

COMMONWEALTH OF MASSACHUSETTS

CITY OF CAMBRIDGE

IN RE: LICENSE COMMISSION GENERAL HEARINGS

LICENSE COMMISSION BOARD MEMBERS:

Richard V. Scali, Chairman
Robert C. Haas, Police Commissioner
Daniel Turner, Deputy Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts 02139
Tuesday, April 27, 2010
6:10 p.m.

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P R O C E E D I N G S

MS. LINT: License Commission General Hearing Tuesday evening, April 27, 2010. It's 6:10 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. Before you the Commissioners: Chairman Richard Scali, Deputy Chief Dan Turner, and Commissioner Robert Haas.

If anyone is here for -- at the bottom of Page 3 -- Petsi Pies, disciplinary matter, that has been taken off the agenda.

MR. SCALI: Anyone here on Petsi Pies? I see no hands.

MS. LINT: And Andala Coffee House has also been taken off the agenda.

MR. SCALI: Anyone here on Andala? No hands, all right. Anything else continued?

MS. LINT: No.

MR. SCALI: Let's go right to our first item then, Mrs. Lint.

MS. LINT: Minutes?

MR. SCALI: Motion to accept our minutes from the April 6 meeting.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Tommy Doyle's Pub and Restaurant, LLC, Garrett Tingle, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at 96 Winthrop Street has applied for a change of premises description to include a seasonal outdoor patio on the public sidewalk for 10 seats with the service of food and alcohol.

MR. SCALI: Let's take the next one with it as well.

MS. LINT: Application: Six Kids, LLC d/b/a Tommy Doyle's Restaurant and Pub, Renny Waldron, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at One Kendall Square has applied for a change of premises description to include a seasonal outdoor patio with 14 tables and 28 seats on the public sidewalk with service of food and alcohol.

MR. SCALI: Good evening. Just tell us your name for the record, please.

MR. TINGLE: Garrett Tingle.

MR. WOODMAN: I'm Peter Woodman.

MR. SCALI: And just for the record for those of you who want to know who gets to be placed first on the agenda, it those who are active CLAB members. So that's how you get to be first on the agenda and then we go down the list from there.

So Mr. Tingle and Mr. Woodman, these are for the two patios? Let's start with Winthrop Street.

MR. TINGLE: Sure.

MR. SCALI: So this is the premises right out in front on Winthrop Street?

MR. TINGLE: Yeah. There's a small -- and now it's a pedestrian street from 11:00 a.m. to about 11:00 p.m. Actually until 2:00 a.m. The area in front -- do you guys have copies of this? I have a few here.

MR. SCALI: If you want to just pass them around that would be helpful.

MR. TINGLE: The brick area in front of our building adjacent to the stairs that go down to the basement floor is the area that we're

looking to put in seasonal seating.

MR. SCALI: So the stairway going down; right?

MR. TINGLE: Yeah.

MR. SCALI: Right in front of that wall.

MR. TINGLE: There's a fence and essentially we're going to apply for seating adjacent to the fence and before you get to the cobblestone walkway. The two black squares are kind of pillars along the street that go along the street and then there's a lamppost that the City has put in.

MR. SCALI: So there's ten tables of two?

MR. TINGLE: There's only three tables, two tables of four. The numbers are the seat numbers. They're all 15 inches wide. The tables are going to be going to be situated on the fence kind of coming out to the movable tabletops. There's the 10 numbered seats and a smaller table between seat 9 and 10.

MR. SCALI: So how many seats at Table 9?

MR. TINGLE: I should have numbered the tables but the seats are the ones numbered in between the two sets of four seat. So there's one, two, and then if you look at the black square, there was an outline of a third table that is smaller than the other two. So kind of in between 9 and 10.

MR. SCALI: So there's a table in the corner right here where the street light is?

MR. TINGLE: Exactly, yeah.

MR. SCALI: So 9 and 10 are at one table.

MR. TINGLE: Uh-huh.

MR. SCALI: So essentially 10 seats.

MR. TINGLE: Uh-huh.

MR. SCALI: Alcohol?

MR. TINGLE: Uh-huh. I'm trying for the hours of 11:00 to 10:00.

MR. SCALI: 11:00 to 10:00 p.m.?

MR. TINGLE: Uh-huh.

MR. SCALI: Completely fenced in so people can't leave?

MR. TINGLE: Yeah. For handicap access the side where the side alley is labeled is where we would have access, but the other end would be fenced in.

MR. SCALI: Handicapped accessible table which is that one on the very right?

MR. TINGLE: Yes.

MR. SCALI: Abutter notifications?

MR. TINGLE: Yes.

MS. LINT: I don't have them.

MR. TINGLE: I'll bring them.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. SCALI: Does anyone from the public want to be heard on this matter?

So food is going to be served at all times; right?

MR. TINGLE: Uh-huh.

MR. SCALI: It's not just for drinking out there. It can't be people just drinking on the

patio.

MR. TINGLE: Yes.

MR. SCALI: And obviously you're going to interact very well with your neighbors, with Upstairs on the Square, and with OM, because there will be a lot of activity going on.

Oh, someone's hand back there.

Somebody wants to be heard? Do you want to come forward? Give us your name, please.

MR. BANKER: Robert Banker. I own property in that area. Hi, Mr. Scali.

Music, are you going to have music?

MR. WOODMAN: No music at all.

MR. BANKER: Thank you.

MR. TURNER: Mr. Chair?

MR. SCALI: Yes, Deputy Chief.

MR. TURNER: Public Works approval?

MR. WOODMAN: Yes.

MS. LINT: We spoke to Vin Best this afternoon. He has not approved it yet but he is going to.

MR. TINGLE: I met with him today and

he said he is going to approve it.

MR. TURNER: The heavy black line that is indicated here, is that the outside fence?

MR. TINGLE: It's going to be a wrought iron kind of enclosure that's adjacent to the actual walkway street.

MR. TURNER: I guess my only sticking point on this is I realize it's a small street but it's not uncommon for the pedestrians to walk in the street. Is it a sticking point where this actually obstructs the complete sidewalk so it forces people to go onto the street?

MS. LINT: They couldn't approve it if it did that. It's got to be compliant.

MR. TURNER: That's what it's doing.

MR. SCALI: I think because the street is closed off and it's accessible for people to walk around -- that's how the Upstairs on the Square's patio is. It's exactly the same in that one area.

MR. WOODMAN: We can reduce the size of the fence to a chain fence.

MR. TURNER: That street is closed off for pedestrian traffic only at certain times; right?

MS. LINT: 11:00 a.m. to 2:00.

MR. WOODMAN: So people just tend to walk up the street actually itself.

MR. TURNER: Agreed.

MR. SCALI: Any other questions? Does anybody from the public want to be heard? Someone else? Come on up please.

MR. OVERGAAG: Paul Overgaag from the Red House. Sorry guys, I didn't know this was coming. I think I'm an abutter; correct?

MR. SCALI: Do you own that building next door?

MR. OVERGAAG: Yeah. I'm sorry we didn't get to talk about this. What happens to the tables after 10:00 at night?

MR. WOODMAN: They get brought in.

MR. OVERGAAG: That's all I wanted to know.

MR. SCALI: So no one can sit out

there? The tables and chairs are gone.

MR. WOODMAN: It's not worth it.

MR. OVERGAAG: And it is a pedestrian street so there's no more trucks there unloading musical equipment?

MR. SCALI: Was that an issue before?

MR. WOODMAN: Last year the drivers were backing up instead of using outside of Charlie's in the commercial zone. They were backing up and they were dropping stuff off.

MR. SCALI: Does anybody else want to be heard? Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: So that's 11:00 a.m. to 10:00 p.m.?

MR. TINGLE: Uh-huh.

MR. SCALI: That means everybody off

the patio at 10:30; is that right?

MS. LINT: Yes.

MR. SCALI: All alcohol gone, everyone away from the patio by 10:30 p.m., no music, completely closed. And this is not an increase in capacity? Are you taking from the inside?

MR. WOODMAN: Whatever is easiest. We can take from inside if it needs to be so.

MR. SCALI: Well, whatever Zoning approves.

MR. TINGLE: I believe it was for 10 extra because it was --

MS. LINT: Seasonal.

MR. TINGLE: Yeah. I don't believe we were taking from inside.

MR. SCALI: Temporary seasonal.

MR. TINGLE: Right.

MR. HAAS: So Mr. Chair, the approval is contingent upon them producing the notification to the abutters and also final and formal approval by DPW.

MR. SCALI: Yes.

MS. LINT: The sign off is for 296
seats.

MR. TINGLE: Which would be an extra
10.

MR. SCALI: Extra temporary seating
subject to DPW permits and sign offs.

Amended motion.

MR. HAAS: Motion.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Next is One Kendall Square. So this is to increase your seating on the private property?

MR. WOODMAN: No.

MR. SCALI: Keeping everything on the private property the same?

MR. TINGLE: Uh-huh.

MR. SCALI: This is for the sidewalk on the corner of --

MR. TINGLE: Hampshire and Portland.

MR. WOODMAN: I only brought one for Kendall so my apologies.

MR. SCALI: This is the sidewalk on Hampshire or on Portland?

MR. WOODMAN: On Hampshire Street.

MR. SCALI: Was there a discussion, Mrs. Lint, about this being -- I think Vin Best wanted to amend this.

MR. WOODMAN: He's looking to put four tops.

MR. SCALI: So you're going to take out that row.

MR. TINGLE: Yeah. I think it says there eight feet. We're going to push it back to six feet and then the two rows of tables you see are just going to be two tops touching each other so there won't be two rows. Those tables will go against the building and then there's a three foot walkway space between the servers and the tables, which leaves six feet for the sidewalk.

MR. SCALI: So it's only 14 seats then?

MR. TINGLE: It's the same amount of seats but it would be --

MR. WOODMAN: Just together instead of having an alley in between.

MR. SCALI: Pushing all the tables in together.

MR. TINGLE: Yes.

MR. WOODMAN: SO he's extending it lengthwise rather than widthwise.

MR. SCALI: So 28 seats, tables pushed all the way against the wall, six feet of walk space. Completely enclosed?

MR. WOODMAN: Yes, except for the entrance for the handicap.

MR. SCALI: No music.

MR. WOODMAN: No.

MR. SCALI: Food at all times.

MR. WOODMAN: Yes.

MR. SCALI: Hours.

MR. TINGLE: The same, 11:00 a.m. to 10:00 p.m.

MR. WOODMAN: If we could push that to 11:00 p.m. on Friday and Saturday that would be just for the kitchen. The kitchen closes at 10:00 except for Friday, Saturday, but if it's a problem, no problem.

MR. SCALI: People in the audience, you can't talk. If you want to talk, go out in the hall.

So do you want to amend your application?

MR. WOODMAN: If we can come back next month and amend it just so it will be easier with the kitchen hours running to 11:00.

MR. SCALI: I wouldn't want you to have to come back again next month.

MR. WOODMAN: Or I can leave it at 10:00. It's not a big thing.

MR. SCALI: Why don't we try 10:00 and see how it goes.

MR. WOODMAN: That's fine.

MR. SCALI: How late are you open on the other patio?

MR. WOODMAN: We're open until 1:00. Basically the purpose of that patio is it's an overspill for our current patio. We're finding we would fill up that and at 5:15, 5:30 it's full. There's nowhere to go. Next door is full. There's not much more patio space in that area so we can help out if there's an overspill.

MR. SCALI: Anybody from the public want to be heard on this?

MR. TURNER: I have a question.

MR. SCALI: Deputy Chief.

MR. TURNER: This patio seating abuts your establishment; correct?

MR. WOODMAN: Yes.

MR. TURNER: I know that between your other patio there's a bank teller machine.

MR. WOODMAN: There's a bank teller machine.

MR. TURNER: And then the entrance to the building. So you have a clear and contiguous path from your establishment?

MR. WOODMAN: Yes.

MR. TURNER: No more questions.

MS. LINT: Mr. Chair, Councilor Toomey is in support of this application.

MR. SCALI: So you do know there is a fee for the use of the sidewalk, and the City Managers agreement, and the insurance policy that's required?

MR. WOODMAN: The insurance policy we should have by tomorrow.

MS. LINT: I'm going to need an amended plan as well.

MR. TURNER: There's a question in the audience.

MR. SCALI: Please come forth, please.

MR. SCALI: We're talking about One Kendall Square now.

MS. GIFFORD: I know.

MR. SCALI: Just give us your name.

MS. GIFFORD: Gladys Gifford. Pebble Gifford, excuse me, 15 Hilliard Street, Cambridge, MA. I've been driving around in a circle for 15 minutes and couldn't find a parking spot.

MR. SCALI: You're not the only one.

MS. GIFFORD: And this is the same operation. Can I comment and ask a question about the previous hearing that I missed?

MR. SCALI: We have already voted on that one.

MS. GIFFORD: Because I heard it had been turned down twice before; is that right?

MR. SCALI: No.

MS. GIFFORD: Is it on a public street?

MR. SCALI: It is on Winthrop Street against the wall where the stairway goes down, and

it was approved by Public Works. It's fenced in.

MS. GIFFORD: Can I make a suggestion for this and any -- Elizabeth, just cut out the cracks. You did it to me last time.

MR. SCALI: Ms. Gifford, please. She's our counsel, so she can advise us. What do you want us to know? We've already voted on it.

MS. GIFFORD: I just think in the future, it's a public way and it's now been made into an nice pedestrian way. It's designed for pedestrians with some tables sitting along the side. I think it would be nice if the public, other than the patrons or the proprietors of these operations could see these plans in some public place before you approve them. Where is there to go to see these posted or what's going to happen?

With the street is looking more and more like Lansdown Street every month, you -- have you been there at 12:00 at night and seen what's going on? Have you, Mr. Commissioner?

MR. SCALI: I have, Ms. Gifford.

MS. LINT: Because I was down there

recently and I couldn't believe it. It was so crowded coming in from this side and then crowded going down below, which I think is fine. It's a sign of life. I know we want that in Cambridge. But I think it would be helpful if the public could have some sense of what's going on there before it happens, before it begins.

MR. SCALI: I don't know what more we can do. It's advertised in the Chronicle, our records are open.

MS. GIFFORD: But you don't see plans.

MR. SCALI: The plans are in our files and anyone is welcome to see them two weeks before we have our hearings. They're available.

MS. GIFFORD: You've got to come down here and see them, right.

MR. SCALI: That's how we handle all our applications.

MS. LINT: Second question: What's the policy on public spaces if somebody is putting tables and chairs in a public way? Do they pay a rent?

MR. SCALI: They do. They pay \$750 a year for the use of the space, plus a City Manager's agreement, plus additional insurance provided to the City, which all of them do. Everyone pays the same amount.

MS. GIFFORD: Are some of the others on Winthrop on their own space? Do have title to any space on Winthrop Street like Upstairs at the Pudding?

MR. SCALI: They have applied.

MS. GIFFORD: Are they on a public space there?

MS. LINT: Some of theirs is public and some of theirs is private.

MS. GIFFORD: So each one is different. OM, for instance, is what, public or private?

MR. SCALI: That's public.

MS. GIFFORD: So there is a precedent for doing that.

Is there any plan here that Mrs. Thompson and I could look at?

MR. SCALI: You're welcome to look at the one from Winthrop Street. I have one right here you can look at. We've already voted on it, Ms. Gifford, so I apologize for our quickness but it's 6:30.

MS. GIFFORD: You usually take them under advisement.

MR. SCALI: Does anybody else want to comment on One Kendall Square? Councilor?

MR. KELLEY: I have a comment on the same issue as Ms. Gifford.

MR. SCALI: On the Winthrop Street one?

MR. KELLEY: Yes.

MR. SCALI: You might as well come forward then. We allowed Ms. Gifford to speak.

MR. TURNER: Should we make a motion to reopen comments?

MR. SCALI: To reopen comments.

MR. KELLEY: I realize you've already voted on it and I don't expect anything to change, but as we get this creep of outdoor seating, which

is very nice in a lot of places, we're definitely changing the character of places like Winthrop Street. And for folks who live in the area, whether it's Winthrop Street or elsewhere, and have lived there for years, they're seeing a lot of change take place.

It might seem incremental with each decision but it's definitely adding up. You start getting a lot of different things going on adding together to a very different noise level, a very different everything. It will come up again later tonight.

I do appreciate your considering that. Thank you.

MR. SCALI: Do you want to comment on that at all? No, okay. Does anybody else want to be heard? Pleasure of the Commissioners on One Kendall Square.

MR. HAAS: So there's DPW approval and you have notice for abutters?

MS. LINT: I need the abutter notification, I need the amended plan, and I need

the DPW permit.

MR. SCALI: They said that they've agreed to approve but they haven't given the permit out yet.

MS. LINT: I think because they're waiting to see what the amended plan looks like.

MR. HAAS: So shouldn't we wait to see what the amended plan looks like?

MR. TINGLE: It's actually their plan. I talked to Vincent today and I can e-mail tonight or tomorrow morning.

MR. WOODMAN: The suggestion he's made is that instead of being so wide, he's suggested making it longer and then just putting tables together.

MR. HAAS: I make a motion to take it under advisement.

MR. SCALI: Motion.

MR. TURNER: Seconded.

MR. SCALI: Moved and seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: So the DPW permit, a butter notifications, and the amended plan for our vote on May 6.

MS. LINT: Application: Sonesta of Massachusetts, Inc. d/b/a Royal Sonesta Hotel, Stephanie Sonnabend, Manager, holder of an All Alcoholic Beverages as an Innholder license has applied to pledge said license to RBS Citizens National Association.

MR. SCALI: Royal Sonesta?

MR. VANREIL: Yes, good evening.

MR. SCALI: Just tell us your name, please.

MR. VANREIL: Boy, B-O-Y, last name Vanriel, V-A-N-R-I-E-L.

MR. SCALI: And you are?

MR. VANREIL: I am the treasurer of Sonesta Hotels and of Sonesta of MA, which manages the hotel.

MR. SCALI: o is this a refinance?

MR. VANREIL: Yes. We actually refinanced our mortgage and closed on that in February.

MR. SCALI: And the refinance is for what purpose?

MR. VANREIL: To take out a loan that was going to mature in July. So we refinanced a little earlier and it's with a different lender. They requested the pledge of the license.

MR. SCALI: The only way that we can approve a pledge is when it's related to the purchase of the license and/or renovations to the property. So is that original loan related to those purposes?

MR. VANREIL: I guess yes. I don't know how far you go back but effectively when we originally built our hotel we had a loan. We keep refinancing it so the loan is certainly tied into the ownership of the building.

MR. SCALI: My point is that if it's a refinancing just for cash flow purposes, that's not something we can approve.

MR. VANREIL: We didn't take out any money. It was refinanced at the same amount.

MR. SCALI: Questions?

MR. HAAS: No question.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard on Royal Sonesta? I see no hands. Pleasure of the Commissioners?

MR. HAAS: I just want to be clear about the technicalities about the pledge, because it seems that they are actually using the pledge as collateral towards another loan as opposed to the initial purpose. So I'm not clear about --

MR. SCALI: He's just saying that they found a better deal and they refinanced.

MR. HAAS: I understand that part. But typically when we see a pledge we see it because it's in conjunction with the purchase of the license, the refurbishing of a place that's about to open as new. But this is a continuation of refinancing and the license is continuing to be used as collateral for those other finances. The difference is between as your point is, having some kind of cash flow and then using the license for the purposes of collateral, as opposed to the license being tied to renovations or modifications to the establishment.

MR. SCALI: That was why I asked the question.

MR. VANREIL: What I understand is that the previous lender didn't have this, didn't request this pledge. I think it's just a --

MR. SCALI: There was not a pledge before?

MR. VANREIL: No. I think the attorneys just wanted to know that if God forbid, they would ever need to foreclose that they would have a license but that's such a remote possibility.

MR. SCALI: Technically, a hotel license is not salable. So even if your bank foreclosed on you, and they took the license, they can't sell it. If you are a restaurant license and you buy the license, you put money into it -- hotel licenses are not within our cap and not within the quota system. To me it really isn't worth much to the bank other than goodwill; that they would have something that they would I suppose want to transfer to somebody if they do foreclose on you

for some reason.

MR. VANREIL: I don't think it would be their intent to transfer. They just want it to be there. I don't think it's their intent to ever operate a hotel because they're a bank.

MR. SCALI: I realize that. They want something they can use as collateral so they could get their money back in some way.

Any other questions?

MR. HAAS: No.

MR. SCALI: Pleasure of the Commissioners? You want to think about it, Commissioner, don't you?

MR. TURNER: Advisement.

MR. HAAS: I just want to make sure it's appropriate to do this before we vote on it. I'm not clear that it is.

MR. SCALI: Motion to take the matter under advisement.

MR. HAAS: How are we going to get a clarification?

MR. SCALI: We will have Mrs. Lint

call the ABCC and find out.

MR. HAAS: Make a motion to take it under advisement.

MR. SCALI: Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So we'll just clarify with the ABCC about that.

MS. LINT: Application: Tomolly, Inc. d/b/a Charlie's Kitchen/The Red House, Paul Overgaag, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 10 Eliot Street has applied for a change of premises description to move the current approved public patio to the other side of the sidewalk.

MR. SCALI: Good evening, again. Just give us your name for the record.

MR. OVERGAAG: Paul Overgaag from Charlie's Kitchen in Cambridge.

MR. SCALI: So this is the original public patio we approved last year for you; right?

MR. OVERGAAG: Many years ago. I think I was one of the first patios.

MR. SCALI: Which is probably two years ago now.

MR. OVERGAAG: More like four years I think. It's going fast.

MR. SCALI: So there was a problem with the patio being close up to the wall because you couldn't walk with all the poles and everything

there.

MR. OVERGAAG: It was a handicap issue, a sidewalk issue, and the City approached me to see if we could actually move the patio from against the building to against the curbside with the stipulation of us making sure that everything is handicapped accessible. Two weeks ago we ripped up the sidewalk and we poured new concrete and we put new bricks down, and we have a beautiful sidewalk that is --

MR. SCALI: Did you pay for that? I heard that you paid for that?

MR. OVERGAAG: It was a great effort on everybody's part.

MR. SCALI: It may have been a partnership but I did go by there and it does look really nice.

MR. OVERGAAG: It looks fantastic and we just finished all the planting with French wine barrels and it looks beautiful.

MR. SCALI: Everything is even now. There's no slope off.

MR. OVERGAAG: Everything is even and you can drive a wheelchair at 35 miles an hour and you can do wheelies and all the other stuff. Now, the rest of the sidewalk you know is --

MR. SCALI: Even.

MR. OVERGAAG: My part is even. The rest leave much to be desired.

MR. SCALI: Same number of seats?

MR. OVERGAAG: Same number of seats.

MR. SCALI: Enclosed completely?

MR. OVERGAAG: Well, no. It has a huge handicapped opening, which at the handicapped opening there's a table that is handicapped accessible, which you know you have to have 10 percent of your seats accessible. I think we're at like 17 percent with that one table.

MR. SCALI: Food at all times?

MR. OVERGAAG: Food at all times.

MR. SCALI: Hours?

MR. OVERGAAG: Hours are a half-hour before normal closing time. So if it's 1:00, we'll close the patio and give the last call at 12:00,

and the last people will be gone at 12:30. Then we move to the inside.

MR. SCALI: What time in the morning; 11:00?

MR. OVERGAAG: Last call is 12:00 on regular days and 1:00 on --

MR. SCALI: What time do you open?

MR. OVERGAAG: 11:00.

MR. SCALI: 11:00 to 12:00 midnight you said?

MR. OVERGAAG: 12:00 midnight Sunday, Monday, Tuesday, Wednesday, and 1:00 Thursday, Friday, Saturday.

MR. SCALI: Abutter notifications, Mrs. Lint?

MR. OVERGAAG: I've got the green cards from last week.

MS. LINT: Yes.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. SCALI: Does anyone from the public want to be heard on Red House/Charlie's

Kitchen. Mr. Banker, come on up.

MR. BANKER: Robert Banker, I'm here to support the petition of Mr. Overgaag because I'm his landlord and abutter and he has been a man of his word. I support his petition.

MR. OVERGAAG: Thank you.

MR. SCALI: Anybody else? Councilor Reeves.

MR. REEVES: Mr. Overgaag and I have the same birthday so I have to --

MR. OVERGAAG: We keep running into each other that way, don't we.

MR. REEVES: Is truly didn't come here about this but you seem to have everybody I know of here tonight.

I just want to say that Mr. Overgaag has brought to the City an extraordinary amenity and asset in the combination of the Red House and the Crimson, and now this Beer Garden and external dining. I think he has brought in all the establishments that he has done, he has improved what we have.

I think he's an excellent member of what has happened now around Winthrop Park, which is really one of our most exciting areas. So I would like to support his request. I wish he could have even more seats, because I think the more outdoor dining we have the more exciting the city is and inviting.

He is really one of the people who is at the forefront of improving the City as a destination and I think we should support those people strongly. We should ask them what more we should do.

MR. SCALI: You've certainly put a lot of assets into it.

MR. REEVES: Well, he has a lot of assets.

MR. OVERGAAG: I'm glad you're counting.

MR. SCALI: Does anybody else want to be heard? Ms. Jillson.

MS. JILLSON: Denise Jillson,
Executive Executive Director for the Harvard Square

Business Association. Of course, we're all about outside seating in Harvard Square. The only concern that I would have, and I know that Paul probably has a good answer to this, just addressing the issue of going across the sidewalk from the building. But I know that he has --

UNIDENTIFIED SPEAKER: Speak up a little bit, please.

MR. SCALI: Can you speak up a little bit louder?

MS. JILLSON: Sure, I can project more.

So our concern would be just to be aware of pedestrians and baby carriages and all that good stuff. I know you are but it's a concern. I know that his staff is very well trained and he'll do everything he can to make sure it's safe and everybody is happy. Right?

MR. OVERGAAG: Absolutely.

MS. JILLSON: But other than that, as Councilor Reeves said, Paul is a wonderful member of the Harvard Square community and all of his

restaurants add such great vibrancy and bring in a ton of foot traffic and we're so appreciative of that.

MR. SCALI: Does anybody else want to be heard on this matter? Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve subject to DPW permit if you don't have one already.

MR. OVERGAAG: It's all done.

MR. SCALI: DPW permit is -- do you have it in hand? Get us a copy of that obviously, sign offs.

MR. HAAS: Do you have plans and everything?

MR. SCALI: Yes. 11:00 a.m. to 12:00 midnight, meaning that everyone is off the patio by 12:20. You already have a butter notifications; right?

MS. LINT: Yes.

MR. REEVES: Mr. Scali, could I just ask a question about that?

MR. SCALI: Yes, a clarification.

MR. REEVES: This is a policy matter I guess. You know, I have been in several of our now patio settings where if you sit down to dinner they announce to you that you can have wine with dinner but if you're here beyond 10:00, you have to either move inside or we have to take what's on the table.

It's an interesting policy because I have sat at such a setting, I won't name which Harvard Square restaurant it was, but you have to take me at my word, and a group of young women, one of whom was inebriated came from inside. So I've been outside dining all over the world. I don't know any place I've ever been where you have to bring your drinks in. Washington, DC, Montréal, I don't know anywhere. So the logic of that policy, particularly when tipsy people are coming from inside is hard to glean.

MR. SCALI: That's not our policy.

MR. REEVES: I can tell you the restaurant. It's Grafton Street. It was enforced there. It just doesn't make sense. So when asking

him what time you stop outside versus inside, they seem to get that impression.

MR. SCALI: Our policy is that we allow until 1:00 a.m. on the public sidewalk patios for alcohol. Then of course, if anybody wants an exemption to that they can request it. There are some places that don't want to be open that late and they have their own policies where they close earlier. I think that's what Grafton Street does.

MR. REEVES: So the inquiry of Mr. Overgaag about what time they stop outside is going to be a different time inside than outside?

MR. OVERGAAG: I do it for a logistical reason. The outside is now closed at 12:00 so you don't have to close the whole establishment at 12:30. So from a logistic point of view, once the outside is closed, now we can concentrate on the inside. That's why we do it.

MR. SCALI: He's requesting that time, but he can have until 1:00, if we should so vote.

MR. REEVES: Well, he's the European, but the logic of this when you observe who comes

out and who's sitting out, it didn't make sense.

MR. SCALI: It's not our policy.

Anybody else? So on the motion to approve, DPW permits, sign offs, and 11:00 a.m. to 12:00 midnight; 1:00 a.m. on Thursday, Friday, and Saturday, I want us just to clarify. That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Before Mr. Overgaag leaves I do have a note from Mr. O'Neil that we should be reviewing the all-year patio. For some reason it kind of got by us.

MR. SCALI: On your well patio --

MR. OVERGAAG: The Beer Garden.

MR. SCALI: On the Beer Garden we gave you a three month review. It should have been on the agenda for tonight as well. It's just a review about how it's going and whether there are any complaints. We don't have any complaints on it.

MR. OVERGAAG: I think it so happens that we had very little opportunity. I think it only happened two days that we had an opportunity to serve people outside. If we want to stick to the 10:00, it seems to work. If we want for ease of operation, just make it year-round the same hours, that would be great for us.

MR. SCALI: We gave you 10:00 because there were some neighbors that were objecting; is that my recollection?

MS. LINT: I think so.

MR. OVERGAAG: I think there was some noise from a psychiatrist next door who made some allegations to which that fact that the whole thing was illegal, and I think there was some old bones to be had.

MR. SCALI: But you've only been out there three days in the last three months.

MR. OVERGAAG: No, no, since -- the season is from March 1, so from November 30 until March 1, this year we only had like three days where it was possible. After March 1, we actually had a very good season so far. We've been open a lot, and that doesn't have a restriction. It just has the regular normal operating hours.

MR. SCALI: So you really haven't had much opportunity to really fully operate since March 1. You have no complaints, do you Commissioner?

MR. HAAS: No.

MR. SCALI: Does anybody from the public want to be heard in this matter? Ms. Lint, should we put this over again until maybe the

summertime?

MS. LINT: No, because the issue was that we were letting them be open year-round, so it was between November 30 and March 1 that was the issue, and there were very few days to use it.

MR. OVERGAAG: It was only that three-month period that we were asking the extension for. And this year, unfortunately we only had three possible days that we were open.

MS. LINT: So I think maybe we could take it up again next year.

MR. OVERGAAG: That would probably --

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: I guess we can schedule it for a year out.

MR. SCALI: Motion to review in one year, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: So we'll keep everything

the same and review it next year.

MR. OVERGAAG: Thank you.

MS. LINT: Disciplinary matter: Eliot Management Services, Inc. d/b/a Paradise Cafe, Paul McCarthy, Manager, holder of an All Alcoholic Beverages as a Restaurant license and Entertainment license at 180 Massachusetts Avenue for failing to respond to a License Commission inquiry and failing to apply for a change of premises description.

MR. SCALI: Good evening.

MR. RAFFERTY: Good evening, Mr. Chair, member of the Commission. For the record, James Rafferty on behalf of the Licensee. Seated to my right is Mr. Paul McCarthy. He is the president of Eliot Management Services and the manager of the licensed premises.

MR. SCALI: So this is a disciplinary matter. Mrs. Lint, are you going to present this?

MS. LINT: I can. This goes back to two years ago, I believe, when there had been an application for a change of premise description, and an increase in capacity, which was approved. Then the licenses were never picked up and nothing ever happened. So new licenses were issued but

they're operating under the old capacity, and we had asked them to cooperate with us and let us know what's going on and what's the status and what's your capacity, and all of that, and we never had any responses whatsoever. So in essence, we had no idea what was going on.

MR. SCALI: So the issue is that you asked Mr. McCarthy to clarify and you didn't get any response?

MS. LINT: Yes.

MR. SCALI: I guess there was some delay or something.

MR. RAFFERTY: Right. I can go through the factual issues about where things stand at the moment. I think the communication issue -- there was a whole exchange because Mr. McCarthy was issued a license with his new capacity, and it was brought to his attention that he really hadn't completed the work yet so he shouldn't have it. He readily agreed so he returned and swapped out licenses and all that. So I think there might have been a little more

exchange than was characterized by Ms. Lint.

Nonetheless, the substantive nature of what's taking place is that after the approval in '08, Mr. McCarthy did indeed, and is actively under construction and nearing completion. An issue arose during construction that led to an interruption and it involved access to the basement. The issue was the existing access into the basement was by a chairlift, and an issue had been raised as to whether or not the expansion of the premises would trigger a requirement to upgrade and comply and put in a full elevator.

So Mr. McCarthy went through a series of proceedings at the Architectural Access Board that I did provide to Mrs. Lint a week or two ago. The resolution of that was that he was granted the necessary relief to continue the existing chairlift. As you can see he has a number of sign offs already, he has an active building permit, and his expectation is to complete construction within a month or two.

MR. MCCARTHY: By May 31.

MR. SCALI: I know I've gone by there and there's something going on. It looks much better outside that's for sure. It wasn't very pretty before. Councilor Reeves will tell you that.

MR. RAFFERTY: I commented. I said I suspect that the Chairman was never a fan of the black plywood in the windows. So I said I suspect it will not go unnoticed.

The reality is, and I do take some responsibility for the communication because I thought I had kept the Commission abreast, or at least the staff of that, but perhaps not. There is a happy ending to the story in that he did receive the relief just on April 5 of this year. Construction which had been nearly completed but was stalled with this issue is now resumed. The building permit remains active. And as I said, the expectation is completion by the end of May, at which time with final COs we would hope to be able to pick up the new license with the new description and the new capacity. There has been no increase

in the capacity obviously until the work has been done.

MS. LINT: Actually, not to belabor the point, the situation was because of what the ABCC has on file is what we approved in 2007. And as you know, our approvals are good for six months so had we had a letter saying please extend the approval, then we would have done that and we wouldn't be sitting here right now. So what's at the ABCC and what actually he's licensed for are two different things, and that's where the problem is.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Is the proposed space currently being used or is it still under construction?

MR. RAFFERTY: Still under construction.

MR. TURNER: Does that alter that thought process from the ABCC; the fact that it's still not an occupied space?

MS. LINT: But the ABCC believes that it is an occupied space; that's where the problem is and that's why we wanted it corrected to reflect what actually is happening.

MR. RAFFERTY: As is often the case, and this happened to be an expansion, one couldn't begin the work until the approval. So at the time the ABCC approved your action they then issued a new license with the description, but that frankly was premature because you've then got to do the work and get the CO. SO in the beauracratic world, and I mean that not in a pejorative way, sometimes different agencies are not in sync. So it is true I think very often that when premise descriptions are approved and the place is yet to be built out, you do have a period of time where the ABCC descriptions and what's occurring in actuality might not match up.

MR. SCALI: I think what Mrs. Lint is saying is that a letter simply from Mr. McCarthy or from you every six months would have been the most appropriate way to go.

MR. RAFFERTY: I agree completely and I only wished I had done that to spare my client the embarrassment of this ordeal. But I've learned now, as is so often the case when I come here, and I will do that in the future.

I knew he was proceeding with construction. I did get involved in assisting him in selecting an access specialist to deal with this issue. I know the Board has seen it with other licensees where you can be going along. So this issue did arise somewhat out of left field and it delayed the construction. Had I thought through the implications of that, I should have alerted the Commission to that delay and I apologize for any difficulty created by that inadvertence on my part, or oversight.

MR. SCALI: Question?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: Does anybody from the public want to be heard on the Paradise? Councilor.

MR. REEVES: Just in real brief I

would like to say that Paradise is a historic location. I think Tip O'Neil's first fundraising was there. It has had quite a facelift. It's the City's one and only gay bar which we hope to keep. Everybody else's is closing. Mr. McCarthy really is improving it and expanding capacity, and Cambridge may because of so many closings in Boston, may become the center of a lot of social activity.

The building upgrade at his place has been magnificent I would say given the complete new facade. The delay part, I don't know what it was that was going on on the sidewalk but they stayed under construction it seemed like most of part of a year out there. There was some decision about whether the City cracked the foundation or the foundation just cracked, which took an enormous -- it went from summer through winter through spring. So I would say that happened.

If I may just for a second -- I'm going to vanish so I'm just going to be out of here, but I wanted to say that any number of your

matters tonight involve places that really make the city a city. In addition to the Red House, the Paradise, and I see that the Middle East is here, which is one of our real destination locations. I want to say that this Conga restaurant is probably the newest addition but they were virtually empty last night. So we need to help them survive. They're a new Latin music entree into the Square. My colleague Craig Kelley is going to say we shouldn't have karaoke. I don't love karaoke. For the Grace Vision United Methodist Church I would say let there be -- some biblical line that would guide that about a joyful noise.

I just did want to say that Andala is I hear withdrawn so I guess I won't say anything except that's another great location. And Petsi Pies is also a wonderful new addition. It came from Somerville. It's on -- I'm glad they have a capacity problem. They're also linked with the new Tupelo, which is a great new location too. So it hopefully will help the City become interesting. There was a report in Kendall Square, looking at

the Square and looked at the City, and they said we need to be more exciting, so you're in charge of that. I hope we will stay as exciting as we are and get more interesting.

MR. RAFFERTY: Would you want to weigh in on a block party as long as up there?

MR. REEVES: Mr. McCarthy is asking for Gay Pride to have to have a block party. The City has a breakfast. We never have anything in the evening. It's been hard to do. We've had it some several years on MIT property. This time we want to try to have it right outside the club. The issue is that it hasn't been determined. He's asked for it -- I mean it's not much good to have a block party on Gay Pride and have it end at 10:00. Allegedly the issue is it's the noise ordinance issue. Well there's nobody in this neighborhood, no people who live there.

So I was just hopeful -- Ms. Lint and I have had some wonderful discussions about this. If nobody is there to complain about the noise then what is the issue?

There's going to be an informal meeting of those from the City's task force to determine what the answer is but you cannot have an adult party until 10:00. It just doesn't work for any group unless it was senior citizens and even they can go -- I can go beyond 10:00.

MS. LINT: The committee is working feverishly on it and I believe there will be a compromise that everyone can live with.

MR. REEVES: We are all happy to hear that. I apologize to you all but if I'm not home by 7:00 for dinner, I've got --

MR. SCALI: Does anybody else want to be heard on Paradise? No hands. Pleasure of the Commissioners?

MR. TURNER: So we need a letter to be sent to the ABCC from the proprietor?

MS. LINT: No.

MR. SCALI: We need to re-approve the original approval since it expired, and take disciplinary action or not depending on how you all feel about that.

I'll make a motion to re-approve the original approval as originally decided.

MR. HAAS: Mr. Chair, I concur. I think if it was a different situation where there was a licensee that had increased its capacity without conferring with the License Commission that would be a different scenario, and that hasn't happened. They're still trying to do the construction so they're still operating under the original capacity. And to Mr. Rafferty's point, it's kind of a bureaucratic issue so I would agree with you in terms of just going ahead and issuing the extension until the end of May I guess.

MR. RAFFERTY: We might want to build in a little -- construction being the way it is, if we could have an additional --

MR. HAAS: June?

MR. MCCARTHY: We're pushing for June.

MR. SCALI: I'm going to suggest probably we do it until September, Commissioner.

MR. RAFFERTY: Obviously the licensee is motivated. As soon as it's done he be coming in

for his sign offs to do it, so there'll be no incentive for him to delay in doing it. I just wouldn't want to run into another unforeseen construction issue and have to send a letter and come back.

MS. LINT: But you're on top of that now.

MR. RAFFERTY: I know, but that's tonight. You know, I don't remember things as keenly as I once did.

MR. HAAS: Are you saying September 30 or September 1?

MR. SCALI: May, June, July, August, September; that's five months.

MS. LINT: Four months.

MR. SCALI: Four months and September.
Motion.

MR. HAAS: Motion.

MR. SCALI: Motion to extend to September 30, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: With regards to the disciplinary matter, pleasure of the Commissioners?

MR. HAAS: I make a motion that we suspend the disciplinary action at this point.

MR. SCALI: Place on file?

MR. HAAS: Place on file.

MR. SCALI: Motion to place on file with the understanding that if there's a further delay, there's a letter that comes to us in hand by Mr. Rafferty or Mr. McCarthy for extended hearing. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: City of Cambridge, Department of Public Works, 147 Hampshire Street, has applied for a Garage license with additional flammables storage. Said license, if granted, would include 10,700 gallons of Class 1A, 1B, 1C (one, 10,000-gallon UST gasoline, 650 gallons of gasoline in tanks of autos, 10 five-gallon gasoline containers); 11,000 gallons of Class 2 (one 10,000-UST diesel fuel, 1,000 gallons in tanks of autos); 1,860 gallons of Class 3A, 3B, (21, 55-gallon drums of misc. oil for maintenance (one, 375-AST public waste oil); and 640 cubic feet of flammable gases(eight, 80-cubic foot cylinders of acetylene).

MR. SCALI: Just tell us who you are.

MR. COX: Sidney Cox, City of Cambridge Public Works. I'm in charge of the vehicles and the fluids. What we're doing is we wanted to upgrade our new system called "Third-party Inspection" for the City. So we had to upgrade our licenses, which they wanted to know exactly what you had on the premises for vehicles in storage and what's in the ground, what we have

for materials like acetylene and propane. And that's what we have on the premises.

MR. SCALI: So this is what you've had on the premises all along; nothing has changed?

MR. COX: It would change for the reason that when you change a gasoline vehicle to a diesel, you'd add on the diesel end of it, because the diesel vehicle holds more diesel fuel than a gasoline so it would increase that.

We did a walk around and we included what we have here for the specs and amounts so we can follow through our third-party inspection.

MR. SCALI: Fire Department on this matter?

MR. TURNER: It has Fire Department approval. As Mr. Cox has stated, most of these numbers have been in existence for a number of years, but some of the gasoline numbers have dropped and the diesel numbers have gone up due to modernization of vehicles. Mr. Cox explained it better than I could the reason and the purpose for this.

MR. HAAS: So this is the current state now? This is the amounts of fuels that you're currently storing.

MR. COX: Correct, yes. The majority of the vehicles, take home vehicle go home. If they stayed there, there would be more of an increase but a lot of them go home.

MR. SCALI: Does anybody from the public want to be heard on this matter? Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Application: Middle East Restaurant, Inc. d/b/a The Middle East/Zuzu, Nabir Sater, Manager, holder of an All Alcoholic Beverages as a Restaurant license (2:00 a.m.) and Entertainment license at 472, 474, and 480 Massachusetts Avenue, 2-4-8 Brookline Street has applied for a change of premises description, increase of occupancy from 59 to 110, and an alternate floor plan inside Zuzu. Total occupancy will increase from 982 to 1033. Applicant is also applying to amend their current Entertainment license to include a DJ.

MR. SCALI: Good evening everybody. Just go right down the line here with Mr. Sater and tell us your name, please.

MR. SATER: Joseph Sater, 171 Auburn Street, Cambridge, MA.

MR. SATER: Nabir Sater, 7 Brookline Street, Apartment 6.

MR. SATER: Sonja Sater, 101 Brookline Street, Unit A, Cambridge.

MS. MARKHAM: Lisa Markham, 17 Simon

Street, Salem, MA.

MR. SCALI: So I guess this all came about, Mrs. Lint, because of the task force or was this a complaint?

MS. LINT: There was some police activity one night and there was a question that it was overcapacity.

MR. SCALI: Ms. Boyer, why don't you come forward.

MS. BOYER: Andrea Boyer, B-O-Y-E-R, Investigator for the City of Cambridge License Commission. It actually started as a fire complaint based on someone calling and stating that they had been at Zuzu and it seemed crowded. So what I was doing just nightly routine checks with Officer Benny Szeito I did notice that there had been a DJ inside along with the seating had changed.

So I approached Joseph and explained to him that he would be to apply for a change of premise description. And then going through the file looking at the entertainment after all these

years, who knew that the Middle East didn't have a DJ license.

MR. SCALI: That's about the only thing you don't have there is the DJ; right?

MS. BOYER: We just explained that he needed an alternative floor plan since he was dining in the early evening, changing over like other establishments have done in the past to have dancing and a DJ.

MR. SCALI: Having been here so many years -- I feel like I grew up with the Middle East -- as I recall, the Zuzu space when you applied for it was going to be the upscale restaurant portion of your premises.

MR. SATER: And it is, and it is still. When the economy hit people still come in and they're not spending that much money. It became a little hardship. I need to keep the same income. I don't want to lay off people. So we said what about let's try DJ after the dinner hour, after 11:00. It didn't even dawn on me; I didn't even think of it we didn't have a DJ license.

MR. SCALI: And that's a concern, but I guess my bigger concern is that you're changing the concept of that space after 10:00 at night or whatever it is, for a dance floor. You've got a huge capacity in that basement already. We're going to go from 982 to 1033 when you change the premises on that middle space.

I know you handle things very well and you do a great job with security. Over the years, you've increased your ability to do that but I'm just wondering -- this has been going on for a number of years I'm gathering; right?

MR. SATER: The DJ?

MR. SCALI: And also the dance floor in Zuzu.

MR. SATER: No, not numbers of years. We just started when the recession hit actually. So I would say a year-and-a-half ago maybe, two years, not even two years.

MR. SCALI: So why can't people dance downstairs?

MR. SATER: They can. The whole thing

is just as you know, the Middle East is different rooms and every room has its own crowd. Downstairs you have live music, and the corner and upstairs live music. So in this room we'll be able to charge a little cover charge to be able to bring the DJ. So the whole thing and just to cover up --

This room is the last that rented so it's the most expensive square footage compared to the rest of the building. It's almost \$40 a square foot.

If we look at the plan of what we're doing in Zuzu, it have no reflection on the other capacity of the Middle East. Like the allowance of it for standing room when we move the tables out of the way is like 130. So what we're asking for is 110. So if we take into perspective the capacity for dining is 59 now, so we're asking for 51. That's comfortable, it does not reflect on any capacity in the Middle East's five rooms.

MR. SCALI: You've already got a very being capacity already. It's the biggest in the city. You've got the biggest capacity of any place

in the City. It's on the first-floor, street-level with a glass front, and the noise is going to emanate from that space because people are dancing with a DJ on the street-level. Whereas, in previous cases everything was down below grade and people can't hear it. I'm just wondering about the logic in that in terms of protecting the public and residents that are around there and that kind of thing.

MR. SATER: What happened was -- which if we look at the residents there are two buildings facing the Middle East. All the buildings in there, there's no resident building. What's facing Zuzu is you have to go behind McDonald's or you have to go behind the SEA Engineering. It used to be SEA Engineering.

The whole thing was when the heat came up one day that evening, so instead of turning the air-conditioning they decided to open the windows, and now the windows are closed all the time, and the doors. It's a mistake happened from a person came in from outside from New York and decide he

want to open the window during the music and that is not traditionally done. If the windows are closed, you can't even hear it across Mass. Avenue.

MR. SCALI: Questions?

MR. HAAS: Mr. Chair, through you to the applicants: are we 100 percent sprinkler protected throughout all these spaces now? Does Zuzu have sprinkler protection?

MR. SATER: Everything.

MR. TURNER: I know you were filling them in.

MR. SATER: Including the basement and the dry basement, everything is protected.

MR. TURNER: I can't answer this and I don't expect you to answer it, but I would like to check with Inspectional on your adequate egresses. Is the single door from Zuzu to the street adequate for 110 persons?

MR. SATER: No. We have two doors. We have another door.

MR. TURNER: But that opens up into another -- which is not --

MR. SATER: That opens up to Zuzu.

MR. TURNER: I don't think that can be done by code. So I would like to have Inspectional -- has Inspectional looked at this?

MR. SATER: Yes. They signed off on it.

MR. TURNER: Last question, you mentioned moving tables and chairs out of the way for the dancing. Where do those tables and chairs go.

MR. SATER: They go next to the wall. That's why we're asking for 110 instead of 130 capacity. They're all going to be piled up in the corner next to the door.

MR. TURNER: So some of that 650 square foot is actually reduced.

MR. SATER: Exactly. This will be done by the architect.

MR. TURNER: So it stays within the room. It doesn't get shoved anywhere else. Thank you.

MR. SCALI: Ms. Boyer, what's your

opinion on this, on the issue of the music and noise?

MS. BOYER: On the kind of music?

MR. SCALI: No. The impact to the Square.

MS. BOYER: I think if there's anyone here to speak about the impact to the Square that would be up to them. I also think that it's an enjoyable thing. The Middle East has always done well with the bakery and with the other room. They always seem to play to their people. The article that was written that music starts in New York and ends at the Middle East in Central Square is a very nice quote for the City of Cambridge.

So I don't have any objections against it. I think that they do a good job. Even what I walked in and no one was expecting me to come in it wasn't as if it was out of control or anything. I think if there are any noise problems that's something that we could work with the speaker placement and so forth, if necessary. It didn't seem as a hazard when I was in there even with --

MR. SCALI: Did you hear noise coming out onto the sidewalk?

MS. BOYER: No, I did not that evening.

MR. SCALI: Does anybody from the public want to be heard on this matter? I see a hand out there. Let's take the gentleman in the back and then Mr. Clifford.

Good evening. Just tell us your name.

MR. MAGGINI: It's Elio Maggini. I'm over at 15 Douglas Street.

I just feel compelled to come down. I've had the pleasure of meeting Joseph. Part of what originally attracted me to the Square was the vibrant nightlife. That being said, I'm the one that's mentioned talking about the noise level there sometimes.

In the past couple of weeks it has greatly improved. My interest would be to see that continued because previously for the past a bit over a year from 11:00 until about 2:00 a.m. from at least Thursday to Saturday, and then sometimes a

little later on past 1:00 on Sundays there has been some noticeable just kind of low end beat, which the issue really is with DJ music, especially as was mentioned with the placement of the speaking right there in the corner. If it would be placed perhaps a little further back in the club so the bodies themselves act as a certain shield of the low end that would be probably be a workable solution.

So that's just kind of my input. You know, I love having the nightlife but I'm not a fan of that especially after midnight time.

MR. SCALI: You could hear it across to Douglas Street?

MR. MAGGINI: 15 Douglas Street. When you look at the nature of low end sound waves, they've got that woofer and it just goes straight through all the -- so it like that 20 to 60 hertz.

MR. SATER: If you open the window, you know, that's what they used to do.

MR. MAGGINI: I've noticed that it seems to have maybe reduced the level of the PA as

well because there have been certain instances on especially Sundays they seem to have a raucous kind of thing. They do push it sometimes a little. So when it gets up there it still goes through the window, but lately it's been better. So that's my input.

MR. SCALI: If it's going to continue, it probably shouldn't be in that front window at all. If we approve it, it should be placed in the back. That was my concern about the glass in the front and all that. It doesn't buffer that at all.

MR. MAGGINI: Thank you.

MR. HAAS: You're willing to allow us to experiment a little bit with the noise?

MR. MAGGINI: Yeah. I like the Square. I thin kit's great. It's part of the reason I went there but there's a certain balance.

MR. HAAS: Okay.

MR. SCALI: Mr. Clifford.

MR. CLIFFORD: John Clifford. I work for Councilor Reeves, and I'm also a resident of 55 Aberdeen Avenue. As Councilor Reeves said, the

Middle East is a destination point. It's very very important to the Square. Zuzu is very important to the Square. Each venue, each niche at the Middle East has a little bit different draw, which is very important to the Square. I've been there many times. I've never heard the noise outside the Middle East. It's a DJ so it's not a band that's in the cellar or something.

I know that Councilor Reeves wants you to approve this. I know I want you to approve it. My kids who are 23 and 25, they go there when they're in town from New York. They bring their friends there; they think it's a great place. It's a good place to bring them. They think it's too quiet in Zuzu. So I would urge you to approve it. Thank you.

And by the way, I've been to the theater, Central Square Theater many times, and I went to Zuzu to eat afterward. It is an upscale restaurant up until that time. I've brought friends there from out of town. They think it's an upscale restaurant. It's a nice quiet restaurant

atmosphere and a lot of people go there just to eat that don't go there for the DJ after. Thank you.

MR. SCALI: Thank you very much.
Anybody else? Ms. Boyer.

MS. BOYER: If the levels stay where they have been as Elio maintains, if I need to monitor it and be at Elio's place to make sure that we find a level like I have done at other establishments, we'd be willing to do that too, if necessary.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Through you to the investigator, Ms. Boyer, the original complaint was on an overcrowding?

MS. BOYER: I didn't visually see it, but yes, a possible overcrowding. The people at the time didn't leave their name or telephone number for contact so I don't know.

MR. TURNER: So there's no way to determine if there actually was. Then when you visited there was no sign of it?

MS. BOYER: They weren't overcapacity at that time, correct.

MR. SCALI: Any other questions, Commissioners?

MR. HAAS: I guess this is more for the Deputy Fire Chief. It's just a nagging question I have about the basement and egress and things like that. You're satisfied?

MR. TURNER: I am not satisfied. In fact, I'm going to get a copy, I'm going to request a copy of the floor plans and run them by Inspectional. I'm not comfortable with those two means of egress the way they're situated. Actually, is the kitchen a means of egress in Zuzu, as well?

MR. SATER: Yes. It goes all around.

MR. TURNER: So it's got exit signs?

MR. SATER: Yes.

MR. TURNER: I just want to run it by -- just to be more comfortable for me is to run it by Inspectional and have them double check it and look at the numbers. It's got full sprinkle

protection and alarm system, so it's got occupant notification. I guess from sitting here looking at it on paper, it is code compliant.

MR. HAAS: I would feel a little bit more comfortable just making sure the Fire Department is comfortable with means of egress. I know it's a large venue below grade and I just want to make sure that there's sufficient methods for people to get out of there if they had to. The only reason I would wait is just to get the Fire Department's view in terms of that matter.

MR. SCALI: Okay.

MR. SATER: I just want to say something for the fire egress, for the exits, it's so important to me personally. I would go every night. I make sure the equipment is out of the way, I make sure everything is clear. People's safety is number one for me and my family. And the record would tell how long we have been there: 40 years almost.

MR. HAAS: One thing that's clear to me is that you've had a safe operation for many

many years. Just from my standpoint, again, more from a lay standpoint, I'd defer to the Fire Department just to kind of give their view on it.

MR. SCALI: Does anybody else have any further comments? Come on up.

MR. OPEY: My name is Lyman Opey. I'm at 60 Magazine Street. I'm actually here on other business but just quickly I'd like to second all the words that people gave in support of Middle East. It's an institution in Central Square, a wonderful institution. And having dancing up at Zuzu is a different draw from the louder dancing downstairs. And people would like to continue dancing up there. I hope they're allowed to do that.

Also, when I've been by there on evenings they're scrupulous about counting the number of people coming in the door and going out to be sure they're not exceeding the limits of the space. That's all.

MR. SCALI: I'm very glad to hear that.

MS. BOYER: Me too.

MR. SCALI: Pleasure of the
Commissioners? Under advisement?

MR. HAAS: Mr. Chair, my only
reservation was just to get a reinforcement or
reaffirmation from the fire department. That's the
only reason I would hesitate to vote in favor of
the application. So I would make a motion to take
it under advisement.

MR. SCALI: Motion to take the matter
under advisement just for further review by the
fire department for the egress issue. Moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye

MR. TURNER: Aye.

MR. SCALI: We vote on May 6 at 10:00
a.m. Thank you very much.

MS. LINT: Application: Cityview Inc. d/b/a Cityview Trolley Tours, Michael Thomas, Manager, holder of a Jitney license has applied to temporarily change their approved route to stop on Brattle Street during April and May. This change has been coordinated with the Traffic, Parking, and Transportation Department.

MR. HAAS: Just tell us your name, please.

MR. THOMAS: Michael Thomas.

MR. SCALI: We had you on the agenda last time but you were unable to make it or something.

MR. THOMAS: That's correct, yes. My apologies.

MR. SCALI: So this isn't the same situation we had with the other trolley service where they're going to temporarily change the stop to see how it goes with regards to being parked on Brattle Street as opposed to Mount Auburn; right?.

MR. THOMAS: That's correct.

MR. SCALI: So that's the only change

to your operation?

MR. THOMAS: That's correct.

MR. SCALI: Same hours, same number of trolleys?

MR. THOMAS: Yes.

MR. SCALI: Same time schedule?

MR. THOMAS: Yes, no other changes.

MR. SCALI: Questions?

MR. HAAS: Mr. Chair, just remind me, did we take this under review on the previous application to see how this would work? Or did we just basically approve the change?

MS. LINT: We did.

MR. SCALI: We continued it?

MS. LINT: This was for April and May. I think we continued it until June. I can check on it.

MR. HAAS: What I would suggest is we do the same type of review for the same time period. It seems to me that both services are -- because of the bus traffic and things like that -- trying change it over to Brattle Street because of

the T service; right?

MR. THOMAS: That's right.

MR. HAAS: You need to see if that works better?

MR. THOMAS: Yes, that's right.

MR. SCALI: So if we take it under advisement of continue it, it means that the review of your temporary stop will be allow but then you'll have to come in to be heard again on the permanent change, if you so choose to do that. So we would allow them to continue.

MR. HAAS: We'd look for a report back from you. Is it working better, not only for your customers but also for traffic and things like that.

MR. THOMAS: I have evaluated and watched. The other company is operating presently. We have not started the season operating in Cambridge as of yet. We plan on doing that sometime before Memorial Day weekend. I have evaluated the stop and took a close look at it. We've been sharing stops for many years throughout

the business in other cities with other types of vehicles and so forth. I think we've all played pretty well in the sand box, as they say. I don't know of any complaints on file.

MR. SCALI: When does the season begin on the new stop?

MR. THOMAS: We're looking by Memorial Day weekend to be up and operating in Cambridge.

MR. SCALI: So if we continued it until June, it would only be like a month of time. Do you need more time than that to determine how it's going to work?

MR. THOMAS: It would be probably more reasonable to operate and get a feel during busy times when school breaks out in the middle toward the end of June. So to make a true evaluation it would be a little extended period of time, if possible.

MR. HAAS: The end of July?

MR. SCALI: Does anybody want to be heard on this matter? Ms. Jillson, I know you've already talked about this at the last hearing on

the other application. I'm assuming your comments are the same on this one.

MS. JILLSON: Yes, sort of. Just to give you a small update. You know the other company, Super Duck Tours has been stopping there now for a month, I think it was the beginning of April that they started, so we've been watching it. It's right above my office, this stop, so I really get an opportunity to see whether it's having any impact or not.

The good news is that yes, people are getting off the trolleys there, wandering around the Square, and they're getting back on a couple of hours later, which is really all we wanted. There was a great deal of concern that people were not getting off at Mount Auburn because it felt like it was in the middle of nowhere. So I think that in terms of the reports thus far, yes, it's working.

We do have some data from the Museum of Natural History. Interestingly enough we got a report from them stating that the trolley has had a significant impact on the number of people that are

going to the museum. So they're very very happy with this because there is an additional stop that we made down by the museum. So I think the overall impact, the economic impact for the Square is significant and we'll continue to see that I think as the tourist season has arrived.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: While we have Ms. Jillson here I just had a thought. That plaza is about to undergo some construction; correct?

MS. JILLSON: Yes.

MR. TURNER: What happens to the stop?

MS. JILLSON: It's not impacted because the stop is before the construction. We checked with the MBTA because I have some real concerns about what's going to happen because at some point, we're going to be down to one lane, and how long is that -- you know, is it going to be a week, is it going to be several days? Is it going to be five weeks? We just don't know. So we did speak to the MBTA. That's a question, and I think

it's a question that we have to really look at.

MR. TURNER: In other words, temporarily relocate the stop at some point.

MS. JILLSON: Yes, absolutely, so we're going to be watching that. I think it's a good point and one that we share your concerns.

MR. SCALI: Does anybody else want to be heard on this matter? Did we continue the other one to June? I forget now.

MS. LINT: I can't remember.

MR. SCALI: If we can coordinate the two of them together that would be helpful. So motion then to --

MR. HAAS: The other thing, Mr. Chairman, listening to the applicant, he's looking I think at least until the end of July. I mean he's starting to do some increased traffic too. One service is working okay, and hopefully both services will equally well, but just to give them an opportunity I would suggest that maybe we at least go to the end of July.

MS. LINT: I could still put them both

on at the same time. It's not an issue if we continue the other one longer.

MR. SCALI: So motion then to allow the temporary change continuing the application to our second hearing in July understanding that the City Council is the one that approves the final change. So this is just a test and then it would go before us and then before the City Council on the final change.

That's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Review: AFKOR, Inc. d/b/a Cafe Anatolia, Alp Hocagil, Manager, holder of a Common Victualer license at 251 Cambridge Street for review of the License Commission's January 5, 2010 review hearing decision which states that Mr. Hocagil must continue to pay his outstanding parking tickets.

MR. SCALI: Cafe Anatolia?

MS. LINT: My information from Ms. Lawrence is that there has been no payment since March 24.

MR. SCALI: Frankly I'm a little tired of this coming up over and over again. Either he's going to pay it or he's not going to pay it. I'm to the point, Commissioners, where I say we just suspend the license until he's pays it, but I'm open to discussion.

MR. HAAS: The only catch-22 in this situation is that if we do suspend his license, then his revenue source is --

MR. SCALI: Then he can't pay it.

MR. HAAS: That's the dilemma we've

been faced with all along and I think we've tried to give him every consideration to take care of it. The problem is he continues to accrue additional parking tickets in the process so I don't know how he's ever going to get in front of this thing.

MR. TURNER: That was going to be my question. Is he accruing more tickets?

MS. LINT: Yes.

MR. SCALI: He's got like \$3,000 in tickets that he hasn't paid yet. Discussion?

MR. TURNER: Don't they boot him?

MS. LINT: Yes.

MR. TURNER: How does he get out of the boot?

MS. LINT: Pays them.

MR. TURNER: So he pays it in full or do you have to pay just a certain percentage?

MS. LINT: A certain amount.

MR. TURNER: Can't Traffic and Parking boot him until it's completely paid?

MR. HAAS: What I'd offer, Mr. Chair, and I think it's been really kind of slippery here,

so what I want to see is a fixed schedule of payments so we're not you know -- and then if he can't agree to that fixed payment schedule, then I would support your motion to suspend his license.

He's got to make some effort here to get this thing resolved. The other thing is he's going to have to do something with the -- I mean he acknowledges that he continues to park in ways that he's going to get more parking tickets. He's got to figure out how to fix that as well. So what I would ask for is to give him an opportunity to come in here after he's negotiated with Traffic and Parking for a fixed schedule to the point where the tickets are paid for, and that's agreed upon.

MS. LINT: He actually had that through the Law Department and then was not abiding by that, which is how it came here to begin with.

MR. SCALI: I think he's already been down that road, Commissioner.

MR. HAAS: I'm trying to help here.

MR. TURNER: Can we give a timeframe and then suspend on a disciplinary?

MS. LINT: You can do whatever you want.

MR. TURNER: Or I guess should we give some consideration to at least hearing from him?

MR. SCALI: He didn't show up tonight.

MS. LINT: And he was the one who asked that it be continued at the last hearing because he had a family emergency. I think all he's paid is \$125 since then.

MR. HAAS: My guess is he's having difficulty paying the fines. That's probably the problem.

MR. SCALI: My motion is to suspend the license. You don't have to agree with me.

MR. HAAS: I know. I'm thinking. I agree with you, Mr. Chairman. I mean we've had him in here at least three times that I can recall. It just seems every time the payments are made right before the hearing and now we have a situation where he's not made the last two hearings and hasn't made a payment since March 24.

I would offer to suspend the license

unless he can demonstrate to us that he's going to have some kind of schedule he's going to adhere to with the understanding that if he doesn't adhere to the schedule then the suspension gets reinstated.

MR. SCALI: So amending my motion.

MR. HAAS: I would make the motion to go ahead and suspend, give him an opportunity to come back in here and present us with a schedule. If there's an approved negotiated schedule between Traffic and Parking and himself then reinstate his license, but then if he deviates from the schedule then I think we've done everything we can at this point in time.

MR. SCALI: So that's a motion by the Commissioner, which I will second.

All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MS. LINT: Application: Panja Sasirat 2008, Inc. d/b/a Conga, Sasirat Wycoff, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 1 Eliot Street has applied for a change of premise description to include an outdoor patio, an alternate floor plan for a dancefloor, and to amend the current Entertainment license to include dancing by patrons, live musical instruments and/or vocalists with amplification, karaoke, audio tape machine/CD, which may play music below, at, or above conversation level, and five TVs.

MR. SCALI: Conga.

MR. RAFFERTY: Good evening.

MR. SCALI: Mr. Rafferty, just introduce who you have with you.

MR. RAFFERTY: Good evening Mr. Chaiman, member of the Commission, James Rafferty. Seated to my left -- and the spellings here I'm going to let Mr. Lymswam do. Start with your name and the spell last name, please.

MR. LYMSWAM: My name is Panja

Lymswam, L-Y-M-S-W-A-M.

MR. ROCHA: Mauricio, M-A-U-R-I-C-I-O
R-O-C-H-A, Rocha.

MS. WYCKOFF: Sasirat Wyckoff, S-A-S-
I-R-A-T.

MR. SCALI: So this is an existing
restaurant.

MR. RAFFERTY: Correct. This was for
many years the Cafe Paradisio at the foot of
Winthrop Street down at the intersection of Eliot
at that location. It's across Winthrop from the
Beer Garden that we heard about tonight. It has
been licensed for many years. Mr. Lymswam has been
a licensee in the Harvard Square area for some
time. He has the Spice Thai restaurant on Holyoke
Street.

He recently, with the approval of the
Commission, applied for and received a transfer of
the former Shine license in Kendall Square to this
location. The concept here for Conga is for a
Latin theme, Salsa style restaurant. Conga is --

MR. ROCHA: Conga is a tapas pan-

Latin-American restaurant. We have food from Spain and from diverse countries in the Caribbean and Argentina and all from a Latin perspective.

MR. RAFFERTY: Mr. Rocha is a chef and is involved in the operation. But one of the concepts that could add to the success because it's been a new venture and it's facing a challenging environment is that there are entertainment uses nearly along the entire stretch of Winthrop Street there. Tommy Doyle's has live entertainment, OM has live entertainment. I'm not sure what the entertainment status is over at Charlie's but it's clear that there's a market for it.

So the licensee has applied for an Entertainment license so there are a couple of components to the application. On the entertainment side they're looking to be able to have Salsa dancing. Their intention is to give Salsa lessons and have a night of Salsa dancing. There's one night dedicated to Salsa, there's another night dedicated to --

MR. ROCHA: We have different themes

that we want to do to go according with our food and our concept. We have for example, Brazilian music we would like to explore. We have people who come in from England to try to teach a lesson of Brazilian Samba, or Salsa, or different ethnic things cultural that we see the lack of in the area. I think we could take advantage and present it.

MR. SCALI: How many nights a week are we talking with the entertainment?

MR. RAFFERTY: For the entertainment, I'm looking at the application and --

MR. LYMSWAM: We're looking for seven days but we're not going to do it seven days.

MR. SCALI: So seven days a week you would like to do it, but you may not do it seven days a week. What time will you start the entertainment?

MR. LYMSWAM: About 9:00.

MR. ROCHA: After our dinner, which is about 9:30, 10:00.

MR. RAFFERTY: The application

contemplates an alternative floor plan which has been approved in certain locations. You'll recall the House of Blues had one year ago that allowed for the removal of tables and chairs after the dinner hour to allow for dancing. So it would only be on those nights for which there is dancing. I think we probably in the application -- I'm looking at the date -- the application might be viewed as overly broad with the expectation that --

MR. SCALI: That we narrow it down.

MR. RAFFERTY: Exactly.

MR. SCALI: What time is closing hour?

MR. LYMSWAM: The weekend is at 2:00.

MR. SCALI: Oh, you have a 2:00 a.m.?

MS. LINT: They have a 2:00 a.m.

MR. SCALI: So Thursday, Friday, Saturday, you've got 2:00 a.m., and the day before a holiday.

So are we asking for an increase in the occupancy, too?

MR. RAFFERTY: I don't believe there's an increase. There is seasonal seating on the

patio but there is not an increase in occupancy applied for.

MR. SCALI: So when you take out the tables and chairs you have the alternate floor plan at 9:00 or 9:30, people will be dancing but there will be the same number of people?

MR. RAFFERTY: Yes.

MR. SCALI: What number is that? Do we know?

MR. ROCHA: It's 100 I believe. Is it 110, Panja?

MR. SCALI: It's 110 people. Is that your capacity?

MR. RAFFERTY: I'm looking at the CV application and it says 101 with 10 standing.

MR. SCALI: Are you taking out all the tables and chairs?

MR. RAFFERTY: No. You'll see on the alternative floor plan. There's just an area in -- it looks like it involves the removal of eight tables.

MR. SCALI: So you're taking out 32

seats, which mean at the most you could have 32 people on the dancefloor; right?

MR. RAFFERTY: That would presume that the balance of the capacity is -- we're looking to have 111. I don't know if there's --

MR. SCALI: Well, 32 plus 10.

MR. RAFFERTY: If someone were seated at the table and got up to dance that would be okay.

MR. SCALI: I'm asking you. What is you want?

MR. RAFFERTY: We want the floor plan but the notion that the number of people on the dancefloor would be limited to the number of tables -- I mean at any given time people who could be in the tables might get up for a particular dance.

MR. SCALI: That's why I asked if it's a certain number you want on the dancefloor, there would be an application for an increase in occupancy, too. If you want to have those tables and chairs that are there already, plus a certain number on the dancefloor then it will be --

MR. RAFFERTY: I think we're missing each other. I'm saying that the number of people dancing at any one time might exceed the number of seats, but those people may be leaving their seat. We don't have a separate capacity for the dancers. So if I'm seated and get up to dance, the capacity hasn't changed.

MR. HAAS: So you're saying there would never be more than 111 people in that restaurant at one time?

MR. RAFFERTY: Right. We didn't ask for anything more than 111.

MR. SCALI: That's what I wanted to know.

MS. LINT: Seated and standing.

MR. RAFFERTY: 111 combined. Sure, there could be a point when there's more than 33 people on the dancefloor but there wouldn't be more than 11 people in the premises.

MR. SCALI: That's what I wanted to know.

MR. RAFFERTY: So the Entertainment

license involves three general areas. One is the dancing, principally; the second would involve live entertainment; and the third involves karaoke. The alternative floor plan is only in effect when there are dance nights, so when dancing is occurring. On other nights there might be -- on a night when there was karaoke, for instance, there wouldn't necessarily be dancing.

MR. SCALI: So one night could be karaoke, one night could be dancing, one night could be live entertainment.

MR. HAAS: Correct.

MR. SCALI: But never a combination of those three.

MR. RAFFERTY: Certainly I think less so karaoke and Salsa dancing, but perhaps karaoke and live entertainment. Excuse me, live entertainment and dancing. So if the Salsa music was being provided not by tape but by a live artist, you would have live and dancing together. But I can't imagine that karaoke and dancing are an integral match.

So those are the entertainment elements and then there is a change of premise involving a small patio area outside, which historically had tables on it when it was Cafe Paradisio. When Mr. Lymswam took over he didn't designate that area.

MR. SCALI: Is that the section under the overhang?

MR. RAFFERTY: Correct, it's a strip by the front door with the overhang. And he did meet with some abutters and he has suggested two restrictions. One is, after discussions with Mr. Overgaag, it was a helpful suggestion, which is that the premises now has the accordion style windows that allows them in good weather to open those windows during daytime. He wants to represent that on those nights when there was live entertainment or any musical entertainment they would be closed to prevent either the music, whether it be background music, recorded music, or live music, or any combination of the two wouldn't emanate from the premises.

He also has agreed that after 10:00 at night he wouldn't use the outdoor patio, so there wouldn't be waitresses and servers going in and out. It would reduce the opportunities to have the door open and to have noise escape.

MR. SCALI: So the patio closes at 10:00?

MR. RAFFERTY: The patio closes at 10:00.

MR. SCALI: That would be in line with what Tommy Doyle's is looking for too.

MR. RAFFERTY: It was suggested to him in conversation. I know Mr. Overgaag was helpful in suggesting it. As you know, there's a nice collaboration of restaurants on that strip; they seem to coexist somewhat peacefully?

MR. SCALI: And the five TVs; at the bar?

MR. RAFFERTY: I think they're there already.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: The only concern I have on this is I'm somewhat familiar with this establishment, it's kind of a postage stamp, and here again on paper it's great to see tables disappear. Where are we putting these tables? There's no place to put them.

MR. LYMSWAM: In case on the outside we can put some of the chairs to the basement.

MR. TURNER: So you're going to move the tables and chairs all the way to the basement, and outdoors where, on the sidewalk?

MR. LYMSWAM: The outdoor patio, when we finish we probably stack on the outside so it's not going to be moved inside.

MR. TURNER: So they're going to move the tables inside, outside?

MR. SCALI: No. You're going to move the tables inside to the basement; right? You'll take the eight tables off the dancefloor.

MR. LYMSWAM: For the dancefloor we have to move to the basement. For the outside we

stack outside.

MR. RAFFERTY: So on the nights when the alternative floor plan is in effect, when there is a dancefloor, you're saying that the tables and chairs will be removed to the basement?

MR. ROCHA: Yes.

MR. SCALI: Because you can't stack them in the restaurant.

MR. ROCHA: No. We wouldn't have very much space there but we do have some space in the basement. And the tables that we would like to have outside are very light and small so we can stack them against the wall --

MR. SCALI: And chain them up.

MR. ROCHA: -- and chain them up, yes.

MR. SCALI: Questions?

MR. TURNER: No questions.

MR. SCALI: Comments?

MR. HAAS: No comments.

MR. SCALI: Is that it,
Mr. Rafferty?

MR. RAFFERTY: That is essentially the

presentation. As you know, there is a dearth of Salsa entertainment. My understanding is that at Ryle's in Inman Square there is some Salsa classes but it is an emerging and popular form of entertainment, and this would be the only such entertainment of that style in Harvard Square.

As Councilor Reeves noted earlier, it does add to the mix of entertainment uses in a somewhat unique way. There is a petition where some people have signed, and I do believe there might be some communications of support from others. And then of course, I have cards for Ms. Lint. Do you have Councilor Reeves --

MS. LINT: That's all I have is from Councilor Reeves.

MR. RAFFERTY: You make it sound so lonely. It's a very powerful --

MS. LINT: Well, it is. I know Mr. Clifford is here and I'm sure that --

MR. SCALI: So there's no addresses or anything on here for the people who signed. Who are the people that signed?

MR. RAFFERTY: I noticed that myself. They're patrons of the restaurant so I don't think we would represent that they're close abutters but I think they represent Salsa debotees.

MR. SCALI: So let's take comments from the public, Mr. Rafferty. Does anybody want to be heard in this matter? Councilor Kelly.

MR. KELLEY: Thank you, Mr. Chair and members of the Board. I wouldn't say yes or no, and I'm glad that the applicant is addressing some of the noise issues with the accordion windows and the outdoor seating. I think what we all need to consider is, what next. It is a tough economy. We already have one if not more application tonight explaining that in a tough economy people do things differently. They try to bring in more people.

When this is granted, if it is granted, where does that stop? Is it going to be this Winthrop Street alley being an entertainment Mecca and it stops there, or does it spread out towards Church Street and beyond? Does it move up and down Mass. Avenue? I really don't know but to

some extent it's a zero sum game. And as establishments compete with each other for clientele, we're going to see more people seeking to have these different things, and sometimes it's going to be a good idea and sometimes it's not going to be a good idea.

I don't think anyone wants anyone to fail but when we move forward we have to realize that it probably won't stop at any particular place. But at some point there has got to be a rationale for saying yes, here, and no someplace else.

I know this area isn't in the heart of a residential district but there are a number of residents who live relatively nearby. Whether they would be bothered by karaoke with the windows shut, I really don't have a clue. But what does it do to someone three-quarters of a mile up Mass. Avenue that now has this increased competition? I'd just ask you to keep all that in mind as you make your deliberations. Thank you.

MR. SCALI: Thank you, Councilor.

Questions?

MR. HAAS: No question.

MR. TURNER: No questions.

MR. SCALI: Does anybody else want to be heard? Mr. Clifford.

MR. CLIFFORD: John Clifford, I work for City Councilor Ken Reeves. I live at 55 Aberdeen Ave. in Cambridge. I know Councilor Reeves has written a letter, which I guess you all have. Councilor Reeves and I have been there many times. It's a different venue in Harvard Square; it's a different venue than a lot of places in Harvard Square. One thing that's very clear is if you're outside the place, you can't hear anything inside the place at all, any noise at all.

MR. SCALI: They're asking you to speak up a little louder.

MR. CLIFFORD: said that Councilor Reeves and I have been there many times. It's a different venue there, a different menu, a different flavor. It attracts somewhat of a Latin crowd but also other people. When you're outside

the establishment you cannot hear any noise inside the establishment, and it is very very well run. It's a place that's needed. I know Councilor Reeves and I urge you to approve their application.

MR. SCALI: Thank you, Mr. Clifford.

Any questions for Mr. Clifford?

MR. HAAS: No.

MR. TURNER: No questions.

MR. SCALI: Does anybody else want to be heard? Someone has visuals.

MS. THOMPSON: It really helps to see.

MR. SCALI: Put it right up on that edging if you want. Against the wall there's a ledge. Why don't you have a seat?

MS. THOMPSON: I will, thank you. My name is Anne Thompson and I live at 93 Winthrop Street, which is a ring-side seat on Tommy Doyle's and this place. I'm right up here.

MR. SCALI: You're above this.

MS. THOMPSON: I'm above this. The fifth, sixth, and seventh floor are people sleeping and making a nice life. We think we're very very

lucky to have had the intervention of the City of Cambridge in the welfare of Winthrop Street. It's been a great investment and it's served well some restaurants that held out there a long time under pretty seedy conditions.

Now it has I think done its purpose, which is to make really a much broader and better experience for Harvard Square. But there is a character here, which is it's a pedestrian place now. People come to stroll and enjoy themselves and look at the people sitting in restaurants, which are very nicely set off with not just wires and chains, but by window boxes.

This corner is problematic. Now let me say I am in favor of small-business. I have done nothing but small business all my life. I'm run one now. I founded the Harvest Restaurant and ran it for 20 years, and several in Faneuil Marketplace, and many other places. We would like to see your new venture succeed, but it is creating an intervention that doesn't exist now. There's no live music on Winthrop Street. I must tell you I'm

not even aware that OM has live entertainment, but if so, it's buried, I think Tommy Doyle's at the moment is buried also so that part of it doesn't affect it.

What affects it is the clientele, and what we've witnessed over the last few years is an increasing disturbance of the environment from the patrons, because there hasn't been a musical thing. Charlie's is recessed way off the street; it's not impacting the Winthrop Street side at all.

MR. SCALI: I have to correct you because I think all three places have entertainment.

MS. THOMPSON: Oh, they do. But I'm saying not at the corner at the corner --

MR. SCALI: Well, not in your building.

MS. THOMPSON: No. It's the corner streetfront that is really most important here in a residential neighborhood. I'm not just speaking for myself and my neighbors because I think this is a matter of the entire environment, and it extends

over to the Charles Hotel. Because when the music comes out of this very large opening here it bounces off this wall, which is a historic building on the other side. It's a sound box, and it's not just the music itself and it's going to deflect in all directions, probably away from JFK rather than up the street.

I am concerned also about the issue of the patio because I have not seen the plans yet. Can I see your plan? I know that this is one of the areas.

MR. SCALI: There was a patio there before with the previous application.

MS. THOMPSON: But the published application said 12 seats on public space and 32 on private space. Is there any contemplation of seating on this side?

MR. LYMSWAM: The 12 will be on the front of the building.

MS. THOMPSON: On the front, okay.

MR. RAFFERTY: There's none on the public --

MS. LINT: None of it is on the public sidewalk.

MR. RAFFERTY: It's this area right here, Ms. Thompson, that's depicted there. It's that area right there.

MS. THOMPSON: It's not on the Eliot Street side?

MR. LYMSWAM: The 12 is on the front.

MR. SCALI: Are there 12 on the Eliot Street side?

MS. THOMPSON: There has to be.

MR. SCALI: So on the sidewalk, and then under the overhang is the other 32.

MR. LINT: There's 34.

MS. THOMPSON: But this isn't the overhang, this is the building line. There was -- I mean if this is then on public space, a public sidewalk, you understand that this enclosure has taken away the set back where the seating used to be on private property. Now you're giving them the sidewalk.

MR. SCALI: It's very similar to

what's happening at Charlie's Kitchen. There's going to be a patio -- if we vote it -- on that sidewalk right in front of Charlie's Kitchen, too.

MS. THOMPSON: I grant you that it is but I just didn't hear any concern raised about how that is protected from the public walk, how it's landscaped.

MR. LYMSWAM: We have a plan to designed for the sidewalk so people are not going to be involved with the seating.

MS. THOMPSON: Well, I think it's legal that you must do that, isn't it?

MR. SCALI: Yes. They need to have a plan that would show that.

MS. THOMPSON: So you're giving up this sidewalk and this. We've been recently discussing this with other neighbors but we're really concerned about some of the things that have already come up apply very much to this. The 10:00 closing is essential, the closing of windows is essential at all times when music is playing. And really technically speaking, you would have

soundproof glass. They've got amplification and karaoke. It's going to be noisy.

MR. SCALI: It can't be heard from the street. It cannot be heard from 50 feet away; that's our rule.

MS. THOMPSON: Is there any oversight?

MR. SCALI: Ms. Boyer, right there, who is our chief investigator.

MS. THOMPSON: That's what I would like to hear; that there is investigation.

MS. BOYER: They have had some one-day licenses with some entertainment and if you haven't heard it, that's a good sign. There have been times when they've had one-day permits already until they've been approved.

MS. THOMPSON: I know there's been dancing over there already.

MS. BOYER: So if you haven't heard it, that's a good sign. That's nice to know.

MS. THOMPSON: I'm not against dancing. I love it but we've got to sleep too.

MR. SCALI: Is there anything else you

want us to know?

MS. THOMPSON: I think there is. The other gentleman suggested that perhaps the amplification could be modified after say midnight; that it would not continue at the same decibel level. You could test it empirically, but I guess the question is what kind of response do we get if this license is granted, and who do we respond to?

MR. SCALI: You call us.

MS. THOMPSON: We're being told it will all be all right, but when --

MR. SCALI: Or the police.

MS. LINT: Or me.

MS. THOMPSON: We'd like to be much more ritualized, I mean much more civilized about it. We don't want to make midnight calls and rouse police out of their beds. That wouldn't be good.

MR. HAAS: We don't go to bed.

MR. SCALI: Is there anything else that you want us to know?

MS. THOMPSON: There was a history of this, which I think Mrs. Gifford would like to give

a report.

MR. SCALI: We don't need too deep of a history.

MS. GIFFORD: I know you don't but when else do I get a chance?

MR. SCALI: Tell us your name for the record, again.

MS. GIFFORD: Pebble Gifford, 15 Hilliard Street, two blocks from Harvard Square. There's an irony to this building. Do you appreciate it? What being proposed here, do you appreciate the irony?

MR. SCALI: Fill me in, please. I'm sure there's some point you have but I'm not grasping it.

MS. GIFFORD: This corner when El Paradisio was there was the nicest corner in Harvard Square. It was sunny, all this was overhang. You could sit there in the rain. There were tables. You could sit out here. It was always full. It was part of the premises. It was kept clean. It was a gem. You know who used to

come there every morning for coffee and I used to go down and talk with him, Armando from Armando's Pizza. They had a little coffee klatch on the terrace every morning for breakfast.

Anyway. . . what have we got? We've got this. We objected to Mr. Palagent(phonetic) because what did he do to this corner? Everybody was screaming for patios and he comes along and fences off the patio. Granted, he gives the tenant more space to rent and to make money in, but in the meantime, the public loses a very nice amenity. Here, these gentlemen come in now and want to put the tables not in here because he can't. But they're going to be here; right?

MR. SCALI: I think he's applying for both.

MS. GIFFORD: There's no room to put a table here.

MR. SCALI: Under the overhang he wants to put them.

MS. GIFFORD: What overhang? There's no overhang here.

MR. RAFFERTY: In the picture above.

MS. GIFFORD: In the back you mean?

MR. LYMSWAM: On the Winthrop Street side.

MS. GIFFORD: So there's not going to be any here?

MR. RAFFERTY: No, not there.

MS. GIFFORD: And there's no overhang anymore in the front.

MR. RAFFERTY: No.

MS. GIFFORD: So it will be on the sidewalk?

MR. RAFFERTY: Correct.

MR. SCALI: Against the wall.

MS. GIFFORD: I just wanted to make my point. Once you see them, once you don't.

MR. RAFFERTY: Not to interrupt, but you would agree those are now accordion windows. He didn't do them but I know the look you're talking about. So during the daytime, you still can experience some of that but not as effectively as it was.

MS. GIFFORD: No. But the fact they're going to be closed at night when music is coming out of there --

MR. SCALI: Your points, please.

MS. GIFFORD: I'm making them.

We talked to the landlord about this situation and what was going on here. He said he hopes to put it back the way it was someday. He doesn't predict when. He doesn't know when but he more or less agreed. He's gotten so big now. The Intercontinental is so big and he manages 22,000 businesses.

MR. SCALI: We can't really worry about the future changes.

MS. GIFFORD: To that end, I want to suggest that what you're granting this applicant now be limited to his license, his operation; that it not be transferable. So if there's ever a chance --

MR. RAFFERTY: Isn't that not the case with Entertainment licenses in general?

MR. SCALI: Entertainment licenses are

not transferable.

MS. GIFFORD: What about patios and so forth?

MR. SCALI: No. They're seasonal temporary seating.

MS. GIFFORD: This is a duplication of Fire and Ice, obviously the same type of license that they want to put in. I notice that the Chapter 140 -- I mean Chapter 138, Section 40, mentions change. There's not as much emphasis on public need and public good anymore, but that still is a criteria that you can consider, can't you.

MR. SCALI: That hasn't changed. We still need public safety, public need, public good. They're all still pretty much the law.

MS. GIFFORD: That language has changed.

MR. RAFFERTY: Does Chapter 138 control Entertainment licenses?

MR. SCALI: No.

MS. GIFFORD: In 2007, it was changed but I assume you still see as your mandate

protecting the public good. And the public good isn't just the commercial interest, it's other interests.

MR. SCALI: It's a balance, of course.

MS. GIFFORD: It's a balancing act.
So we do agree on that.

I sense -- and you don't have to tell me now but I'd like to get the information -- that since you've adopted your new policies, which we all participated in the hearings, when was that?

MS. LINT: 2006.

MS. GIFFORD: The cap policy sort of went by the board, so to speak. I would like to know, we would like to know, in the whole Harvard Square cap area, how many new All Alcohol, how many new Wine and Beer, and how many new 2:00 a.m. licenses? Could we have that information because if we are creating more and more density of alcohol outlets, I think it's something we should all know.

That brings me to the criteria that I think is being used when you're granting these Entertainment licenses that the Square needs more

entertainment. It needs more activity. It's too quiet and not enough places to go.

MR. SCALI: That's pursuant to the policy change in 2008 when we talked about entertainment in the city in general.

MS. GIFFORD: But we're never -- let's deal with Harvard Square -- we're never talking numbers or statistics or facts. So I took the time to go on a website. My younger generation told me the best site to case venues for nightlife is Yelp. Ever heard of it?

MR. SCALI: Oh yeah.

MS. GIFFORD: Yelp.com. So you can look in Yelp.com. This is what I found and I'm going to give these to you.

MR. SCALI: How is this relevant?

MS. GIFFORD: It's very relevant.

MR. SCALI: To that location?

MS. GIFFORD: To the Square and the need for this kind of entertainment.

MR. SCALI: And it's going to show us what?

MS. GIFFORD: It's going to show you that in Cambridge alone there's 30 places offering trivia. It's going to show you that the nightlife in Harvard Square, there are 23 venues, and it's called here "adult entertainment, bars, comedy clubs," blah, blah, blah. Twenty -- there they are. Then you go to Central Square and there are another 23. Then between Central Square and Harvard Square there are seven more.

So that gives you over 50 venues for music, late-night dining, late-night drinking. I urge you to get specific about what you mean when you say there isn't enough of these places.

Karaoke, there are six karaoke places in Harvard Square right now. If you look up "bar scene," there are 26 venues in Cambridge. There's a need for functions rooms. There are 15 hotels that have function rooms and event spaces, plus some restaurants. Cambridge dinner, "open late restaurants," 61. We're only six square miles. How big is Cambridge.

MR. SCALI: I'm sure there's more than

that.

MS. GIFFORD: Maybe this is just Harvard Square. This is somebody coming to town and you want to attract them to Harvard Square, and they want a venue to do whatever they want to do. Salsa, I didn't look up Salsa but I probably could. Dancing is included in here too. We are not lacking for places. If you go down there any night at 12:00 on a Friday or Saturday, you will see that we're not lacking. There's plenty of this going on throughout the Square, and they're all listed here. I was amazed at the number just in Harvard Square.

MR. RAFFERTY: Not bothering anybody apparently. We didn't even know they were there.

MR. TURNER: Mr. Chair, is there a point to all this?

MR. SCALI: We need to move on Ms. Gifford.

MR. TURNER: We're getting a little history lesson.

MS. GIFFORD: No, sir. There is a point.

MR. SCALI: What is it?

MS. GIFFORD: I've heard advocate after advocate getting up. Ken Reeves, other City Councilors. Mr. Rafferty says -- he just used the words, there's a dearth of places in Harvard Square to go at night.

MR. RAFFERTY: No, I said "Salsa," a dearth of Salsa. I don't know of any other Salsa in Harvard Square that this.

MS. GIFFORD: Okay. We'll check on Salsa. But does it need to have that?

Last, I want to bring to your attention this study that Henry Wexler does. Have you ever talked to him and read this?

MR. SCALI: As a matter of fact, we have.

MS. GIFFORD: Have you ever had him come and testify, have a hearing on his study?

MR. SCALI: At some point we actually did, yes.

MS. GIFFORD: The point I wanted to make here quickly is that we're one of the wettest

states in the nation, Massachusetts. Cambridge is one of the wettest cities in Massachusetts. And Harvard Square is the wettest area of Cambridge. So we're wet, and wet environments are what produce the problems that we have come to you about for many years that seem not -- we don't get our point across very well.

It talks about the Church Street situation and the parking lot and the vomiting and the urinating, and the stuff that happens when these patrons come out of these places. Fire and Ice hasn't been open long enough so I don't know what's going on over there. That's the public interest; that's the public good that I hope you hear. Because meeting after meeting here it seems that conditions don't get put on these places. Fire and Ice could have had a late-night condition put on it, but now they can come pour out of there at 2:00 in the morning.

MR. SCALI: We have a number of conditions on that and they're not open yet.

MS. GIFFORD: I know. I know they're not

open yet. We're waiting with baited breath. I'm going to leave these studies with you.

MR. SCALI: Thank you.

MS. GIFFORD: The last point is the correlation between density of liquor establishments, which is what I want to know the final number now in Harvard Square, and the impact on the surrounding community neighborhood, ie., residents. There is a direct correlation between higher density of outlets and what the neighborhood tax paying citizens experience.

I see it in my own street. It's not as bad as Church Street. To me, Winthrop Street has been fine so far, but what Councilor Kelley said, I worry where does it stop. Everybody is in hard times. Where are you going to go next? A circus in the middle perhaps; that would bring people.

So I'm not sure -- just think about these issues because you're not in a vacuum. We're in a city, a vibrant wonderful city, but I'm not so sure there's a dearth of these places. Plenty of

people seem to get here and have a good time. And when you give these places licenses like this one, you are impacting the overall environment of the Square and the residents.

MR. SCALI: Thank you very much.

MS. GIFFORD: Thank you.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. SCALI: Does anybody else want to be heard? Hand in the back, Ms. Jillson.

MS. GIFFORD: Do you want these?

MR. SCALI: Please, we would. I've seen the Wexler before but --

MS. GIFFORD: Do you have all that?

MR. SCALI: Leave it for us. We'd be happy to look at it.

MS. JILLSON: Denise Jillson, Executive Director for the Harvard Square Business Association. A couple of points. One is that Panja has been a longtime member of the Harvard Square Business Association. He's done business in Harvard Square for over 15 years with Spice Thai,

and I believe he also had Nine Taste; two very good establishments. As far as I know, no problems with either one of them. He understands completely I believe what his responsibilities are.

We did have Mr. Banker here earlier and he had to leave. One of the concerns that Mr. Banker had was relative to his office, his building next door with the doctors, and the fact that they're practicing sometimes until 10:00 at night. Panja has assured us that the windows will be closed and if there is any noise out on the street that he would certainly take care of it.

I cannot just -- I have to take one more minute to just defend the position of the Harvard Square Business Association relative to the increases that we've seen in the patio scene and late-night dining, and also just the number of Entertainment licenses. We have eight million visitors come to Harvard Square every single year. That's a lot of people to feed and a lot of people who need something to drink. So the fact that we have a dearth of entertainment and a dearth of

restaurants is because we have a need.

The other thing that's really important to understand is that in many instances, we are the envy of the rest of the City. We're 96 percent occupied; 80 percent of our businesses are locally owned independent. It's important for us to be able to continue. We have support those businesses.

People complain when there's a change of ownership. You saw what happened when Out of Town News decided that they were going to change just ownership. It was New York Times calling, it was the Washington Post calling. People were concerned because suddenly there was a business in Harvard Square that was changing. Anything we do in the Square impacts it seems the country and sometimes the world.

So we are aware of how much is going on but what brings people to the Square is the diversity, not only of our restaurants but of the people that own the restaurants. I would like to point out that many of our businesses are owned by

women. Almost 40 percent of the businesses are owned by women and by minorities.

We are delighted that Panja has taken on the responsibility of Conga. We've tried one other restaurant there and it went out of business in how many months? Just six months, it was in and out. We're really hoping that with these other activities, with the outside seating, with the Entertainment license that we can make a go of it. Because you know what; every time a business closes we get a phone call. What's going on in Harvard Square? Why is this business closing? Because everybody cares. There, I had to say it. Thank you.

MR. SCALI: Thank you Ms. Jillson. Does anybody else want to be heard? Mr. Rafferty you get the last word.

MR. RAFFERTY: Thank you. I have nothing to add. I appreciate the time. I recognize the issues. I do think as been noted by other, you have an experienced licensee. I understand Ms. Thompson's concern. I think that

the restrictions proposed, including not having the dancing before 10:00 p.m., closing the windows and doors, and not to have the patio seating taking place after 10:00 p.m. would provide the safeguards that people look for.

I think in many ways -- I've been at many of these hearing s where the notion of having an activity other than just drinking is a good thing in an establishment like this. So to allow patrons to dance, for some it's a form of exercise, entertainment, socialization. It need not be viewed as a detriment to the Square. Quite the contrary particularly when you have individual select dancing with dancing lessons and all of that. I don't know if you're familiar with the situation at Ryle's. It's proved quite popular, lots of regulars, people who are really there for the dancing experience. This would seek to replicate that type of environment.

MR. SCALI: Mr. Rafferty, here's what I'm thinking: perhaps maybe you might talk to your client about looking at the list of things on the

Entertainment license that they want. Start out small and build to something bigger later. This is just a suggestion that perhaps maybe you don't need everything that's on there at this point in time.

MR. RAFFERTY: We've been thinking about that and I think both in terms of the dancing and the karaoke, the karaoke is really just a minor piece. He could live with one night and his thinking was perhaps Tuesday night, not integral. The dancing really is the integral part, and even then Mr. Rocha anticipates Wednesday through Sunday, five nights perhaps rather than seven. So we could look at those type of things.

MR. SCALI: If you could talk to Mrs. Lint about that over the next week. We don't vote until May 6 anyway. I'm assuming we're not ready to vote this evening. From my point of view, I'm not anyway. That might be something you might want to look at.

The patio issue -- I mean our patio policy, actually a letter is going out from my office encouraging patios. The City Manager is

encouraging patios and wanting more patios and wants to bring more vibrancy to the City, and has encouraged that over the past two to three years.

MR. RAFFERTY: These wide expanses were designed to accommodate them in many of these locations. The sidewalk at this location is particularly generous. I'm not aware of difficulties. So again, those are food based. The alcohol there is a complement to the food. It closes at 10:00 but it does create some street life that's positive.

I appreciate the suggestion. We'll certainly perhaps refine the application and file something with Ms. Lint.

MR. SCALI: Comments?

MR. HAAS: No comments.

MR. TURNER: No.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Take the matter under advisement.

MR. SCALI: Motion to take the matter

under advisement, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: We vote on May 6 at 10:00
a.m. Thank you very much.

MS. LINT: Grace Vision United Methodist Church located at 56 Magazine Street due to a complaint received by the License Commission regarding amplified music emanating from the church that is in violation of the Cambridge City Noise Ordinance.

MR. SCALI: Good evening.

UNIDENTIFIED SPEAKER: I'm the interpreter but the gentleman said that he doesn't need an interpreter.

MR. OPEY: Only of the Korean speaking people from the church feel that it's necessary.

MR. LEE: Which we don't.

MR. SCALI: You do not need an interpreter?

MR. LEE: We do not.

MR. SCALI: Everyone will understand what we're saying?

MR. LEE: Yes.

MR. SCALI: So can we let this lady go?

MR. OPEY: Sure. You had an easy

evening's work.

MR. SCALI: Just tell us who you are for the record, please.

MR. LEE: My name is Don Lee. I'm the representing member of the Grace Vision United Methodist Church located at 56 Magazine Street.

MR. SCALI: Are you a Board member?

MR. LEE: No. I'm a congregational member.

MR. SCALI: You're a congregation member?

MR. LEE: Yes. I'm here to answer any questions you might have about the complaint filed.

MR. SCALI: So are you like a public relations person?

MR. LEE: I'm responsible for finance.

MR. SCALI: So they elected you to come.

MR. LEE: That's right.

MR. SCALI: And Ms. Boyer is here.

MS. BOYER: Is Reverend Kim here tonight?

MR. LEE: Yes.

MR. SCALI: Do you want to come forward? Reverend Kim, you can have a seat.

MR. SCALI: We're going to start with Ms. Boyer, go over the issues, and then you'll have an opportunity to respond. Ms. Boyer.

MS. BOYER: Thank you, sir. Andrea Boyer, B-O-Y-E-R, investigator for the City of Cambridge license Commission.

This complaint was brought to my attention by Lieutenant Sheehan back in November of 2009. Lieutenant Sheehan received a letter from the complainant, Mr. Lyman Opey, requesting mediation between amplified music and the Grace Vision United Methodist Church.

The contact that Mr. Opey and the church representative trustee at the time was Brian Hasbrook to set up a meeting to discuss the noise issues. Mr. Opey stated the music on Friday evenings and Sunday mornings is clearly audible in his home. Mr. Opey stated that he had been in communication with Reverend Kim about the sound

problems. There was a letter attached with your packet that I handed to you a few weeks ago.

The meeting took place on Sunday, December 13, 2009, while the church was playing music. While being on premise of the church I made a few recommendations for the sound. Have someone with authority of the events to maintain the sound levels so it's not heard from 50 feet away. Also, if possible, put up plexiglass for the windows and have speakers turned and placed away from the resident's home.

Pertaining to the plexiglass for the windows, of course, it's a historical building so that may be complicated. Mr. Opey stated that another church in the area has a drum shield to help keep the level down also. He also recommended using an electronic drum set. Mr. Hasbrook states he would speak with the other trustees about the noise issues and look into the drum shield and speak with Sonny Hare, the soundboard engineer about using electronic drums.

Mr. Opey, Mr. Hasbrook, and I

communicated via e-mail in January and February to determine whether sound could be heard still from 50 feet away. They utilized the corner of Magazine and Lawrence Street as the designated place to determine whether the sound is audible.

MR. SCALI: The corner of Magazine and what?

MS. BOYER: Lawrence Street.

I guess to specify even further, the complainant's home is right next door. The corner of Lawrence and Magazine is past his home. So 50 feet is actually past where he lives.

MR. SCALI: So you could still hear it in his home?

MS. BOYER: You always would but we were trying to base it on being audible from the 50-foot rule because he lives closer. So it would always be somewhat audible in his home.

Another meeting took place -- I'm sorry, I lost my place. Over the course of those two months Mr. Hasbrook and Mr. Opey monitored the sound levels. Their conclusion was that at times

the noise was not in violation, and other times it was. I was able to hear the music sound levels from 50 feet away on March 12, 2010, and also on our first visit, which was December 13.

Another meeting took place on Thursday, March 25, at the address of the complainant. Mr. Opey, Mr. Hasbrook, Reverend Kim, and I attended the meeting. Though some progress had been made sound from the church is still plainly audible from 50 feet away.

Another solution had been raised by Mr. Opey and myself to recommend that even though the music is a non-measured noise disturbance, if a noise meter was placed on the inside of the church, and at the same time someone was standing at the corner of Lawrence and Magazine, which was the 50-foot rule, whatever was not audible from that 50 feet -- was plainly audible, and what it said on the meter that that's what they should abide by.

MR. SCALI: that would be the level that they would have to maintain.

MS. BOYER: Correct. So hopefully it

wouldn't be audible from 50 feet away.

Mr. Hasbrook replied on March 29, 2010, regarding the recommendations of the noise meter and the other items that had been discussed with Grace Vision UMC trustees. That letter is also attached in your packet of that information.

In November, Mr. Opey asked if there was a date that the Grace Vision UMC must be in compliance. I informed him that there is a three-month timeframe that's been given to previous violations to be in compliance or a hearing can be held from the Commission to discuss the issues. Since over three months has gone by, and based on Mr. Opey stating that the noise levels on April 4, 2010, were over the allowable levels, he would like to go forward with the hearing, which is why we're here this evening.

Mr. Opey would also like the License Commission Board to clarify the noise ordinance rule regarding amplified speech from the church, not just music, but speech. We have received a letter from Elizabeth Lint from the Law Department

that churches are not exempt.

MR. SCALI: So sermons and music are not exempt even in a church from the noise ordinance.

MS. BOYER: Not on the public way.

MS. LINT: Specifically what Mr. Goldberg indicated is there is no exemption for amplified church sermons from inside a church building. They would fall under the noise ordinance so that they shouldn't be plainly audible at a distance of 50 feet from the building. It's non-commercial public speech conducted on any public space or public right-of-way which is exempted.

MR. SCALI: Public right-of-way, but not in the building.

MS. LINT: Right.

MR. SCALI: So you still can speak and play music but you just can't hear it from 50 feet away.

MS. BOYER: Correct. So I guess where we're at is sometimes it is plainly audible,

sometimes it is not. I'm sure Mr. Opey can emphasize some of his feelings on the issue. I know that no one wants the music to stop completely, but also that unfortunately is a solution until -- to not have amplification at all is a solution which I don't think anybody wants, but if it's going to be continuously over the noise --

MR. SCALI: Why is church music so amplified?

MS. BOYER: They are actually utilizing drums and guitars. This is more of a younger congregation on particular evenings, on Friday evenings and Sunday afternoons. So where that is more amplified than other sermons that is mostly the problems that we're having, just those two specific.

MR. SCALI: So it's like rocking to Jesus.

MR. OPEY: It's a rock-and-roll band.

MR. LEE: It's not like that.

MS. BOYER: It sounds like one from

Mr. Opey's home. I think that's his issue.

MR. LEE: Only because it's a low-level beat which is much more audible than any other instrument.

MR. SCALI: I've given Mr. Opey an opportunity to speak but I guess - have you been able to work with Ms. Boyer on this issue? Or, do you not believe it's an problem? I'm trying to figure out what your position is.

MR. LEE: The first time that we learned of this disturbance raised by Mr. Opey we believe we did significant steps and made an effort to work with Mr. Opey. Then we went really the extra mile we believe as to continue to have service with all the windows closed and aggregate all the sound source into one mixer, whereas before it was distributed to have effective sound replication, which became the problem.

MR. SCALI: Did you stand outside the church to the corner of the building?

MR. LEE: Yes, we did.

MR. SCALI: Put your amplifier on and

listen, because if you can hear it from that corner, it's too loud; right? So can't you turn the amplifier down, Ms. Boyer, to a certain level?

MR. LEE: We played with the level of the sound many many times. Sometimes it depends obviously on the mood of the pastor. Or how many members are inside the building sometimes eats the sound source away. Sometimes weather, believe it or not, plays a role.

MR. SCALI: Sure. So can't someone every time you have a sermon stand outside and do that?

MR. LEE: That's what we're actually going to start doing that with this sound measurement tool.

MR. SCALI: You don't even need that. All you've got to do is stand on the corner. If you can hear it on that corner, it's too loud. That's the rule. You don't even need that measurement according to the law.

MR. LEE: We believe the definition of clearly audible sound, we couldn't really

understand. Any noise coming from one scream of a child playing baseball or wherever, inside Nintendo game, can we believe that could be clearly audible at times; right?

MR. SCALI: Right.

MS. BOYER: Baseball and a screaming child is not continuous for over 20 minutes or a half-hour so that's an argument on that case.

MR. SCALI: Why don't we give Mr. Opey a chance to speak. He's been waiting very patiently.

MR. OPEY: Thank you. Lyman Opey, 16 Magazine Street; that's the house next to the church. Thanks to the Commission for this opportunity and thanks to all of my friends at Grace Vision for being here.

I think we all agree upon exactly what the important issues are. I'm not so much concerned with the \$300 fine as to finding a long-term solution for the problem. Is it appropriate to take a few minutes to try to do that here and now?

MR. SCALI: Whatever you want us to know, please let us know about the solutions or the process, whatever you think.

MR. OPEY: I'd like to request on this occasion the \$300 fine be waived. The church is a good neighbor. They're wonderful people. They have made efforts to reduce the sound levels over the past months, even though they aren't consistently in compliance. I'd like to be sure that there's no miscommunication or misunderstanding.

MR. SCALI: You can request that but we may overrule you.

MR. OPEY: I've worked professionally as a church musician. I've sang in church choirs for years, and for over three years I was a paid soloist and choir section leader in a church down in Wollaston. So I know how important church's music ministry is and I'm supportive of Grace Vision having a vibrant youth ministry. I'm supportive of everything about their mission.

At the same time I do consider this a

serious matter. It's a disturbance of the peace that significantly and adversely affects the church's neighbors. I did hire the interpreter just in case there were people from the church who needed it so we could all be sure that we understood each other this evening and there was no misunderstanding about what the ordinances are.

MR. SCALI: What are your solutions?

MR. OPEY: My proposal would be that we print up something that describes the responsibility of the church under the noise control ordinance, something very short that describes what the ramifications of continued violations will be, and have it translated into Korean. The church could take care of that. Have it endorsed by the City, translated into Korean, and anyone who is running an event there will have this in their hand and know what the limits are.

MR. SCALI: Is it just the church groups or are there other events that are going on that cause this?

MR. OPEY: The Friday evening services

tend to be louder. I know that they're college kids. You have to respect college kids who are out on Friday evening praising the Lord instead of getting into trouble. I haven't had a lot of interaction with them but they seem to be good kids. But or all I know, the substance of the ordinance hasn't reached them. I want to be sure that's not the case.

MR. SCALI: Is there someone in charge of those events? Is there someone in your group that's in charge of those?

MR. LEE: If the event is sponsored by church or supported by church, usually there is, yes.

MR. SCALI: Who's that person that's in charge of those groups?

MR. LEE: It all depends on the event. For example, the events that we have, the praise and worship meeting is sponsored by the church. There would be the sound engineer, the same engineer who has control over the level of the sound.

MR. SCALI: So it's one person controlling the sound.

MR. LEE: Correct, because after all, if we bring the volume down there would be no sound to be heard eventually.

MR. OPEY: This is my suggestion, just a starting for something somebody could have in their hand if it's somebody who might not have run the mixing board before and have it in Korean.

MS. BOYER: Something that alerts them that there's a noise problem at this location even if it's someone who is not normally there. Is that what you mean?

MR. OPEY: Yes.

MS. BOYER: Someone monitoring it even if someone isn't --

MR. OPEY: Briefly what the church's responsibilities are. My guess is that the Commission might want to edit this and I'd be glad to work with anyone in the City on preparing what would be the best thing for somebody to have in their hand while they're preparing.

MR. SCALI: As much as I appreciate your work, I'm going to just tell the Reverend to be responsible for this because he's the one in charge of the church; right? I'm not going to have you go through all this interpretation. We'll have the Reverend say you make sure this happens or your church will be fined \$300 a day. That's what we do with all of our other violators.

So Reverend, can we come up with a solution to this problem and close the windows and lower the amplifier.

MR. KIM: Actually that might explain about our effort and what we've already done because we close the window and we install the other AC just for the sake of the other neighbors. We're being good neighbors I guess, and a lot of the extra miles we put on this.

MR. SCALI: But obviously we're not quite there yet. So there's something more you have to do.

MR. LEE: In effort to improve the situation we also experimented many many times with

lower volume and asked the congregation to hear the sermon effectively and follow the service effectively. And with the volume down, the venue being so large and the ceiling very high resonant sound beautifully effectively; however, unless you have some level of sound coming out from the device the congregation member cannot effectively understand or follow the program of service.

MR. SCALI: They can't hear it?

MR. LEE: That's exactly right.

MS. BOYER: With nightclubs -- not to compare a church to a nightclub -- just as everyone is describing this evening with the windows close, it's an inside event. A DJ has got to be inside; you shouldn't be able to hear it in the street. Unfortunately a church cannot -- you know, we're giving them 50 feet in the way that -- we're not even giving that to venues who are having live music right now.

So there should be a way that it is heard on the inside and not disruptive to the residents. Unfortunately it's a church that's in a

residential area and I think Mr. Opey has been very lenient on even the 50-foot rule. I've been there where he's heard it and we could say that's plainly audible, and he's like no, that's fine. It's not as if he's trying to ask for it to be silent or just to hear a murmur. You can still hear it from inside of his house and outside, so I think he's being --

MR. OPEY: Can I speak to that?

MR. SCALI: Sure.

MR. OPEY: I accept that I'll hear the church when I bought a house next to the church. I expected to hear sounds from the church. It's just a matter of deciding what is loud enough. The 50-foot rule is fine with me.

MR. SCALI: Well that's the law anyway.

MS. BOYER: I think some more needs to be done. I do think that someone needs to be on premise when this is happening to make sure that -- it's happening sometimes and not happening other but it shouldn't be for Mr. Opey or for anyone to

have to police themselves and come over and say to the church it's not low enough. I'm not sure what can be done. If someone can be at the premise to oversee the sound gentleman, the soundboard. I'm trying to figure out someone to step up here at the church.

MR. SCALI: It sounds like the Reverend need to step up here because he's the head of the congregation. He needs to appoint someone there and say you're in charge, whether he appoints Mr. Lee or whoever it might be and say this is the level on the soundboard, the max we're going to reach. This is the level on the sermon we're going to reach on the soundboard. And if you can't do that there's no amplification. That's it. The board gets turned off altogether. So is there a way you can coordinate that with Mr. Opey and Ms. Boyer?

MR. LEE: I think for the past few months that's what we were trying to do; come up with a mutually agreeable solution for Mr. Opey and our congregation to have effective service without

disturbing our neighbors. So far being there in Cambridge and continuing to have service at the same level as we did, we never had any noise issue with a neighbor at all. Mr. Opey is the first one who brought that to our attention.

After that we immediately responded to that with some modification inside our building. But as you mentioned, the church being 107 years old, I mean longer than that, is a wood structure. There's so much we could do. We have to approach it very careful. As a matter of fact, the Cambridge Historical Society recognized the historic value of the church. They granted us \$50,000 fund to fix up the roof to prevent some water damage to it.

So whatever we do - if there's some suggestion with the plexiglass covering the window facing Mr. Opey's property, one mediation for sound, that's one way to do it. But we have to higher special --

MR. SCALI: Sound engineer.

MR. LEE: Sound engineer and the

vendor who has some specialty in maintaining historical building. So we feel that we -- this is a work in progress. Obviously we'd like to get there as quickly as possible to continue to maintain great relationship with Mr. Opey and other neighbors. Obviously it's not our intention to upset or just go on our way to continue to do what we do.

MR. SCALI: You're taking it seriously.

MR. LEE: Absolutely.

MR. SCALI: You want a solution to this problem. You're not ignoring it.

MR. LEE: Absolutely we want a solution. We have also the responsibility within our congregation to make sure that our members -- it's a mixed group of people. Some have a very good level of hearing but we have some elderly members sitting in the back or some in front having a little bit difficult time. Although sometimes we provide the -- and that doesn't work always because they want to hear the music and be part of the

experience.

MR. SCALI: I'm sure you can work that out where they can hear it inside and not hear it outside.

MR. LEE: That's what we're trying to do to find a mutually agreeable solution.

MR. SCALI: What's the next step, Ms. Boyer.

MS. BOYER: Once again, I'd like to reiterate that it's that amplification of the rock band style, not the lower situation. When you speak of elderly people being able to hear, I think you can hear an electric guitar pretty well when you're on the inside of a church. I think until some of these -- it still needs to be turned down a little bit more. I can't say anything else other than until you get the plexiglass, until this is done or whatever is done it just needs to come down just a little bit more, not tons. It's been there. It's been where it's low enough where Mr. Opey even stated it was okay. I know you mentioned that last weekend it was okay, this weekend it wasn't. So

what was it last weekend that it was okay, and it isn't. So I don't know where that level is.

MR. SCALI: Can Ms. Boyer work with you to come up with a level temporarily on that amplifier, on that soundboard. It may seem low to you and it may seem like you can't hear it inside, but if you can't hear it from 50 feet away, you're in compliance.

MS. BOYER: There has been a gentleman that's been working with Mr. Opey, Mr. Hasbrook. I don't know if he's still working with you.

MR. OPEY: He had another commitment this evening. He was not able to come.

MS. OPEY: They seem to be working well together to find that level, so they've already started that. For me to jump in is a little difficult.

MR. SCALI: Whether that's low right now or not, you need to come into compliance immediately. Any questions from the Commissioners on this?

MR. HAAS: No questions.

MR. TURNER: No questions.

MR. SCALI: My suggestion is that we continue this matter for 30 days and you come back with a solution. But in the meantime, the best that we can do is order you to come into compliance now or we fine you \$300 a day. Mr. Opey doesn't want doesn't want you fined and I don't think we do either, but you've got to come into compliance now until you can come up with a solution where you can then turn it back up again if you need to.

MS. BOYER: Is it okay to keep working with Mr. Hasbrook and Mr. Opey to find that level.

MR. SCALI: I think Mr. Opey would be happy to do that.

MR. OPEY: I'd be glad to do anything with anyone in the church.

MR. SCALI: So can be fine that level temporarily for the next 30 days.

MR. LEE: Yes, sir.

MR. SCALI: Ms. Boyer, is that okay

with you to monitor?

MS. BOYER: Yes.

MR. SCALI: Discussion?

MR. HAAS: No discussion.

MR. SCALI: Motion then is to come into compliance now, work with Ms. Boyer on a level temporarily until a permanent solution is found, or a \$300 fine per day, and to continue the matter to our second hearing in June.

MS. LINT: In June or in May?

MR. HAAS: You said 30 days.

MR. SCALI: That would be the end of May. So the second hearing in May. I keep thinking it's already May for some reason.

MR. OPEY: I may well be out of town. Would it be convenient to put it forward a few weeks?

MR. SCALI: We can do our first hearing in June if you'd like. Will you be around in June?

MR. OPEY: Yes, anytime after June 8, I will most certainly be here.

MR. SCALI: I think our hearing is the 11th of June. It's actually on June 8.

MR. OPEY: I can arrange to be back by June 8.

MR. SCALI: So June 8, that's moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: Thank you very much.

MS. LINT: Disciplinary: Continued from September 22 and November 10, 2009. P and E Restaurant, Inc. d/b/a Desfina, Paraskevas Mallakis, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 202 Third Street due to a police report that alleges a fight started in Desfina Restaurant which led to the arrest of Paraskevas Mallakis.

MR. CRANE: Good evening, Mr. Chairman, members of the Board. My name is Attorney Kevin Crane, 104 Mount Auburn Street, Cambridge. I represent the licensee. To my immediate left is Perekles Karakostas. He's going to spell his first and last name.

MR. KARAKOSTAS: P-E-R-E-K-L-E-S, Karakostas, K-A-R-A-K-O-S-T-A-S.

MR. SCALI: What's your position?

MR. CRANE: He was a patron at the establishment the night of the incident and he had some interaction with the alleged victim. To his left is Paraskevas Mallakis and he can spell his name.

MR. MALLAKIS: P-A-R-A-S-K-E-V-A-S,
last name, M-A-L-L-A-K-I-S.

MR. CRANE: Mr. Chairman, if you remember we did have a previous hearing and Officer Long and Thomas Mallakis testified as to what happened that evening as far as their testimony was concerned. At the time there was a pending criminal complaint against Mr. Mallakis and the Board was good enough to grant a continuance until the criminal process had run its course. I think the information that Mr. Mallakis could supply the Board would be helpful regarding the incident, yet he couldn't testify with the criminal matter pending.

The criminal matter has been concluded and I would like to submit a copy of the criminal docket sheet from the Cambridge District Court, which indicates that the case was nul pros on March 4, 2010.

MR. SCALI: Mrs. Lint, "nul pros"
means?

MS. LINT: The Commonwealth declined

to prosecute.

MR. SCALI: Because?

MS. LINT: It's my understanding that the witness didn't show up.

MR. SCALI: The witness being?

MR. CRANE: The witness being the alleged victim. The alleged evidently was not cooperative with the District Attorney's office.

MR. SCALI: And the victim was the gentleman who ran out of the restaurant and was allegedly attacked by Mr. Mallakis with the nephew.

MR. CRANE: Thomas Mallakis, and there was a knife involved.

MR. SCALI: Commissioner?

MR. CRANE: Can I ask Mr. Mallakis some questions?

MR. SCALI: In relation to?

MR. CRANE: What happened that evening.

MR. SCALI: You weren't able to testify last time, Mr. Mallakis; is that correct?

MR. MALLAKIS: No, I didn't. It was

only my nephew.

MR. SCALI: So does the Commission wish to hear testimony from Mr. Mallakis and from the patron?

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: What happened to the arrest report, or what happens to the arrest report? Mr. Mallakis was arrested that evening?

MR. CRANE: He was arrested that evening. The arrest report is evidence in this proceeding.

MR. TURNER: Since the case was nul processed, do they drop the arrest charges?

MR. CRANE: Yes. He doesn't have jeopardy attached and he was dismissed so he can testify now.

MR. TURNER: What does that do?

MR. SCALI: We can certainly proceed with our proceedings whether it was nul prosed or not. We did vote that we would wait until the criminal case was completed in order not to create

jeopardy for Mr. Malakis.

MR. HAAS: What is Mr. Mallakis' status now at Desfina? Is he still the manager of the establishment?

MR. CRANE: As you might recall, in the interim we applied to have a change in manager. Peter had been the manager of record, and Evelyn Mallakis who is here now, who is Stephen's wife is the manager of record that was approved by the Board, and I think that's a helpful situation.

MR. HAAS: So Mr. Mallakis has no more involvement with Desfina?

MR. CRANE: He does nothing at all. He's not the manager of record and he's not an officer of the corporation or a stockholder.

MR. SCALI: Is he on the premises on a daily basis still working there?

MR. CRANE: He runs the pizza place across the street and I think he might occasionally be a patron.

MR. SCALI: Pleasure of the Commissioners then? Do you wish to go forward with

the testimony?

MR. HAAS: I'm certain that Mr. Mallakis is going to tell a version of his story that basically indicates some of the things we heard from -- was it you son?

MR. MALLAKIS: My nephew.

MR. HAAS: Your nephew spoke about it at the last hearing and things like that. So I don't know what the benefit would be to -- especially in the case that it's been nul pros at this point in time.

MR. SCALI: I guess I'm curious as to what Mr. Karakostas has to say because you were a patron there that evening?

MR. KARAKOSTAS: Yes.

MR. SCALI: Do you wish to hear the patron's testimony? Why don't we hear from him because I know Mr. Mallakis' story I'm sure is going to be to his benefit at this point.

MR. CRANE: He has no benefit really if he's not associated with it. He could testify what his interaction with the individual was that

evening, and most importantly that he had a knife pulled on him. If the Board would let me stipulate to that, that's fine. Otherwise I can ask him in a question-and-answer form.

MR. SCALI: I don't personally see the benefit of -- if you maybe wish to stipulate to that, but at this point, I'm not sure I want to do that.

MR. HAAS: I think the issue is that you had an event there, he was at the time I guess the person responsible for the establishment that night. Am I correct, or was that his nephew?

MR. CRANE: He was the manager of record.

MR. HAAS: And this is the second incident we've had now in two years?

MR. SCALI: The other incident was related to the neighbor next-door.

MR. HAAS: I'm just thinking in terms of events at the restaurant. I'm not saying that there is necessarily a pattern but when you have two events within a short period of time it does

create some concern. I think the present ownership made the right decision in deciding to have Mr. Mallakis no longer at that business. I guess I'm looking for some assurances that we don't have any further incidences at that location.

MR. CRANE: Certainly by the change of management and ownership indicate to the Board that we're sincere about that. As far as this being a pattern, all I can say is I hope it wouldn't be. This second event, and I think it's a much different situation than what happened the first time around, I think there was some justification as far as the action of the licensee in this particular event.

It could have been handled a little bit differently I think. Most importantly I think that maybe when he recognized that the patron was being unruly that the police might have been called at that time. I mean I think that's a fine line, Mr. Commissioner, as far as when you call the police and when you think you can remedy the situation on your own. You know, just get the guy

out onto the street and on his way. But it's a much different situation than the first one.

We've been a couple of months now with absolutely no incident. And as far as a pattern goes that's evidence that we're hopefully not falling into such a pattern.

MR. SCALI: This is why I'm in favor sometimes of going forward with hearings even before the court case proceeds because I think you lose some of the flavor in the delay in terms of witnesses.

MR. HAAS: I don't recall if the victim was here?

MR. SCALI: No.

MR. CRANE: Can I just ask him to testify?

MR. SCALI: Yes, if you would.

MR. CRANE: Could you state your name for the record?

MR. KARAKOSTAS: Perekles Karakostas.

MR. CRANE: Where do you live, Perry?

MR. KARAKOSTAS: I live in Chelsea,

Jones Avenue, Chelsea.

MR. CRANE: Do you recall being in Desfina in July of 2009 when an incident occurred?

MR. KARAKOSTAS: Yes.

MR. CRANE: What was your status at the Desfina Restaurant that night?

MR. KARAKOSTAS: That night I was getting ready to go have an open-heart surgery. I call and he say why don't you come over, you know, we'll talk unless I'm busy. All right, so I went over there. We sit down and then he start getting busy. I moved way in the corner of the bar, and then I went outside to have a cigarette.

MR. CRANE: Did you go out by yourself?

MR. KARAKOSTAS: By myself. All of sudden a tall blond -- I knew he was out of his mind. He approached me and say "What are you doing, you smoking?" I said, "Yeah, what's it to you?" He says, "Can I have an F-ing cigarette?" I said if he ask me nice I give it to him. Now I won't give it to you. He call me "F-ing Greek." I

never see him before. I never knew this guy from nowhere, and all of a sudden he comes and he was looking for a problem. The thing that scared me is after he went in then they went to the back door, outside.

MR. CRANE: Let me ask you this --

MR. KARAKOSTAS: All of a sudden it's two ambulance, three cruisers.

MR. SCALI: But you were outside in the front?

MR. KARAKOSTAS: I came out outside to see what's happening.

MR. SCALI: Did you see what happened inside? You were not inside?

MR. KARAKOSTAS: No, and I didn't want to say what he told me. I didn't want to cause no problems, you know what I'm saying?

MR. SCALI: What did you see outside when you saw the ambulances? You didn't see the incident inside. Did you see the incident inside?

MR. HAAS: I see them, they were pushing each other, but I came over this side. They

probably try to take him out. He probably bother somebody else. And before you know, come on, like I don't know. Like they found blood. I'm sorry, I can tell you one thing, I used to give blood on the cops. I knew every cop in Boston and I still know Commissioners and commissioners and everything. From (inaudible), then once she left she went to Rhode Island, O'Toole, Cathy O'Toole. I never see anything like it. Two of the policemen were very nice. A black short guy, I say to him, "What's the problem? What's going on?" He says, "No, no, don't. He's in charge. Don't say nothing." Okay, I don't want to say nothing.

MR. SCALI: Did you walk up the street to see what happened up on the side street?

MR. KARAKOSTAS: They didn't let us. The sergeant, he was going like somebody, you know, and I tried to say something. "You stay there," he says to me like I was -- I mean come on. I'm sorry but I'm saying the truth. I don't know what's in his head. I never saw a policeman acting like that.

MR. CRANE: Were you interviewed by any policemen that night?

MR. KARAKOSTAS: No.

MR. CRANE: After you had the incident with the cigarette out on the sidewalk with this gentleman, did you go back into the establishment?

MR. KARAKOSTAS: Yes.

MR. CRANE: Did he go back in?

MR. KARAKOSTAS: He went in before me.

MR. CRANE: Did you have any contact with him after you both went back in?

MR. KARAKOSTAS: No.

MR. SCALI: Okay. I guess not as helpful as I thought he was going to be. Any other questions, Commissioners?

MR. HAAS: No other question.

MR. TURNER: No questions.

MR. SCALI: Anybody from the public want to be heard on this matter? Pleasure of the Commissioners?

MR. HAAS: I would like to review the record and take the matter under advisement.

MR. CRANE: Mr. Chairman, if I could just say a couple of words? It comes down to I think in this instance whose version of the incident you believe; whether it's the alleged victim or whether it's the Desfina employees.

The Desfina employee's story is that this gentleman was in the establishment; that he became unruly. He was escorted out by Peter Mallakis. Peter would testify that he walked the man down Charles Street and actually gave him a cigarette. He was still asking for a cigarette the same way he was asking Perry for a cigarette. Then at some point in time, he pulled a knife on Peter.

There's an independent witness in the police report that indicates that he observed the knife on the alleged victim in the restaurant prior to this incident. Officer Long was able to retrieve the knife from Thomas Mallakis who was the nephew. When Officer Long was doing his investigation, Thomas Mallakis told him that he saw the knife being pulled. He was out in the back alley and he responded by tackling the alleged

victim and disarming him.

Officer Long asked about the knife. He presented it to him and it was tagged as evidence. That's the Mallakis version of the incident which is really one of justified self-defense from what I can see.

The other version would be what the alleged victim would say. Officer Long's report says a lot about what the alleged victim says happened; however, the credibility of the alleged victim has to be questioned here, particularly when he did not cooperate with the District Attorney's Office.

Now the standard that you have to apply is that there's substantial evidence to make a finding that there was a violation. I think Deputy Chief Turner at the prior hearing referred to the officer and his testimony and his report as some evidence. Well, you can't make a violation finding if there's just some evidence. I would submit that on the two different versions that there would not be support for a substantial

evidence finding.

Again, as I want to underscore that we have taken seriously the management issues here and have addressed them so that hopefully we will have no more incidents. Thank you.

MR. SCALI: Thank you, Mr. Crane.

Motion.

MR. HAAS: Motion to take the matter under advisement,

MR. SCALI: Moved.

MR. HAAS: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: We will discuss it on May 6 at 10:00 a.m.

MS. LINT: Application: Continued from April 6, 2010. MKTA, Inc. d/b/a Cinderella's Restaurant, Antonio Barros, Manager, holder of a Wine and Malt Beverages as a Restaurant license at 901 Main Street has applied for a change of premise description to include a seasonal outdoor patio on the public sidewalk for 8 tables and 28 seats.

MR. SCALI: Good evening. Thank you for your patience. Just tell us your name.

MR. BARROS: Antonio Barros.

MS. LINT: You may recall we continued this because there was a question of whether or not there was concerns from the church in the area. We suggested Mr. Barros get in touch with them. That had been precipitated by a conversation I had with Mr. Atkins who said he was a member of that church and there were a lot concerns, and that people would be in touch with me and he would submit a letter. I never heard anything from anybody.

MR. SCALI: You never heard from anybody from the church?

MS. LINT: That was it.

MR. SCALI: Did you have any conversation with anyone from the church?

MR. BARROS: I had a conversation with Marshall and they say no longer they have any complaint about it. But my architect contacted the Department of Public Works; they turn me down. I put the application over there and they gave me that first paper, and now when the architect contact them last week and they say you don't have enough space for the outside seating because I have a crosswalk in front of my door, and I have to go a little bit over to my neighbor, even though that is no problem for him or for the owner of the building, but --

MR. SCALI: You have to be right in front of your premises.

MR. BARROS: Yes.

MR. SCALI: You can't fit any number of seats in front at all?

MR. BARROS: Not for the fencing.

MR. SCALI: I wish we'd known that.

We made you wait all this time. So not even up against the wall?

MR. BARROS: Against the wall I can put a couple of tables but no alcohol serving.

MR. SCALI: Do you think we should maybe talk to Mr. Best?

MS. LINT: I'll call Mr. Best tomorrow.

MR. SCALI: That's a big sidewalk.

MS. LINT: The whole plaza is there.

MR. TURNER: It's a bigger sidewalk than other approvals being made.

MR. SCALI: The approved Tommy Doyle's on Winthrop Street which is like one little strip of land. All right, we'll find out for you. Mrs. Lint will call Mr. Best at the DPW. I hate to make you come back on May 6.

MS. LINT: We can just put it on for May 6 and we can be in touch.

MR. SCALI: If you want to be here at 10:00 a.m. on May 6, you can, you don't have to be. Mrs. Lint will talk to you before then as to what

she found out.

MR. BARROS: Thank you very much.

MR. SCALI: Thank you for waiting.

MR. HAAS: So do you want to make a motion?

MR. SCALI: Motion to continue to May 6, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MS. LINT: Application: Voltmeter, LLC d/b/a Voltage Coffee and Art, Lucy Valena, Manager, has applied for a Common Victualer license at 295 Third Street with a capacity of 105 (36 seats inside, 20 patio seats, and 49 standing). Hours of operation would be 7:00 a.m. to 7:00 p.m. seven days per week. Applicant is also applying for an Entertainment license to include live musical instruments and/or vocalists with amplification, and an audio tape machine/CD which may play music below, at, or above conversation level.

MR. SCALI: Good evening. Tell us your name.

MS. LINT: I'm Lucy Valena.

MR. SCALI: And this is in a commercial building?

MS. VALENA: Yes, the retail on the street level of an apartment building.

MR. SCALI: So it's an apartment building?

MS. VALENA: 303 Third Street; that

third square apartment building.

MR. SCALI: This is for 7:00 a.m. to 7:00 p.m., so basically breakfast, lunch, and early dinner type of thing.

MS. VALENA: It's a coffeehouse with gallery walls in it. So we will be operating under those hours.

MR. SCALI: So 105 seats: 36 seats inside, 20 on a private patio?

MS. VALENA: Yes.

MR. SCALI: On the landlord's property?

MS. VALENA: Yes.

MR. SCALI: 49 standing, what does that mean?

MS. VALENA: We only have 36 seats. It's a very big space; there's 2,400 square feet. But we do have a standing bar, it's a coffee bar, and a couple of other standing areas. We're expecting more standing foot traffic during openings and other events like that for the art.

MR. SCALI: Are you going to show art

there too?

MS. VALENA: Yes.

MR. SCALI: So this is like a free type of thing people come in and just observe and look at the art.

MS. VALENA: Yeah, it's a gallery, a gallery you can go to every day.

MR. SCALI: So the gallery is within the same space?

MS. VALENA: Yes.

MR. SCALI: And there's no charge to get in?

MS. VALENA: No.

MR. SCALI: No alcohol?

MS. VALENA: No.

MR. SCALI: What is your experience in the restaurant business?

MS. VALENA: I've been in the coffee industry for several years. I've been operating an espresso catering service for the past year-and-a-half. Voltage Coffee is based in Jamaica Plain. I serve the greater Boston area with a portable

espresso service. Unusual, I know.

MR. SCALI: It sounds ingenious, actually.

MS. VALENA: It's fun.

MR. SCALI: Questions?

MR. HAAS: Your establishment is in the commercial space below the apartment buildings and condominiums?

MS. VALENA: That's true, yes.

MR. HAAS: Is the amplification going to be a concern to the residents above you?

MS. VALENA: No. Actually the ceiling of the space is fully soundproofed and we are dropping the ceiling down; however, I do have a letter here from the landlord if you'd like to look at it, expressing that they trust that we will keep it under control. It is their residence in the space.

MS. LINT: It also indicates the team will monitor entertainment and outside seating assuring it will not negatively impact the residents.

MS. VALENA: Will be talking with everyone and making sure everyone is happy. We're not playing loud rock music. It's more of a jazz thing.

MR. SCALI: Is it like three pieces or one piece? What's the amplification?

MS. VALENA: I can't say a number of musicians we're going to have there but it's going to be more of a jazz feel and we're not going to have like a heavy metal band with a mosh pit in there.

MR. SCALI: There's not like a dance floor type of thing?

MS. VALENA: No.

MR. SCALI: Just kind of background.

MS. VALENA: Yeah, yeah, jazz brunch, you know, Sunday morning.

MR. SCALI: It's not at night; it's just during the day?

MS. VALENA: Yes.

MR. TURNER: Mr. Chair?

MR. SCALI: Deputy Chief.

MR. TURNER: Is this under construction at this point?

MS. VALENA: No. We have a building permit that's in the works right now.

MR. TURNER: Because I went down to look for you to inspect. I know 303 is both buildings, or is it 301-303? Or is it 303 with a north and south tower or something like that?

MS. VALENA: I think the entire thing is kind of called 303.

MR. TURNER: With all that management advertising for the new spaces I couldn't see which one you're moving into.

MS. VALENA: I know, it's confusing. If you saw the leasing office, it's the one right to the right of it.

MR. TURNER: Okay, the North Building.

MS. VALENA: They're calling it 295. That's what the landlord likes to call it but I know everyone sees it as one building.

MR. SCALI: Is that your concern with the fire department's labeling know that.

MR. TURNER: No, no. It's a complicated situation. I think the whole complex is known as 303 but then it's segregated into two different segments and I can't remember what they called it. There's two different names for it. Everything is fine. I just couldn't find this particular establishment because it's not there yet.

MR. SCALI: Does anybody from the public want to be heard on this matter? No hands.

MS. LINT: Mr. Chair, I do have a letter of support from Councilor Toomey that he thinks this would be a positive presence and would help to build a busy urban center in Kendall Square, which the residents are definitely looking for.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck. Make sure you get your sign offs and pay your fee, get your license from us when you're ready to open.

MS. VALENA: When do I do that? Where do I do that?

MS. LINT: We'll send you a letter that tells you what to do.

MS. VALENA: Okay.

MR. SCALI: Before you go, the patio is on private property?

MS. VALENA: Yes.

MR. SCALI: So it's like in the back of the building or the side?

MS. VALENA: No. If you -- did you notice when you were there basically there are two buildings. There's kind of a gateway into a courtyard. It's not through there, it's before that. The building -- it's very odd. It's hard to explain but it's on the sidewalk but it's fenced off.

MR. SCALI: You have access directly from your storefront to that patio?

MS. VALENA: Yes.

MR. SCALI: It's not alcoholic anyway so it's okay. Thank you.

MS. LINT: Application: The Elephant Walk Restaurant Group, Inc. d/b/a The Elephant Walk, Robert Perry, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 2067 Massachusetts Avenue has applied for a change of manager from Robert Perry to Phillip Dixon.

And this why you have to join CLAB.

MR. PERRY: We did.

MS. LINT: Okay, that's why I have to know.

MR. SCALI: Good evening. Just tell us who you are for the record, please.

MR. PERRY: My name is Robert Perry.

MR. DIXON: I'm Phillip Dixon.

MR. SCALI: This is change of manager going from you, Mr. Perry, who had been manager for years, and years, and years. Owner, entrepreneur, and chef as I understand.

MR. PERRY: No. I am not a cook.

MR. SCALI: So you're handing over the reins to Mr. Dixon?

MR. PERRY: Yes.

MR. SCALI: How long have you been there?

MR. DIXON: A little over 11 years.

MR. SCALI: At Elephant Walk?

MR. DIXON: At Elephant Walk, yes.

MR. PERRY: Not all in Cambridge. A lot of his earlier years were in Waltham, but our business.

MR. SCALI: So your experience is significantly with just Elephant Walk, and then previously?

MR. DIXON: Other restaurants previously out of state but in the last 11 years it' been solely Elephant Walk.

MR. SCALI: You're familiar with our rules and regulations?

MR. DIXON: I am. I've been at the Cambridge location for the last two years and I'm familiarizing as we go along.

MR. SCALI: Have you been through our 21-Proof training?

MR. DIXON: I have not. I've

contacted Frank, Mr. Connolly, about setting up a training course for the managers if they have it.

MR. SCALI: So you need to do that. I know we have an issue to discuss which is not public record.

MS. LINT: I don't think we have an issue to discuss. I addressed it and I'm satisfied with the response.

MR. SCALI: I think the Commissioners need to look at the letter. I think it could be relevant to make sure that we bring it forward.

MS. LINT: I disagree,

MR. SCALI: Just so that they're familiar with the issues. Do you have the actual check just to make sure?

MS. LINT: It's not here.

MR. SCALI: It should be in the red envelope.

MS. LINT: I'm looking at the wrong file.

MR. SCALI: As you know, we always do a background check on any of our licensees, and if

a discrepancy comes up you're allowed to explain what that is. It's not public record; it's only for our own viewing and our own explanation. So the Commissioners would look at that for their own understanding of what happened, and then Mrs. Lint would advise us as to what would happen from there. I just want to make sure the Commissioners are familiar with what the issues are.

MR. DIXON: Understandable.

MR. SCALI: I'm sure that according to this you know what you probably should do or shouldn't do with regards to what's on here, and I think Mrs. Lint may have advised you to consult your -- well, actually she can't advise you, she just points you in the right direction in terms of what you may need to do in the future.

MS. LINT: I think the timeframe is very important here.

MR. SCALI: We always look at how long ago and what circumstances. That's why we always ask for an explanation because that is very telling as to what the circumstances are in certain

situations. So it's not always a black-and-white case in terms of what's happened in the past.

Questions?

MR. HAAS: The only thing I would say is I've seen Mr. Dixon at the restaurant several times and it's a very well managed operation.

MR. SCALI: I know he's been there 11 years and Mr. Perry trusts him implicitly from what he's told Mrs. Lint, so I know that that is a significant recommendation to me.

MR. HAAS: I concur.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved.

MR. TURNER: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: The only thing I have to tell you is in case the ABCC has an issue with that they may call a special hearing to review that.

Even though we recommend it as being okay, they may not, and so you may need to speak with them or show them your explanation as well. Most times they follow our recommendations but sometimes they don't. So just be aware of that and be prepared if they contact you or something. They probably won't contact you, they'll probably contact him because it's more of a personal issue.

MR. PERRY: I understand.

MR. SCALI: Good luck.

MS. LINT: Application: Paul Revere Transportation, LLC d/b/a EZRide Shuttle, has applied for a route change as a result of a merger between EZRide and MIT's Northwest Shuttle service. The route is available for review.

MR. SCALI: EZRide Shuttle.

MR. DALEY: Good evening, Mr. Chair.

MR. SCALI: Good evening. Last but of course not least.

MR. DALEY: Saving the best for last again.

MR. SCALI: Someone has to be last. Were you last, last time, too?

MS. LINT: You're special.

MR. SCALI: I apologize for that.

MR. GASCOIN: I think it might have on purpose because I called earlier in the week and we had some things going on early in the evening. I think I may have said that it might have been okay for us to be late. I should have consulted my colleagues first.

MR. SCALI: So just tell us who you

are for the record, please.

MR. DALEY: Richard Daley, General Manager, Paul Revere Transportation.

MR. GASCOIN: Jim Gascoin, Charles River Transportation Management Association.

MR. BENNETT: Jeff Bennett, Charles River Transportation Management Association as well.

MR. SCALI: Is this the result of a merger between --

MR. GASCOIN: I sought of refer to this as a back to the future merger. We started EZRide as you recall in 2002. Shortly thereafter, MIT started constructing its dormitories in its northwest campus, so the City Pacific Dorm and they've built further dorms.

When we were first operating the folks who moved into those dormitories used EZRide Shuttle to get back to campus. Now, as the volume of rooms out there grew, MIT had concerns about our ability to service that population. As you recall, we had smaller vehicles at the time with a prior

vendor.

The last time we were in we were introducing Paul Revere as our new vendor and we're now running the large transit buses out there. So at this point MIT believes that we have the capacity, and we believe we have the capacity to service that population.

Then the other nice piece about this service is most of our passengers come from North Station and Kendall Square heading to work in Cambridge. Most of MIT's passengers are coming from the dormitories and from the Cambridgeport neighborhood and heading back towards campus. We have limited ridership in the reverse peak direction so it fits nicely with where their peak traffic goes.

MR. SCALI: So MIT's Northwest shuttle, are they still running that themselves?

MR. GASCOIN: Yes.

MR. SCALI: So they're running their own.

MR. GASCOIN: They have an in-house

shuttle services that are provided by Standard Parking as their vendor. They have another service called "Tech Shuttle," which goes up and down Vassar Street, which also was started by Charles River TMA, and Paul Revere was our vendor at that point too, before we went to the other vendor. MIT took that in-house, and they also started this Northwest route.

Then the other services they provide are the Safe Route, which are the evening services that go -- you know, after hours service.

So in part why they're interested in doing this is we've got duplicate routes and this enables them to use their resources more appropriately since our shuttle bus runs very close to the type of route that their Northwest Shuttle runs.

MR. SCALI: So you're running your service at the same time they're running their own service?

MR. GASCOIN: Exactly, currently.

MR. SCALI: So there will be two of

you doing the same route?

MR. GASCOIN: Currently there are two shuttles that run very similar routes, and what we're proposing is combining it and it will run as EZRide.

MR. SCALI: I see.

MR. GASCOIN: And that will enable them to then redeploy their resources to where they have greater need.

MR. DALEY: Currently we don't run in the middle of the day but we will take over the midday shuttle, so we're asking for an amendment to the permit.

MR. SCALI: Are there certain streets that you're adding on to accomplish this? Is that what it is?

MR. GASCOIN: Yes.

MR. SCALI: Is it like a long list or just a couple?

MR. GASCOIN: It's a fairly extensive change. Our route from North Station to Kendall is roughly the same. It's from Kendall to

Cambridgeport that you've got changes.

MR. HAAS: Just so I understand this, you're replacing MIT's Northwest Shuttle service during the course of the day? So you're doing it with their blessing?

MR. GASCOIN: Absolutely, and frankly their financial contributions or else we couldn't have done it.

MR. SCALI: Is it a contract or something?

MR. GASCOIN: Yes, the idea behind --

MR. HAAS: That wasn't clear to me. So you have a contract to provide the services for MIT; right?

MR. GASCOIN: We will proceed to a contract if we receive approval here. There's no real reason to go forward with a contract if there was something that would not be approved by the City.

MR. HAAS: I was just trying to understand the relationship between you and MIT.

MR. DALEY: We were both running half-

empty. SO now instead of us going back to North Station empty, we'll take the kids from college back to Kendall and eliminate one of the buses.

MR. GASCOIN: Just as background on EZRide and Charles River TMA: we're a non-profit association of businesses, one of 10 in the greater Boston area, and the idea is all businesses have similar transportation issues, and by working together such as this you can do a joint program that's less expensive for each of the businesses and provide a higher-quality, higher frequency service.

When we re-upped our contract we got a seven year agreement from 22 businesses to fund this, including MIT. So MIT is just adding another piece on top of that.

The good part of that for the City of Cambridge is that each of these businesses might have been running their own shuttle. That's not so good for Paul Revere because they could have 17 buses instead 7, but they do a good job and they're going to get business based on the success of this

service.

MR. SCALI: Questions?

MR. TURNER: No.

MR. SCALI: Comments? Does anybody from the public want to be heard on this matter?

So you know that we make a recommendation to the City Council. They City Council is the one that actually votes on this and approves it. So this will go on -- I'm not sure exactly when. Probably -- I'm not sure you'll make it for next week. It may have to be the one after that I think.

MR. GASCOIN: We were targeting a Tuesday, July 6 start of this new service, if it works. So if we get to the City Council by the meeting in June that gives us enough time to do the planning.

MR. SCALI: I'm sure you'll get a date in May but I just wasn't sure what date because the budget is coming up and all that.

Pleasure of the Commissioners?

MR. HAAS: Make a motion to recommend

approval by the City Council.

MR. SCALI: Motion to recommend approval to the City Council and to the City Manager.

MR. TURNER: Seconded.

MR. SCALI: Moved and seconded. All in favor?

MR. TURNER: Aye.

MR. HAAS: Aye.

MR. SCALI: If you could just explain that in a cover letter to the City Manager that it's a replacement of the Northwest Shuttle because otherwise it's confusing. It's confusing to me.

MS. LINT: I've got it.

MR. GASCOIN: When we were preparing for the meeting we realized it was confusing to us as well.

MS. LINT: And if I don't get it right, I will call you.

MR. GASCOIN: Please do. It's something that if you're a regular commuter, you're going to use the bus the same way every day, and

once you know the system it's going to be
absolutely fine.

MR. SCALI: Thank you.

MR. GASCOIN: Thank you very much.

MS. LINT: Ratifications: Medallion
106, 137, and 224.

MR. SCALI: These are all refinances?

MS. LINT: Yes.

MR. SCALI: Paperwork in order?

MS. LINT: Yes.

MR. SCALI: Motion to accept.

MR. HAAS: Motion.

MR. SCALI: Moved, seconded. All in
favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

MR. SCALI: We're so impressed that Councilor Kelley sat through the whole meeting.

MR. KELLEY: I love watching people work for a change.

MR. SCALI: I just wanted to remind the Commissioners about the May 11 owners meeting for taxicabs. I'm doing the agenda now. I'm narrowing it down. I know that Lt. Albert has offered to come and speak, and Officer Szeito and Officer Arcos.

MS. LINT: Deputy Superintendent Albert.

MR. SCALI: So I just want to make sure that all the subject matters you want are on that agenda.

MR. HAAS: I just made a series of recommendations, Mr. Chairman. I wasn't expecting that you necessarily would -- in fact, the school I did with a certain degree of trepidation. So I was kind of making a list of things just to see if there was anything that -- the only thing I would think we would want to talk about with respect to

the school is that I think we want to announce to the taxicab owners that they're going to have to take some responsibility for orientation of these new drivers and that we're going to make that part of the certification. That's my understanding.

MR. SCALI: That's what we voted on.

MS. LINT: I think that's really one of the most important things and today was a perfect case in point. I got a call from a woman in a cab on her way to Waltham, and it was one of the new drivers who had obviously not been on that part of the highway and tried to get off on a ramp that was closed.

MR. HAAS: Not good. So what I would like to try to do in respect to that meeting is maybe make up something, because I don't think we have it yet -- some kind of check off or sign off list. Then we should think about what the requirements are. Is it going to be 8 hours orientation, is it going to be 40 hours orientation. We talked about the notion of putting them on some kind of probationary period, and

again, I'm not sure if we resolved that issue where we give them a paper license initially for that period of time. So again, if they get stopped, we know right away that they're a probationary driver. Then they wouldn't get their full license until the taxicab owner signed off, or whoever is leasing or running those cabs signs off on that. I want them to take some responsibility for these people.

MR. SCALI: Officer Szeito is working on that list now. We're going to meet on May 6, I think it is.

MR. HAAS: So you wouldn't want to introduce that at the meeting?

MR. SCALI: I do actually. That's why I want to make sure that check off is completed by then.

MR. HAAS: So when I was thinking about that I was thinking about the extension beyond the school in terms of saying to them it's now becoming part of your responsibility.

MR. SCALI: That's definitely what we want to talk about. That's our main focus.

MS. LINT: We're meeting next Tuesday.

MR. HAAS: At 3:00.

MR. SCALI: I guess the point is that I don't want to be the one doing all the talking that day.

MR. HAAS: We'll take care of you.

MR. SCALI: I want to make sure people are giving their point of views, other than me.

MR. HAAS: So you'd want Jack at that meeting as well, I guess.

MS. LINT: He said he would be there with Steve Ahearn.

MR. SCALI: It's at the Courtyard by Marriott from 11:00 to 1:00.

MS. LINT: That's on the 11th, the Courtyard.

MR. SCALI: The Courtyard by Marriott is on the 11th. The pre-meeting is the 4th.

MR. TURNER: And you don't need me for that.

MR. SCALI: Unless you want to come and give your point of view, you're welcome, of

course.

MR. HAAS: So this will be right after the City Manager's meeting, if we have one?

MR. SCALI: Yes.

MR. HAAS: Where are we going to do that?

MR. SCALI: I asked him to come here. If he doesn't want to do that I understand. Then at 1:00 is the taxicab driver of the year award.

I know that there was an Executive Session last evening on Idenix. I have no idea what happened.

MS. LINT: I have no idea.

MR. HAAS: With who?

MR. SCALI: The City Council asked for an Executive Session on Idenix.

MS. LINT: I asked Nancy Glower what happened but she didn't respond to me. Amy is on maternity leave.

MR. HAAS: I'd have to believe that they've told the City Council what they've told us, and they probably offered their opinion.

MS. LINT: I hope they told them that.

MR. SCALI: I was just curious myself.

So anything else you want to mention?

No. Motion to adjourn.

MR. HAAS: Motion to adjourn.

MR. SCALI: Moved, seconded. All in
favor?

MR. HAAS: Aye.

MR. TURNER: Aye.

(Whereupon, the proceeding was
concluded at 9:38 p.m.)

CERTIFICATE

COMMONWEALTH OF MASSACHUSETTS
BRISTOL COUNTY, SS

I, Anne Ouellette, a Professional Court Reporter, the undersigned Notary Public certify that:

I am not related to any of the parties in this matter by blood or marriage and that I am in no way interested in the outcome of these matters.

I further certify that the proceedings hereinbefore set forth is a true and accurate transcription of my record to the best of my knowledge, skill and ability.

In Witness Whereof, I have hereunto set my hand this 6th day of May, 2010.





ANNE OUELLETTE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 16, 2012

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