0.

7:30 PAM, Inc. d/b/a LAVO Ristorante, 114 Broadway, Michael Reppucci, manager Show Cause Hearing on allegedly closing premises without prior notice; and on allegedly performing renovations without prior approval.

Patrick McDonald, 15 Ferry St., Malden was present and requested on Atty. Fallon's behalf to continue the hearing and said a letter requesting continuance was sent to the Board and apologized that he is unfamiliar with the case and will be unable to answer questions. Vice Chair said they are in receipt of the fax requesting continuance and the Board did, a week prior to, send a letter requesting documents and understand the request is time to prepare documents and doesn't feel more than a couple weeks should be needed. Mr. Horlick said August 10 should be plenty of time because the documents should be readily available. Vice Chair agreed and said he would like the documents prior to the hearing and will support a continuance. Mr. McDonald apologized that Atty. Fallon could not be here tonight. Vice Chair asked if Special Counsel is available that date. Special Counsel indicated so. Mr. Horlick asked the documents be submitted by July 30th.

Mr. Horlick moved to continue the hearing to August 10 at 7:00pm and documents requested to be submitted no later than July 30. Vice Chair seconds. Vote: 4-0.

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

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7:45 LinXia Tian d/b/a XUT Health Center, for modification of Special Permit (S-2) voted 03/16/10 to allow massage therapy at store # E223, BY changing location to: store #S231, 1201 Broadway, Square One Mall,

Lin Xia Tian, 3 Hazel Square, Lowell was present with Susan Yee General Manager of Square One Mall. Ms. Yee explained the same operation, just moving to new location in the mall.

Any in favor or in opposition?

Ms. Yee spoke in favor and explained the short term lease and may have to move again. The Chair asked if she is a great tenant. Ms. Yee said yes. Mr. Serino asked if the shuffling of tenants affects property taxes. Ms. Yee said she doesn't know.

Bill Kramich, 12 Emory Street, said he heard the mall is up for sale and asked if it's true. Mr. Kelleher said the Board will complete their business first and he may ask later.

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

Mr. Kelleher moved to grant the modification of Special Permit (S-2) voted 03/16/10 to allow massage therapy at store # E223, BY changing location to: store #S231, 1201 Broadway, Square One Mall. Chair seconds.

Roll call vote: Mr. Crabtree, yes; Mr. Horlick, yes; Mr. Kelleher, yes; Mr. Serino, yes; Mr. Wong, yes. Motion passes 5-0.

Ms. Yee said it has been reported in the papers the mall is for sale but the truth is Simon Properties remains principal owner, and only shares of other interested parties are for sale.

7:55 Amy Amirault d/b/a Tiger Institute, for Special Permit (S-2) to allow a Karate /Tae Kwon Do studio, to be located at 375 Central Street,

Mr. Crabtree asked to clarify location and asked if aware of parking issues on the corner. Ms. Amirault said a lot of her business is drop off and pick up and wants to be a good neighbor. Mr. Horlick asked if same hours. Ms. Amirault said yes.

Any in favor or in opposition? Arthur Grabowski, 66 Denver Street, said a band practices in there. Ms. Amirault said yes but no later than 9:00pm.

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

Mr. Kelleher moved to grant the Special Permit (S-2) to allow a Karate /Tae Kwon Do studio, to be located at 375 Central Street. Mr. Serino added the following condition without any objection: hours of operation 9am to 8:30pm. Chair seconds.

Roll call vote: Mr. Crabtree, yes; Mr. Horlick, yes; Mr. Kelleher, yes; Mr. Serino, yes; Mr. Wong, yes. Motion passes 5-0.

8:05 Yeung De Wong d/b/a Xing Long Chinese Restaurant, for Common Victualer's License to be exercised at 467 Essex Street.

Yeung De Wong, 467 Essex Street, was present. Mr. Kelleher asked if he is in operation now. Mr. Wong said yes. Their clerk explained they are take out and would like a couple of tables with 8 seats only.

Any in favor or in opposition? Bill Kramich, 12 Emory Street, said parking is a problem. Mr. Kelleher said he is familiar with the place and there is a parking lot and said the Building Inspector didn't comment on parking being an issue.

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

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Mr. Kelleher moved to grant Common Victualer's License to be exercised at 467 Essex Street with a total of 8 seats and same hours of operation. Mr. Horlick asked hours of operation. Mr. Wong said 11-11pm 7 days a week. Chair seconds. Vote: 5-0.

8:15 C & Y Good Pie, LLC d/b/a Domino's Pizza, for Common Victualer's License to be located at 1268 Broadway. Application is also made for a variance to waiver the external grease trap requirement under Article IV, section 21 of the Town of Saugus Sewer Rules & Regulations.

No one was present.

Mr. Kelleher moved to continue the hearing to August 10. Chair seconds.

Vote: 5-0.

8:25 DePaolis Group, Inc., located at 43 Jackson Street, for change of d/b/a from Nico's Pasta & Panini to Urban Crust; Application is also being made to modify conditions on existing Common Victualer's License by changing the hours of operation. Application is also being made for Entertainment License for television only; and Application is also made for determination a variance to waiver the external grease trap requirement issued on 9/14/1999.

Michael DePaolis, 4 Limewoods Drive, was present. The Chair read recommendations and said he still needs external grease trap. Mr. DePaolis said he met with the Board of Health last night and they are ok with it. The Chair read Plumbing Inspector comments. Mr. DePaolis said he has an internal grease trap and a letter from his plumber and explained this is less grease than he had before. Mr. Crabtree asked if they have any documentation from Inspects. Their clerk said no. Mr. Crabtree said they don't have documents. Mr. DePaolis said they had a hearing and had no problem with it. Mr. Kelleher said it's probably a timing issue and think they can approve subject to the Plumbing Inspector recommendation. Mr. DePaolis said he signed off on the 30 gallon grease trap. Mr. Horlick said Inspectional Services comment is to remove the fryolators. Mr. DePaolis said yes. Mr. Horlick said and the other equipment. Mr. DePaolis said yes. Mr. Horlick asked about money owed. Mr. DePaolis said it is paid. Mr. Serino said the Board never required for a pizza as long as no frying or grilling. The Chair said he is eliminating fryolators. Mr. Crabtree said it would be condition of no fryolators and other equipment listed and the Board of Health is limiting menu. Mr. Horlick asked hours of operation. Mr. DePaolis said he closes around 6pm. Mr. Horlick asked he clarify location. Mr. DePaolis described area.

Any in favor or in opposition? Bill Kramich, 12 Emory Street, said other places needed grease traps and passed copy of menu and said he blocks the sidewalk on a dangerous curve and don't believe he should have a restaurant there.

Bob Cox, TMMP4, said the point to vote something contingent on a future action he totally disagrees and said food prep produces grease and it's the petitioners fault for delay if he only met with Board of Health yesterday.

The Chair noted a correction and read the recommendation for Urban Crust. Mr. DePaolis said obviously there is grease in any kind of cooking and have an internal trap that's maintained. Mr. Crabtree said in the 1999 variance there's a restriction to have limited menu. Mr. DePaolis said the equipment has to come out. Mr. Kelleher read the Plumbing Inspector's recommendation for the record. The Chair said there would be less grease without the fryolators. Mr. Crabtree said he would support variance on condition of no fryolators etc. and menu limited to what submitted and it not be transferable.

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Christopher Hunt, Jackson Street, said he lives across the street from the business and is a plumber and said not many pizza places not have chicken fingers and only a baking oven and said the internal trap is fine and said the parking problem was the church and the signs eliminated the problem. Mr. Horlick said if they are parking on the sidewalk they should notify the police.

Mr. Kramich said to solve the problem to put a berm and said some of the no parking signs were removed.

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

Mr. Crabtree moved to grant the variance to waiver the external grease trap requirement with conditions of Plumbing Inspector and Board of Health: no fryolators, grill, range or baking oven; menu limited to what submitted; grease trap to be cleaned on a regular schedule; the variance is not transferable; and must reapply for any changes and get Board approval; to approve Entertainment License for one 32" television; hours of operation 10am to 10pm. Mr. Serino added without objection no fryolators, grills, and cooking equipment is restricted to pizza oven and stove. Chair seconds. Vote: 5-0.

Mr. Horlick moved to request DPW look at the sidewalk and if needed, have a berm installed. Chair seconds. Vote: 5-0.

Correspondence

1.) School Committee re: request for Article in next Special Town Meeting Warrant.

Mr. Kelleher moved to insert the Article into next Special Town Meeting Warrant. Chair seconds. Vote: 5-0.

Continued hearings: - Hot Topic for Entertainment License from 1/26; 3/16; & 6/22.

Hot Topic, Inc., for Entertainment License located at 1277 Broadway, Unit #E-215 Square One Mall.

Susan Yee, General Manager Square One Mall said she spoke with her tenant that said she sent an e-mail to the office requesting continuance because she was unaware of the hearing and unable to attend. Mr. Horlick said August 10th is the drop dead date. Ms. Yee agreed.

Janet Leuci, TMMP4, said this has gone on for 6 months and have been here each time and asked how long this will be continued. The Chair said he said that at last meeting. Mr. Crabtree said he raised it at the last meeting also and will support as last continuance. Ms. Leuci said it's the same thing meeting after meeting. Mr. Serino agreed and suggested they get Town Counsel's opinion on disposing of the hearing without applicant present when applicant requests continuance. Mr. Kelleher said this would be the last time and she must come with documents that the Building Inspector is in favor and she needs to convey that to the applicant. Mr. Crabtree said the applicant portrayed approval and the Board received memo from the Building Inspector portraying it differently and explained the Board relies on the department recommendations.

Bob Cox, TMMP4, asked how long they have to stretch this out. Mr. Crabtree asked he lower his voice. Mr. Cox said it's an insult to the Town and he has been here at all the hearings. Mr. Serino said he is as frustrated and said he is asking for Town Counsel's opinion because he wouldn't want them to get a license by default. Mr. Kelleher asked if their clerk has the e-mail. Their clerk said no. Mr. Serino said she should check if e-mail was sent and the Board could recess. Mr. Kelleher said the office closes at 3PM.

Mr. Serino moved for recess. Chair seconds. Vote: 5-0.

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Meeting recessed at 9:21pm.

The Chair called the meeting back to order at 9:35pm.

Mr. Crabtree said an e-mail was received and read request to continue to September and said he thinks the Board should send letter stating she is required to be here and if not the Board will move ahead. Mr. Horlick said if she can't make August meeting then she can withdraw and reapply at later date. Mr. Crabtree said he follows his rational but she states in letter she was unaware of this date. Mr. Kelleher said he finds it difficult to continue this and said departments are not recommending it. Mr. Serino said he will vote to continue the hearing because he doesn't want it approved by default and wants opinion from Town Counsel. Mr. Crabtree will support continuance with letter sent requiring her to be here. Mr. Horlick said 4 times people have been here and now will have to come again and is not in favor of continuing. Mr. Crabtree said he would rather have a good decision rather than a bad decision that may create another issue. Ms. Leuci said she recalls at last meeting the applicant was here and was told to have everything she needed by July 20th. Mr. Crabtree said the e-mail indicated she was unaware of the date. Mr. Cox asked the letter be final extension and send it certified return receipt. Mr. Crabtree said yes and by regular mail.

Mr. Serino moved to continue the hearing. Chair seconds. Vote: 3-2 with Mr. Horlick and Mr. Kelleher voting in opposition.

2.) Police Dept. re: request for 2 Articles inserted in next Special Town Meeting Warrant.

Mr. Horlick moved to insert the Articles into next Special Town Meeting Warrant. Chair seconds. Vote: 5-0.

Mr. Wong excused himself from the table and Vice Chair Crabtree took the Chair.

3.) Border Café re: request for change of manager.

Michael Moore was present. Mr. Kelleher asked if only change of manager. Mr. Moore said yes. Mr. Horlick asked experience. Mr. Moore gave his background.

Mr. Kelleher moved to approve change of manager to Michael Moore. Vice Chair seconds. Vote: 4-0.

Mr. Wong returned to the table.

4.) Mr. Slattery re: request for reappointment as constable.

William Slattery, 2 Rice Street was present.

Mr. Horlick moved to reappoint William Slattery as a constable in the Town of Saugus. Chair seconds. Vote: 5-0.

5.) Independent Living Center re; ADA Day Proclamation.

Mr. Kelleher moved to proclaim July 26, 2010 as ADA Day in the Town of Saugus. Chair seconds. Vote: 5-0.

Manager's Report

Their clerk said the Manager is requesting appointment of Lynda Myers on the Boats & Waterways Commission.

Mr. Serino moved to confirm the appointment. Chair seconds.

Roll call vote: Mr. Crabtree, yes; Mr. Horlick, yes; Mr. Kelleher, yes; Mr. Serino, yes; Mr. Wong, yes. Motion passes 5-0.

Their clerk said the Manager is requesting the appointment of Bob Tremblay to the Council on Aging.

Mr. Horlick moved the Board confirm the appointment. Chair seconds.

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Roll call vote: Mr. Crabtree, yes; Mr. Horlick, yes; Mr. Kelleher, yes; Mr. Serino, yes; Mr. Wong, yes. Motion passes 5-0.

Member's Motions

Mr. Crabtree: Congratulated Mr. Agganis and Mr. Davis and their Committee and said the Special Olympics was a great success and great community day and thanked them for their hard work.

Mr. Serino: passed out packet regarding constables and explained the Board made motion to not take any new applications and explained he and Mr. Kelleher reviewed the issues and suggested the Board consider limiting the number of constables to 10 as a policy. Mr. Kelleher said not to discontinue reappointment of existing constables, but to reduce through attrition until down to 10. The Chair asked of track record of money to the Town. Mr. Kelleher explained it difficult to track with so many and will be easier with 10. Mr. Crabtree said he appreciates the work and asked clarification on fees. Mr. Kelleher said some communities have resident and nonresident fees.

Mr. Serino moved the Board adopt a policy of no more than 10 constables appointed in the Town of Saugus and the number will reduce by attrition. Chair seconds. Vote: 5-0.

- Said the Board has adopted other policies in the past such as Valuable Goods, abutter notification on Extended Hours Permits, etc. and the Board will set up a policy book.
- Said there was a letter of complaint regarding RESCO being open on a holiday.

Mr. Serino moved the Board vote to cancel the August 16, 2010 Special Town Meeting. Chair seconds. Vote: 5-0.

- Thanked Mr. Davis and Mr. Agganis and said it was a good turn out.

Mr. Horlick:

Mr. Horlick moved to request an update from their State Delegates regarding the Consumer Take Back recycling Bill. Chair seconds. Vote: 5-0.

- Announced Vitale Golf Tournament and read notice.
- Thanked Agganis Family, Mr. Davis and others that helped and said all were there to support a great endeavor.
- Said he received calls from residents regarding replacement of the red signs and explained the process.

Mr. Horlick moved the Board vote to request an update on the street sign replacement in Town. Chair seconds. Vote: 5-0.

Mr. Kelleher: Congratulated Mr. Agganis and Mr. Davis and all involved and said Saugus has a tremendous community spirit and said he has seen this event grow in a short time and said its great to see the money raised will go back to students in need and would like to invite them in for citation.

Mr. Kelleher moved to invite Steve Agganis and Bob Davis for citation. Chair seconds. Vote: 5-0.

- said there is concern regarding the traffic light at the turn around in Peabody and requested an update on any proposed changes regarding the light.

Citizen's forum

Arthur Grabowski, 66 Denver Street, recognized the Board's efforts in putting trouble spots away and congratulated them on voting the transfer of license that will be better suited for the community and the neighbors and thanked them. Mr. Crabtree said there are two more steps after this approval and explained.

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Mr. Kelleher moved to adjourn. Chair seconds. Vote: 5-0.
Meeting adjourned at 10:14pm.
Respectfully submitted,
Wendy Reed, Clerk

Applications with supporting documentation, correspondence and documents presented and discussed at the meeting are on file in the Board of Selectmen's Office and are available upon request.