

**City of Somerville  
Licensing Commission**

**Regular Meeting by Remote Participation**

**DRAFT OF THE  
Minutes of the Regular Meeting  
Monday, September 21, 2020  
Posted 10/14/20 at 4:15pm**

*The meeting was called to order at 6:00pm. Present were Commissioners, Lynch, Allen and Lindgren, Secretary to the Commission Lori Batzek, Lt. Timothy Mitsakis, a member of the Police Department, Lt. MacLaughlan, a member of the Fire Dept., City Clerk, John Long, Members of the City Staff, Applicants and members of the public.*

*The meeting adjourned at 7:56 pm*

**Monday**

**September 21, 2020**

**6:00pm**

**Published September 14, 2020, 2020 at 5:00pm**

**Published September 17, 2020 at 4:45pm**

**Published September 21, 2020 at 11:15am**

Pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, G.L. C. 30A, s. 18, and the Governor's March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, as well as Mayor Curtatone's Declaration of Emergency, dated March 15, 2020, this meeting of the Licensing Commission will be conducted via remote participation. We will post an audio recording, audio-video recording, transcript, or other comprehensive record of these proceedings as soon as possible after the meeting on the City of Somerville website.

Copy & paste the following link into your internet browser to view this meeting live:

<https://attendee.gotowebinar.com/register/3160313487198511119>.

If you wish to submit comments on any item on this agenda, you may send written comments by US mail to the Secretary of the Licensing Commission, 93 Highland Avenue, Somerville, MA, 02143, or by email to [ljbatzek@somervillema.gov](mailto:ljbatzek@somervillema.gov). Your comments must arrive no later than 12 Noon on the day of the meeting, in order to be sure they are conveyed to the Commission.

**COMMUNICATIONS**

1. Minutes of June 18, 2020 Special Meeting

*Correction to be made to Line 7. The Commission approved these minutes, after the correction.*

2. Minutes of June 24, 2020 Special Meeting

*Correction to be made to Line 3. The Commission approved these minutes, after the correction.*

3. Minutes of August 17, 2020 Regular Meeting

*Correction to be made to Line 6. The Commission approved these minutes, after the correction.*

3a. Minutes of July 1, 2020 Special Meeting

*The Commission approved these minutes.*

3b. Minutes of July 20, 2020 Regular Meeting

*Correction to be made to Line 1. The Commission approved these minutes, after the correction.*

4. Communication from the ABCC pertaining to the Governor's Extension of Allowance of Outdoor Table Service dated September 10, 2020

*The Commissioners each received a copy of this communication. The City Council will be meeting, on September 23, 2020, on the Committee on Licenses and Permits, to discuss an extension of the Licensing Commission's authority on this matter, to be extended beyond November 1, 2020. The result may be a communication, or something which needs to be acted on in October. The Commission made note of this Communication.*

4a. Communication from OSPCD pertaining to Recreational Marijuana Licensing Fees during the City Council's Priority Application Period

*Charlotte Leis, Planner of Planning and Zoning spoke on this communication. In April 2019 a 1 year waiver of \$900 fees was approved by the Licensing Commission. Ms. Leis is requesting a retroactive waiver of fees during the 4 year period from April 2020 through November 2022, when the Economic Empowerment priority application period ends. The commission noted that the Group B applicants, no longer includes Somerville residents, after May 1, 2020. However, the next batch of applicants will include Somerville residents as these applications were submitted prior to the date of this change. Interviews are being conducted. The next MAC recommendations may be issued by October 2, 2020. There will be a total of 2 to 3 rounds of recommendations. Most of the applications on file were submitted pre Covid. Ms. Leis estimates the applicants offered a Community Host Agreement may come before the commission by the end of the year. The MAC consists of 5 members, 3 are City staff and 2 are public members with various experience and expertise. The total number of members is determined by the Acting Mayor. The Commission requests the fees be posted to the City Website, with the fee waiver information. The Commission approved the waiver of fees for all Marijuana Licensing Commission Applications, retroactively from April 2020 through November 2022.*

*MOTION: I move to waive the Licensing Commission Application Fee from April, 2020, until November, 2022, to make the wavier coterminous with the City Councils extension of the adult use marijuana application priority period. The applicant shall continue to be responsible for the cost of publishing the public hearing legal notice and the cost of mailing the abutter notices.*

4b. Communication from Economic Development requesting a Blanket approval, for Heaters, for all previously approved Temporary Outdoor Seating Amendments. Conditioned on Staff Approval. Licensing Fee for this amendment shall be waived.

*Both the Licensing Commission and the Fire Department have waived fees on these applications. Propane/Liquid Fuel Heaters would be approved by the Fire Department, and Electric Heaters would be approved by ISD. The Commission approved this Blanket approval for Heaters.*

*MOTION: I move to approve the use of propane, electric or battery-operated heaters for Outdoor Seating License holders on both public property and private property only after the license holder has submitted a complete application in CitizenServe, obtained all required city approvals and received written permission from the City Clerks's Office. This amendment to the current Outdoor Seating License shall require no additional payment. Any license holder who violates any Fire Department or Inspectional Services Department conditions on the use of said heaters may have their use revoked and may be subject to suspension or other penalty.*

4c. Communication from Economic Development requesting a Blanket approval, for Entertainment by Devices Only, for all previously approved Temporary Outdoor Seating Amendments. Conditioned on Staff Approval. Licensing Fee for this amendment shall be waived.

Tom Galligani wished to clarify that this is for Devices for Audio only, not Visual Devices. The Commission approved this Blanket approval for Entertainment by Audio Devices Only.

**MOTION:** I move to approve the use of audio-only entertainment devices outdoors for Outdoor Seating License holders on both public property and private property only after the license holder has submitted a complete application in CitizenServe, obtained all required city approvals, and received written permission from the City Clerk’s Office. This amendment to the current Outdoor Seating License shall require no additional payment. Any license holder whose use of such devices violates the city’s Noise Ordinance or otherwise causes complaints may have their use revoked and maybe subject to suspension or other penalty.

4d. Communication from Economic Development requesting a Blanket approval, for Protective Structures, for all previously approved Temporary Outdoor Seating Amendments. Conditioned on Staff Approval. Licensing Fee for this amendment shall be waived.

Tom Galligani stated this includes any and all Temporary structures, including ingloos and other tent like structures, which may require approval by the Fire Department and/or Inspectional Services. Economic Development will be using the same process used for Outdoor dining, and will review the applications for Covid compliance. Chairman Lynch asked about the Public and Private aspect of this matter, with inclement weather issues to be addressed, such as snow removal of the sidewalks and streets. Mr. Galligani stated they are considering a cutoff date of December 31<sup>st</sup> for Public Outdoor Seating, but suggested if a major snowstorm arrives prior to that date, requirements would be instituted to remove this seating. Chairman Lynch stated we are waiting for City Council approval of the extension and also would be awaiting the direction of the Mayor and Economic Development, for recommendations of Public seating, during inclement weather. Sue Thomas stated she is working with legal, on what the exact date and what the process of snow removal would be. The Commission approved this Blanket approval for Protective Structures.

**MOTION:** I move to approve the use of tents and other protective structures outdoors for Outdoor Seating License holders on both public property and private property only after the license holder has submitted a complete application in CitizenServe, obtained all required city approvals, and received written permission from the City Clerk’s Office. This amendment to the current Outdoor Seating License shall require no additional payment. Any license holder who violates any Fire Department or Inspectional Services Department conditions on the use of said tents and other protective structures may have their use revoked and may be subject to suspension or other penalty.

This motion will be updated at a future meeting, when the language has been settled on this matter.

**NEW Applications**

**TEMPORARY OUTDOOR PATIO SEATING  
DUE TO GOVERNOR BAKER’S ORDER**

**Requesting**

**An Alteration of Premises  
For TEMPORARY Outdoor Patio Seating**

5.

LICENSE #	BUSINESS NAME	ADDRESS	STATUS	APP. TYPE	COMPLETE	CURRENT/NEW	PUBLIC/PRIVATE	TENT	HASP	FLOOR PLAN	CONTROL ENG.	SPCD	FIRE	INSURED
ALM20-000133	Portuguese American Civic League	26 Springfield St.	NEW	NEW TEMPORARY	YES	NEW	PRIVATE	NO	YES	YES	YES			N/A
ALM20-000138	Urban Axes	2 Union Sq.	NEW	NEW TEMPORARY	YES	NEW	PRIVATE	NO	YES	YES	YES			N/A
ALM20-000141	Martsa on Elm	243 Elm St.	DENIED	NEW TEMPORARY										
ALM20-000142	Martsa on Elm	243 Elm St.	DENIED	NEW TEMPORARY										
ALM20-000143	Martsa on Elm	243 Elm St.	NEW	NEW TEMPORARY	NO	NEW	PUBLIC	YES	YES	YES	YES			NO

Portuguese American Civic League - Joseph Vasconcelos, Treasurer, appeared for this application. Economic Development has approved this application. Chairman Lynch asked about this Private Club All Forms Alcohol License. The secretary confirmed this is a Private license. Chairman Lynch had concerns about the ability to serve the public under this Private Club License. Mr. Vasconcelos states they will not be restricting access to this outdoor seating to members only. City Clerk John Long has stated through the secretary, through the rules and regulations, that access would be restricted to private club members only. Further research will be

done on this issue and provided to the commission. The secretary states the governor has required Food Service to serve alcohol. Item #7 was taken out of order.

*Continued until the October 19, 2020 Licensing Commission Meeting*

*Urban Axes - Matthew Payton appeared for this application. Mr. Patton stated he would like to expand the kitchen service. Chairman Lynch had questions for Economic Development about conditions on this business to open. Sue Thomas stated only the standard Covid 19 conditions. Thomas Galligani stated that no food or alcohol service will be allowed inside. Mr. Payton stated his outdoor seating application was put in on August 14, and he was told this would not be approved without an approval from the Licensing Commission. Mr. Payton express concern that if the Licensing Commission won't approve without the City's approval, he would not be able to go anywhere with his business. He stated his business was allowed to open 10 weeks after the Commonwealth of Massachusetts was permitted to do the same indoor activity, and that this is really hurting small businesses right now. Chairman Lynch stated the commission understands and the commission has been working on this for close to 7 months. He also stated he wanted to insure that everyone understands that there are currently some restrictions on the interior and that what the applicant is doing now, is to prepare for when those restrictions are lifted. Chairman Lynch asked Mr. Payton if, with the Commissions permission to move ahead with temporary outdoor seating, that he will not be serving alcohol or food outdoors, until the City gives him permission to move ahead and if that was his understanding of what is being done tonight. Mr. Payton stated he didn't know that they had to be tied together, and if he is only allowed to serve food outdoors, if he can also serve food indoors, he would be stepping up his occupancy to allow his indoor dining to be approved, but that he specifically is coming before the commission for an outdoor dining approval. Chairman Lynch stated he didn't know why the applicant was requesting temporary outdoor seating with a restriction indoors of no food and alcohol service, if this restriction follows outdoors. Mr. Payton stated that if he would have been approved for either outdoor or indoor dining, he would have figured out a way to pivot his business, and not do Ax Throwing given that the city did not have indoor recreation and they would have rejoined the other restaurants in the city that were allowed to open for indoor dining on June 22, 2020. Commissioner Allen stated that he didn't necessary see that the two have to be coupled and that this is no different from any other permit reviewed by the commission. He stated he is o.k. with decoupling these. Chairman Lynch asked if there was an alcohol restriction to being served prior to the axe throwing event. Mr. Payton stated this is not a condition and alcohol is served in the form of premixed canned cocktails with the same abv as a standard beer, there is no free pour liquor service. Chairman Lynch asked about the possibility of competitors being served alcohol outdoors while waiting to throw axes indoors. Mr. Payton said this was possible. He also stated that is an option he has asked the City of Somerville to review from an indoor perspective either before or after the activity, assuming the city is going to continue to say that it can't be done during the activity as it was pre Covid. Commissioner Lindgren agreed with Commissioner Allen on this application. Mr. Payton stated his safety record and showing Mr. Galligani and Mr. Boukili prior to opening. Chairman Lynch stated he was questioning why the same restrictions were not placed on the Outdoor Seating as were placed on the Indoor Seating by the City. Mr. Galligani stated he visited the establishment 2 weeks ago, and it was very well run. He stated there is a coach in the Ax Throwing lane for safety. Mr. Galligani stated Economic Development viewed the indoor ax throwing and the outdoor seating for food and alcohol as two separate activities.*

*The Commission approved this Temporary Outdoor Seating License with City Department signoffs*

*Martsa on Elm – Dechen Martsa appeared for this application. This is a parklet. Ms. Martsa would like to put a tent (they have 2, but believe they may only have room for 1), they have a 10x10 and a 10x20 tent, with between 5-10 tables (tables are 2x2). Economic Development is still reviewing this application for adequate space and to make sure there is 15 minute parking available. Chairman Lynch requested the applicant check with the Fire Department or Economic Development for the tent size before she purchases it, as some of them are not allowed.*

*The Commission approved this Temporary Outdoor Seating License with City Department signoffs*

**MOTION:**

*I move to provisionally approve the establishments just reviewed favorably for outdoor seating service. This approval is conditional on each establishment filing a health and safety plan, and receiving City approval of its socially distant seating layout. Licensees are not permitted to begin operation until they receive written notice from the City Clerk's Office that both conditions have been met. This approval expires on November 1 at 11:59 PM, unless otherwise modified by the Governor or State or City legislation, and requires no additional payment. License holders may reduce but not expand their hours of operation on either private property or public property past 11:30 PM. License holders are not permitted to offer outdoor entertainment except by audio devices only. License holders are not permitted to allow dogs into the outdoor seating area unless previously granted permission, but SERVICE ANIMALS are permitted to enter the outdoor seating area. Finally, outdoor seating license holders are warned that any license holder who violates any Covid-19 protocols, ADA requirements, or any other terms or conditions of the license, may be subject to suspension for the remainder of 2020 and/or the revocation of the license holder's license. This approval overrides the*

**Common Victualler**  
**And Entertainment by Devices**

**Continued from July 20, 2020 & August 17, 2020**

6. Cafua Management Company, LLC  
d/b/a Dunkin Donuts  
282 Somerville Ave.  
Mark Cafua, David Cafua & Gregory Cafua  
Hours of Operation: Open 24 Hours a Day, 7 Days a Week  
(AL20-000010)  
*\*New Owners, Previous Owner: Da-Lel Corp.*

This is the Notice of a Public Hearing for this Item. The Public is welcome to attend and be heard.

*Michael Coogler, District Manager for the Somerville Location, appeared for this application. Cafua owns a little over 300 establishments. City Council has approved this to be open 24/7.*

*The Commission approved this Common Victualler and Entertainment by Devices License*

**Common Victualler**

7. Portuguese American Civic League  
26 Springfield St.  
Joseph Vasconcelos - Treasurer  
Hours of Operation: To Serve Food and Alcohol Indoors and Outdoors (on Private Property)  
Monday through Saturday from 8 a.m. to 1 a.m.  
Sunday from 12 p.m. to 1 a.m.  
(\*AL20-000016)  
*\*This is an amendment to an existing Private Club Alcohol license (AL17-000024). Citizen Serve does not have an amendment in application process for an existing alcohol license to apply for a Common Victualler*

*Commissioner Allen stated section 6.01 in the Licensing Commission Rules and Regulations for Private Clubs licensed for the sale and service of alcoholic beverages, may serve such beverages and food to members and guests of members, and to no others. They cannot be open to the public. Chairman Lynch asked if there is a difference between a Private Club License and a regular Restaurant License. City Clerk John Long stated that some research would need to be done on this issue. Chairman Lynch stated that if the intent was to serve the public, the Private Club License may need to be turned in and a new license may need to be applied for. The secretary stated rules 6.06 Entrance to Private Clubs and 3.07 Definition of "Guest". A discussion was held as to what an exemption would pertain to. City Clerk John Long stated that even if the Commission granted an exemption, this may not pass muster with the ABCC rules and regulations. Further information is required on this matter from the City and the ABCC.*

*Continued until the October 19, 2020 Licensing Commission Meeting*

**NEW City License**

**7 Day Wine and Malt Alcohol License**

**Common Victualler, Entertainment by Devices And Sunday Hours Licenses**

**ENHANCEMENT Area**  
**Chapter 142, Acts of 2016**

8. Choesang Inc. d/b/a Martsa on Elm, 243 Elm St. requesting a NEW – Enhancement Area 7 Day Wine and Malt Alcohol, Common Victualler, Entertainment by Devices and Sunday Hours Licenses  
Hours of Operation for Food Service Indoors:  
Tuesday through Sunday 11am to 11pm  
Hours of Operation for Alcohol Service Indoors:  
Tuesday through Sunday 5pm to 11pm  
*Already has a CV and Entertainment by Devices License at Previous Address: 233 A Elm St. (AL17-000228)  
(AL20-000013)*

This is the Notice of a Public Hearing for this Item. The Public is welcome to attend and be heard.

*Dechen Martsa appeared for this application. This was previously Meju. Ms. Martsa stated she is Tips Certified. Ms. Martsa has spoken with Economic Development to be Covid compliant. This establishment has been in business since 2004.*

*The Commission approved this Wine & Malt, Common Victualler, Entertainment by Devices and Sunday Hours License.*

**Existing Alcohol License**

**Private License**

**All Forms 7 Day Restaurant License**

**Requesting**

**Change of D/B/A,**

**Change of Hours and Sunday Hours**

9. Bergamot LLC d/b/a Bergamot, 118 Beacon St. requesting a Change of D/B/A from Bergamot to TAB and a Change of Hours  
from: Food Service Indoors: Sun.-Sat. 5pm-10pm to: Sun.-Sat 7am-1am  
from: Alcohol Service Indoors: Mon–Sat. 11am-1am and Sunday 12pm-1am to: No Change

*Applicant did not appear. Keith Pooler sent an email on 9/20/20, informing Secretary he would not be able to appear and understood if the application would be continued.*

*Continued until the October 19, 2020 Licensing Commission Meeting*

*Chairman Lynch wanted to make the following comment. He asked if anyone from Economic Development was still in attendance. He expressed a concern about Restaurants changing their name without coming through the Licensing Commission for approval. His reasons why were as follows: Their license, if they change their name and don't get approval through the Licensing Commission, it does not match the records at the ABCC, and that could be a big issue for them moving forward. This could also be an issue through our Treasury Department, when we are doing certain financial things. It can also be an issue with the Fire Department, especially when these organizations are changing their signage. Chairman Lynch stated he needed to emphasize clearly, that this is the second time that we have somebody who has gone ahead and publicly announced that they have changed their name, to fit covid, and he understands why they are doing this, and he is calling attention to two of them. Bergamot, we were able to catch this early, because they announced it on social media. The other establishment is Highland Kitchen, they have changed their name*

*and signage. That name no longer matches what we have on file. If they are going to have a d/b/a from Highland Kitchen to Highland Chicken, they need to notify the Licensing Commission of that, because there are implications when they do this. Chairman Lynch wanted to emphasize this point to Economic Development. They are not allowed to change their name at will. The Commission understands why, but they need to notify the commission and it requires approval. This is a fair warning that things can become very complicated moving forward, especially with the Department of Revenue, the City Treasury and Public Health and Public Safety. We need to know what their names are. Sue Thomas stated this was good to know and Economic Development would remind folks as they hear of any business closures or name changes.*