

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
Gerald Reardon, Fire Chief

STAFF:

Elizabeth Y. Lint, Executive Officer

- held at -

Michael J. Lombardi Municipal Building
831 Massachusetts Avenue
Basement Conference Room
Cambridge, Massachusetts 02139
Tuesday, June 22, 2010
6:08 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, June 22. It's 6:08 p.m. We're in the Michael J. Lombardi Municipal Building, 831 Massachusetts Avenue, Basement Conference Room. Before you the Commissioners: Chairman Richard Scali, Chief Gerald Reardon, and Commissioner Robert Haas.

Anyone here for Bourbon Coffee North America, d/b/a Bourbon Coffee, that's been continued to July 26.

MR. SCALI: Anybody here for Bourbon, Bourbon Cafe. Believe me, by the end of the night you're all going to want a bourbon.

MS. LINT: If anyone is here for T.W. Food --

MR. SCALI: If anyone cannot hear, please come up closer and we'll find you a chair closer. We'll get you a chair up front.

MS. LINT: And I would also ask that people in the audience not speak, which is why

people in the back can't hear, as well as the stenographer.

If anyone is here for T.W. Food, that's been continued to July 26, as well. Qdoba Mexican Grill, top of Page 4; that application has been withdrawn.

MR. SCALI: Motion to accept the minutes from our last meeting of June 8, and from the Decisionmaking meeting of June 1.

MR. HAAS: I wasn't here for that.

MR. SCALI: So on the minutes from June 8?

MR. HAAS: I make a motion.

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

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. SCALI: On the Decisionmaking meeting from June 1, motion. Moved.

MR. REARDON: Second.

MR. SCALI: All in favor? Aye.

MR. HAAS: I abstain.

MR. SCALI: So that's two to zero on that one. All right, first item, Mrs. Lint.

MS. LINT: Application: President and Fellows of Harvard College, d/b/a Harvard Faculty Club, Heinrich Lutjens, Manager, holder of an All Alcoholic Beverages as a Club license at 20 Quincy Street has applied for a change of manager from Heinrich Lutjens to Robert Leandro.

MR. SCALI: Harvard Faculty Club, come on up please. Have a seat. Good evening. Just tell us who you are.

MR. LEANDRO: I'm Robert Leandro.

MR. SCALI: How long have you been at the Faculty Club?

MR. LEANDRO: Since about April.

MR. SCALI: Can you tell us your experience?

MR. LEANDRO: I've been at Harvard dining services for 37 years. I was the Director of Residential Dining. I was a general manager for five years. I was Director of Facilities while we renovated some facilities. I was a chef going back.

MR. SCALI: So you're familiar with

the rules and regulations and the alcohol State laws.

MR. LEANDRO: Yes, sir.

MR. SCALI: Have you ever had a license in your name before?

MR. LEANDRO: No.

MR. SCALI: This is the first time?

MR. LEANDRO: Yes.

MR. SCALI: So you're responsible for all the servers and bartenders, and making sure that they're all trained. Have you been to our 21-Proof training?

MR. LEANDRO: I have not.

MR. SCALI: We require all new managers to go to 21-Proof. They'll come out to you or you can go to them.

MR. LEANDRO: Okay.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. REARDON: All set.

MR. SCALI: Does anybody from the public want to be heard in this matter? I see no

hands. Background check, Mrs. Lint?

MS. LINT: All set.

MR. SCALI: Motion?

MR. HAAS: I make a motion to approve stipulated with the 21-Proof training.

MR. REARDON: Second.

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

MR. HAAS: Aye.

MR. REARDON: Aye.

MR. SCALI: Aye. Thank you very much and good luck, Mr. Leandro.

MR. LEANDRO: I think I needed to give this letter to someone.

MS. LINT: Yes, thank you.

MR. SCALI: Thank you very much.

MS. LINT: Application: Mighty Toad, LLC d/b/a West Side Lounge, Charles Christopher, Manager, holder of an All Alcoholic Beverages as a Restaurant license at 1680 Massachusetts Avenue has applied for a change of premises description to include a seasonal outdoor patio with two tables and four seats on the public sidewalk for service of food and alcohol.

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

MS. HESLOP: Holly Heslop, H-E-S-L-O-P.

MR. CHRISTOPHER: Charlie Christopher.

MR. SCALI: So this is to add the patio to the West Side?

MR. CHRISTOPHER: Yes.

MR. SCALI: So it's just two tables and four chairs against the wall?

MR. CHRISTOPHER: Yes.

MR. SCALI: Is it on either side of the door?

MS. HESLOP: It's just right up against the window. There's one big window.

MR. SCALI: That's food and alcohol?

MR. CHRISTOPHER: Yes.

MR. SCALI: And the hours?

MS. HESLOP: 5:00 to 1:00.

MR. SCALI: So 5:00 p.m. to 1:00 a.m.?

MS. HESLOP: Yes.

MR. SCALI: Is it going to be cordoned off? I didn't see -- on the plan we looked at I didn't see the --

MS. HESLOP: There will be planters on both sides that extend the length of the tables.

MR. SCALI: And you know, no alcohol on any kind of umbrellas, no alcohol advertisement at all.

MR. CHRISTOPHER: We caught onto that late but we're all fixed now.

MR. SCALI: And you're responsible for cleaning up the area of the sidewalk and making sure there's no debris and litter, particularly in the front right there where the patio is. That's

your responsibility.

Questions?

MR. HAAS: So do they need permits from DPW?

MS. LINT: All set.

MR. SCALI: they already have permission from DPW. Does anybody from the public want to be heard on this matter? Come on up, please. There's a seat right here if you want to sit down. Just tell us who you are, please.

MS. WEINHAUS: I am Carol Weinhaus. I live in the Agassi neighborhood. I've lived there since 1978.

MR. SCALI: What's your address?

MS. WEINHAUS: 64 Oxford Street. I would like to speak in favor of the tables. They help the retail; they make it much safer at night if you're walking home. Charlie and Holly are fabulous community participants. They have a wonderful outside seating in front of the Cambridge Commons. It helps bring everything alive so I strongly support this.

MR. SCALI: Thank you so much. Sir?

MR. MEYER: Fred Meyer, M-E-Y-E-R, 83 Hammond Street. I've lived in the area since September 1960, so for 50 years. There is a lot of empty storefronts along Mass. Ave. and I've been concerned about public safety. I think having more presence on the street is a good idea. I'm also very concerned about sidewalks being open but this location is wide enough to allow that.

Quite frankly, Charlie Christopher and his wife have been models of public citizens. I've personally attended at least 20 meetings with them on various civic issues. We have a group of six of us who are working on improvements to Mass. Ave. between Harvard and Porter Square. Rezoning allowing a Lesley dorm to be built at Mass. Ave. and Wendell Street was strongly supported by the neighborhood and Charlie was at most of those meetings. So this petition is supremely deserving of support.

MR. SCALI: Thank you so much. It's nice to hear some positive things. I never know

what I'm going to hear. It might be negative or positive. We never know what to expect but I know you've been very involved with the neighborhood and you've tried to keep in touch with everybody around your restaurant so I'm not surprised on this matter.

MR. REARDON: Move to approve.

MR. SCALI: Is there anybody else that wants to be heard on this matter? No other hands. Motion to approve.

MR. REARDON: Second.

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

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck.

MS. LINT: Do you want all of Lesley at once?

MR. SCALI: Yes. It would be probably best to call them all. You can just call them by address and the number of spaces.

MS. LINT: Lesley University is applying for an Open Air Parking license for 19 parking spaces at 7981 Oxford Street; for 23 parking spaces at 7-13 Mellen Street; 22 spaces at 1627 Mass. Ave.; 30 spaces at 30 Mellen Street; 81 spaces at 61 Oxford Street; 16 spaces at 28 Wendell; six parking spaces at 23 Mellen; eight parking spaces at 82 Oxford; 42 parking spaces at 1840 Mass. Ave.; and 40 spaces at 1826 Mass. Ave.

MR. SCALI: Lesley? Come on up, sir. Tell us your name, please.

MR. CARR: Larry Carr, Director of Campus Services at Lesley University.

MR. SCALI: So you're here on all of the applications.

MR. CARR: Yes.

MR. SCALI: Is this a reorganization

of existing parking, or new parking?

MR. CARR: Actually these are existing parking lots that Lesley has had over the years and have operated. We've been in the PDTM in terms of our parking inventory. I don't know the exact background but I believe it was actually the new dorm that was spoken of previously. When we did the reconfiguration of that lot we were informed that the lot would also need to be licensed, which it was when the dorm was opened.

And at the same time we had had our major lot at University Hall, the Porter Lot licensed and there was another lot which actually was formerly Niles that we had been paying on a license. But those were the only licenses. Lesley was not aware that it needed that I guess as an institution.

So we put our information together. I worked with the Traffic office and our PD officer to make sure that our lots were in sync to the Cambridge regulations. We've gone through the process and now it's just a matter of I think

finalizing the license.

MR. SCALI: Do you charge for parking in each of these lots?

MR. CARR: These are primarily for faculty and staff use and we do have an annual permit fee. There is limited visitor parking. We charge \$8.00 a day for visitor parking; it's very limited. And again, our Porter Lot, which is a for pay lot has an existing license and is not part of this group.

MR. SCALI: And the Porter lots are the ones for the fitness club. Are they the ones across the street?

MR. CARR: Actually the ones across the street are in this group, yes. Because Bally's is in University Hall, two of these lots, one is used by Bally's during the day. We use the other lot at 1840 Mass. Ave. -- 1826 is the Bally's lot all the time; 1840, Lesley uses it during the day and then when the employees leave at 5:00, Bally's lets people park there in the evening hours as well, and that's part of their existing lease

arrangement.

MR. SCALI: Mrs. Lint, I know you've been to the Traffic and Parking meetings on this and this was discussed with the other departments and agreed.

MS. LINT: Yes. They've all signed off.

MR. SCALI: Questions from the Commissioners?

MR. HAAS: No questions.

MR. REARDON: No.

MR. SCALI: Anybody from the public want to be heard on these lots? This gentleman, yes. Same neighborhood.

MR. MEYER: Fred Meyer, 83 Hammond. When I first came to Cambridge it was to live at 7 Mellen Street. I'm speaking in support of this petition but there is an important condition that in my judgment needs to be put on the Mellen Street lots.

To go back to the history, and I looked it up to make sure that my memory is right.

A few years before arriving in 1960, all the neighbors told me the president of Lesley, John Orton was ringing doorbells to get support for the closing of Mellen Street. The main argument used for the neighborhood then I was told was that the street would become more quiet since it would no longer be a through street, and it was a condition that the street to be closed.

As you can imagine over 50-plus years things get forgotten. Although there is a Do Not Enter sign at the end of Mellen Street, as you can see there is graffiti on it and the chain on the ground that is supposed to be up at all times is never up. Here is one end of it and here's is the other, and you can see the posts have widened. I've tried to put the chain up myself and it just can't be done, even pulling with all my elderly strength.

Now the other end, this is the Oxford Street view, also has a chain, which is also almost always down. By the way, I took these pictures at 3:00 today so they're very current.

MR. SCALI: Have the chains ever been up recently?

MR. MEYER: I haven't seen them up in several months. I used to put them up a few months ago and they'd stay up a day or two and then would be down.

It's obvious that -- let me call your attention to -- going back to the other end, to this Nissan Xterra, a tall black car. Looking at it from Oxford Street here is that same Nissan car, and if you count the cars there's one, two, three, four, five, six, seven, eight cars parked there, none of which are supposed to be there. If you look at this car, you notice it's parked the wrong way. I didn't see it enter but there's a good guess it entered from Oxford Street.

MR. SCALI: Is there supposed to be no parking on that street?

MR. MEYER: That's right. This is supposed to be emergency vehicles only. This is another view.

MR. REARDON: The Xterra is on the

opposite side of the street as well?

MR. MEYER: Here we're looking from Oxford Street; Oxford Street is right here. There is the Xterra and this is a view of the same Xterra from here.

MR. SCALI: So it's going the wrong way.

MR. MEYER: The Xterra is not but another car is, a Honda is.

MR. SCALI: Is it a two-way --

MR. MEYER: No.

MR. SCALI: It's a one-way street?

MR. MEYER: It's not supposed to be open to any cars.

MR. SCALI: Aren't there abutters there that have to go down that street?

MR. MEYER: No. The idea is the street is closed off. This is a very very important point. It's exactly parallel to when Harvard got the permit from you for the underground garage and the cars can't turn right toward Oxford Street on Everett, because they can't make that

right turn. That's a condition of their permit. It was a condition of this dormitory being built in 1957 that this street be closed. It's not supposed to be open to traffic coming either direction.

MR. REARDON: Mr. Scali might remember that. I don't know.

MR. SCALI: I was only two at the time.

MR. MEYER: It's not burdensome on Lesley to say only for emergency or maintenance or security use because this is right in the very middle of those cars. You can see by this white car there, this is the Lesley 24-hour security office called the Public Safety Office. When I was taking the picture I thought it was somebody looking out from that office. It turns out it's a piece of artwork but they're overlooking this area. So any emergency they can go there and quickly take down the chains. So this is the language for a permit that I am suggesting to you, and this is only for the Mellen Street parking permit.

MR. SCALI: Before we do that, is the

street a City street or does Lesley maintain the street? You don't know. Do we know at all whose street it is?

MR. REARDON: I think Mellen's excepted.

MR. HAAS: I don't see any regulatory signs on the street at all.

MR. SCALI: I'm not sure if it's City owned.

MR. MEYER: I can't answer that but there has always been a Do Not Enter sign there.

MR. SCALI: I'm just wondering who has the authority over the street, whether it's the City or whether it's Lesley.

MR. MEYER: I think the City has authority over the whole street. So here's my suggested language which --

MR. HAAS: Mr. Meyer, before you go on, those chains are supposed to be erected at all times and nobody has access at all to that street?

MR. MEYER: Except for emergencies.

MR. CARR: But the chain is there to

allow egress onto Oxford. But I agree, Fred, the chain should be up. In fact, I don't know if you spoke to Bill, but Bill advised me of this I believe yesterday and I spoke to Public Safety so if you took that today, I'm disappointed that the chain wasn't up. I have to find out why but when I spoke to him yesterday, I said we need to keep the chain up unless somebody needs the egress and then it should be attended egress by Public Safety to allow somebody to exit onto Oxford Street.

MR. HAAS: My concern with this chain is I'm not sure that's an appropriate barricade for a street. It seems to me there's some liability issues if that's what you're using to block a street. If somebody drives down that street and can't clearly see those chains if they're erected, you're going to have a problem.

I think that's why the Chairman's question about whose street it is, is germane, because my advice if it's a City street is to have Traffic and Parking go back, assess it, and then make sure the regulatory signs are posted. Then

make sure if that street is going to be closed that it has the appropriate barricade to prevent access to that street unless there's an emergency where you need to have emergency egress out of that street.

MR. SCALI: But there are people who live on that street; there are houses there. Am I right? Just tell us your name.

MS. WEINHAUS: I can speak to it; I live on the corner. My name is Carol Weinhaus and I live at 64 Oxford Street, which is the corner of Hammond and Oxford, and right across from that is the intersection that we're talking about.

MR. MEYER: Hammond runs into Mellon.

MS. WEINHAUS: The thing that I can attest to -- I've lived there since '78 -- is there's always been a chain. Usually the posts were painted so they were very bright and you could see them, but in terms of -- the fire truck is out there a lot, so I think it's also a safety issue to have all the cars parked there.

MR. REARDON: We're enforcing

everywhere a lot.

MS. WEINHAUS: You guys are great. I should tell you I'm completely in favor of Lesley getting their parking. They're fabulous for the community. I can tell that as long as I've been there, there's been those posts and a chain, and that part of the concern is there's now two humongous underground parking garages with Harvard. Both Neighborhood Nine and Agassi spent essentially eight years with Harvard on traffic patterns and not having the traffic circle through the neighborhood. So it's another added reason.

MR. MEYER: The student parking should go back to Mass. Ave. It shouldn't be funneled into the Oxford Street area.

MR. REARDON: Are there people who live on Mellen Street that need to get in and out?

MR. SCALI: There are houses there; right?

MR. MEYER: There are houses but they're mostly owned by Lesley.

MS. WEINHAUS: And Harvard.

MR. REARDON: Do they have cars that would go into their driveways from Mellen Street? I think they do.

MR. MEYER: From Mellen, yeah, but from Mellen they go back to Mass. Ave.

MR. CARR: There's two-way access further up.

MR. REARDON: I'd make a suggestion that that doesn't impact the issue right here but we take up a second issue and see if we can follow up with Traffic and Parking and the others.

MR. SCALI: We can do some research and find out what the solution is.

MR. MEYER: Right. Let me suggest a condition for the --

MR. SCALI: It may not be relevant to a lot because there's a lot at 13 Mellen, the one that we're hearing tonight.

MR. CARR: Lot B, which is --

MR. SCALI: 30 Mellen and 13. There's two.

MR. CARR: That would be the most

relevant to that because 13 is further up where you can exit out to Mass. Ave. It's really Lot B that -- off of Lot B, and then that fire lane which ends at Oxford where the chain -- and I agree fully it should be up and it should be only allowed for egress purposes.

MR. MEYER: Or a barricade. I'm not asking for anything except those few Mellen Street permits have a condition. Here's some suggested language for your consideration: This Mellen Street permit is subject to the eastern end of Mellen Street in front of the main Lesley campus being kept closed to all vehicular traffic except for emergency, maintenance, or security vehicles. Barricades at the eastern and western ends of this section of narrow pavement shall be kept permanently in position, removed only by Lesley University's adjacent 24-hour Public Safety Office for purposes specified above.

MR. SCALI: This is where the research comes into play, because I'm not really sure who is supposed to have access to that street, plus it's

not really our jurisdiction to determine who has access to the street. It's only the lot that we have jurisdiction over.

MR. CARR: I can see why this brought you out here tonight, Fred, but from my point of view because of the position of Lot B, when you would exit from Lot B you will go out to Mass. Ave. We don't see traffic. So while it's adjacent it's not directly relevant to Lot B itself. It's more the issue that you bring up about the fire lane, allowing egress, preventing access off of Oxford Street. So in my mind it is an issue that we need to look at and figure out the solution maybe with the City, depending on who owns it. But I personally don't feel it's relevant to the Lot B license.

MR. SCALI: Why don't we do this, because we've got a very huge agenda tonight and this is on a subject matter that's kind of -- we don't really know all the details about. I think we can probably vote on all the applications and maybe just continue the 30 Mellen one to our

Decisionmaking meeting in the 1st. If you can work with Mrs. Lint on finding out the details about that, so if we have to include some language, we can do that, and if we don't, we'll find out what the solutions are because I think we're kind of operating in the dark right now and we really don't know what the rules are.

MR. REARDON: And we can work with Traffic and Parking because the Fire Department has right of fire lane on private and public way. So we'll take a look at that again and see, because I don't see any signage down there. It has not been a huge problem for access for us but we can take a look at that again.

MR. SCALI: Anybody else want to be heard on this matter? Any other questions?

MR. HAAS: No other questions.

MR. SCALI: So the motion is to approve all but the 30 Mellen one. So that's a motion. Moved.

MR. REARDON: Second.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye.

MR. SCALI: And on the 30 Mellen,
motion to take the matter under advisement.

MR. HAAS: Motion.

MR. SCALI: Moved. Seconded. All in
favor? So Mrs. Lint will report back to us on the
1st of July with the details on that lot.

MS. LINT: Application: Continued from February 23, 2010, Idenix Pharmaceuticals, Christopher Gilman, Associate Director of Facilities, has applied for a Special Variance from the requirements of the City of Cambridge's Noise Control Ordinance, Cambridge City Code, Chapter 8.16 pursuant to Cambridge City Code, Section 8.16.090(B).

MR. SCALI: Good evening. Tell us who you are again so we'll know for the record.

MR. JOHNSTON: I'm Richard Johnston, counsel for Idenix.

MR. GILMAN: I'm Chris Gilman, Facilities Director for Idenix.

MR. SCALI: Mr. Johnston, Mr. Gilman, you're here again after a long spring. So this is the matter we've continued over a number of months, as you know, just for the record purposes, to see if we could come to some better repair solutions and change solutions that you had proposed to see if it made the noise situation any better. We were hoping there would be a way that you could actually

find some solutions to the problem as opposed to the ultimate of making you shut everything down or stopping the noise anyway.

I know that there is report that you submitted to us, which we have read because you got it to us ahead of time. I believe, if I'm not incorrect, Mrs. Lint, people from the neighborhood received that reporter as well; am I correct?

MR. GILMAN: I gave five copies to Mr. Lindquist.

MR. SCALI: Just so we can kind of lay the groundwork as to where we're going with this today because we don't want to repeat the history of the past two years here, but the point of tonight's meeting is to hear the details on that report, questions we may have, or questions that the neighborhood may have on that, and comments on that. Then Ms. Boyer can comment on the readings that were taken and come up with some parameters for how we're going to come to a decision on this matter.

So for those of you out in the

audience, we're not going to - we received a number of e-mails. Mrs. Lint forwarded every e-mail to us with all the details. So if you're a person that e-mailed, there's no need to repeat your e-mail. If you're unsure whether yours is there, we'll certainly check to see that it's there, but we have all of those e-mails and we've read them all. I assure you we have read them all.

MS. LINT: And I have them all.

MR. SCALI: Mrs. Lint has them printed out and they're all in the file. I don't know whether you have all received the e-mails.

MR. GILMAN: No.

MR. SCALI: We need to make sure we get a copy to you all of those e-mails as well.

Is there anything you want to say, Commissioners, on that? Are the parameters okay on that?

UNIDENTIFIED SPEAKER: Can we request that the testimony be louder; we can't all sit in the front.

MR. SCALI: If you're having trouble

hearing, please come forward and we'll find a seat for you up in the front. Ms. Boyer, if you could just assist.

MS. BOYER: If anyone is waiting for something else, if you could move back, that would be so helpful.

MR. SCALI: We're going to start with Mr. Johnston. I guess you're speaking for Idenix. Let's start with the report then, if you would.

MR. JOHNSTON: To follow up on your introduction, Mr. Scali, we're here to report both on the specific improvements that Idenix has made since the February meeting, as well as to talk about the specific test results, which have been taken since the last meeting in February, as well as ultimately to ask the Commission to approve Idenix' August 6, 2009, variance application.

You may remember that the application is based on information showing that the sound levels in the neighborhood of Idenix' building in and around 16 Hampshire Street consistently exceed the 50db nighttime limit in the City Noise

Ordinance even if Idenix were not fully operating. Although Idenix submits that those facts alone would warrant a variance, during the pendency of these proceedings Idenix has in good faith taken steps up on the roof in order to reduce its contributions to the overall neighborhood noise levels.

We're please to report tonight as we did in the submissions we made to you a few days ago that these good faith efforts to the rooftop equipment do appear to have accomplished some significant reductions in the noise levels emanating specifically from Idenix.

I'm going to hand things over to Mr. Gilman, he's the facilities person at Idenix, and he's going to discuss the improvements that Idenix has made since the last meeting, as well as to talk about the sound readings that were taken in the presence of Mr. Gilman, consultants from Cavanaugh/Tocci, and Ms. Boyer.

I would mention that Greg Tocci of Cavanaugh/Tocci is here tonight. You have his

report. We don't expect to walk him through all the technical details of that but he is here to answer any questions that you or people from the audience might have.

Mr. Gilman's presentation I should say deals with the steps that Idenix has taken within its control. After Mr. Gilman concludes I will discuss the variance application briefly, and Idenix' continuing need for some relief in the form of a variance due to the impact of ambient noise over which it does not have control.

Mr. Gilman.

MR. GILMAN: Good evening. I have a few displays. What I would like to do - the third page of our submittal from last week is the chronology of events of our remediation. We've blown this up. To your request, I'm not going to start at the top and go through three years. We'll jump down halfway.

MR. SCALI: We do have this. So we have seen it so tell us what you've done since our last meeting.

MR. GILMAN: You have replaced RTU8, which we have been told by Cavanaugh/Tocci was the loudest piece of equipment on the roof. I have some rooftop pictures also, which you have in front of you. If you would like that for clarification, we can put that up there to show you where it used to be, where it is now, and that kind of thing.

We've had some engineers come in. We have rewired some VFDs. We had some frequency sounds up there, some high-pitched sounds that we couldn't get rid of that we've now been able to eliminate. We have put more sound curtains up over the past several months, and we took a lot of obsolete equipment off the roof. At the same time we were putting the new unit on there we had a crane there, so we thought it was an opportune time to take some obsolete equipment off.

If you'd like me to walk you through some of the rooftop pictures?

MR. SCALI: That would be great if you just kind of point out the ones that have been replaced or eliminated. I know which ones they are

but maybe some people don't know.

MR. GILMAN: This is the one you saw in February of this year and RTU8 was this unit right here. That has been moved and I'll show you where we moved that to. We had an old generator over here, an old rooftop unit, and a few other small pieces that all came off that day. This RTU8 was the loudest unit on the roof and it was pretty close to Clark Street, so we had quite a time trying to get a handle on the emissions from that. The middle picture - I think you have it there in front of you.

UNIDENTIFIED SPEAKER: Could you show those to the public please? There's an open meeting law for me to be able to see them.

MR. SCALI: We'll be happy to do that. If you want to hand them out that - I didn't know you had handouts. That would be great.

MR. GILMAN: Ma'am, I'm not doing this to try to exclude you. I just don't know how to get -

MR. SCALI: If you could maybe angle

it this way so the public can see? We have copied here so if you could angle it so people can see it from the public that would be very very helpful.

MR. GILMAN: Well, now I can't show you. Can you see more or less?

In the February one, we show the RTU8 unit over here in the center of the building. It's been moved right here so we've got clear story blocking it and we also have some curtains that block it. What we have discovered is that this has now gone from the worst offender down to where it has no impact at all to the sound. We put extra sound attenuation in the unit when we purchased it and it's a very quiet unit. So that's been a big improvement.

You can also see from your February pictures that the generator is gone, some rooftop units are gone. They were lifted off with a crane.

MR. SCALI: What numbers are those?

MR. GILMAN: This was RTU13 toward the back of the building.

MR. SCALI: Number 13, okay.

MR. GILMAN: And then you see a generator right on the edge of the roof; that's gone.

MR. SCALI: 13 and there's 12.

MR. GILMAN: Our RTU8 unit in February had been there and that has been taken off the roof and has been replaced and put over here. So we have what we call "clear story." It's a pitched roof on top of the roof, which is now blocking sound heading toward Clark Street. We also have some more curtains that we put up since February also that's blocking the sound in that direction.

MR. SCALI: If you have more of those, the best place to put them is on that ledge right over there against the wall. I'm saying that if you want to show the larger documents, on that ledge on that wall is the best place to put them.

MR. GILMAN: I think that's it for pictures.

MR. SCALI: What else besides those units?

MR. GILMAN: We rewired some VFDs that

got the frequency pitch out and more sound curtains.

You have in front of you a Cavanaugh/Tocci report from May 25. On that particular evening the outside condition was 84 degrees, which was what we had all hoped we were going to be able to accomplish back in February. It was a warm night where everything that is going to run in summertime condition was running naturally on our roof. We had Bill Elliot from Cavanaugh/Tocci here to do the readings and we had Ms. Boyer with us through the whole evening.

If you look at Table 1 in this report, which is Page 2 of the Tocci report, it summarizes what our readings were that evening. We did 16-foot readings to simulate above our roofline. We also did 5-foot readings, which was a handheld reading on the ground. The three common points that we've been doing every time we've been doing this were 55, 55, 55. As you can see at the 16-foot it's been 52, 53. The Bristol Street proxy that we've done many times in the past just for an

idea of what ambient is doing that evening was 53.

One of the problems we had that evening was not only was everything on our roof running, but everything on everybody's roof was running. When we first started doing the readings, Ms. Boyer, Bill Elliot, and myself were on the corner of Clark and Hampshire, and we were having a discussion about how it was going to be extremely difficult in that spot to do any sound readings that evening because that corner was being dominated by sound coming from further in the city; Amgen for instance, from Kendall Square.

We actually moved down Clark Street a little bit from where we normally do the readings because it was getting dominated by extraneous sounds. We had quite a discussion about that; that we weren't exactly at that point how we could even Idenix out of it because the extraneous sounds were dominating that area. I don't know if Ms. Boyer wants to speak that.

MR. SCALI: I think she will. Once you finish we'll ask Ms. Boyer some questions but I

don't want to interrupt you at this point.

MR. GILMAN: Then also that evening we were trying to figure out - we've always done just the one proxy location and it always made us think, did we pick a bad spot, is this a good spot and that kind of thing. So that particular evening, Cavanaugh/Tocci also sent out another individual with another meter, and we had him while we were doing these readings around the Idenix building doing simultaneous readings around the city.

If you flip to Page 3, which is Table No. 2, this was approximate to the same zoning conditions as our building at eight different points around the city that evening just to see if the 53 at Bristol Street make sense by going to these other eight locations. I've plotted these on your zoning map if you'd like to see that.

MR. SCALI: I think we know where these locations are.

MR. GILMAN: Based on that --

MR. SCALI: There are various readings on here anywhere from 56 to 45 depending on the

location, which most of them are nowhere near your site. They're all around the city in different locations.

MR. GILMAN: What we had tried to do was get in a residential area across the street from an office area, industrial area, that kind of thing, to try and simulate 50, 60, 70 feet away from a zoning area and a residential area just to see if Bristol is a good proxy spot for us. You also have two readings we briefly did with Ms. Boyer there also on March 10 and April 22 that we did briefly just to see if there was anything else that we could be doing before we did the major reading in May. It showed 52, 53, 51 that evening. It showed that we really did have to wait to have everything come on naturally.

MR. SCALI: So are there any other improvements? Have you completed all your improvements to the machines on the roof?

MR. GILMAN: We have.

MR. SCALI: And there are no other plans for any other changes?

MR. GILMAN: No.

MR. SCALI: Are all the curtains now up and in place as they would be fully planned?

MR. GILMAN: Yes.

MR. SCALI: Is there a plan for them to come down still when there's ice or snow, or have you rectified that?

MR. GILMAN: We hung them horizontally so there's two pieces: a four-foot piece and a four-foot piece above it. In the fall, October, November, sometime in there we'll take those what we're calling "skirts," the bottom pieces off so the wind can blow through. Then we'll pick a time in March or something like that to put them back on again. We've installed them so they could come down fairly quickly and back up relatively quickly.

MR. SCALI: Assuming that that would be the colder time when all the machinery is not on anyway?

MR. GILMAN: Right.

MR. SCALI: Is that basically the report that you wanted to present to us, or is

there more details on the report, because I want to talk a little bit about the variance now as well? Is there any questions about the report?

MR. HAAS: No questions.

MR. REARDON: No.

MR. SCALI: So the variance request, is your request still the same? I think we had suggested last time that with all these improvements that 60 decibels wasn't likely to be granted as a special variance, so we were hoping that somehow along the way you'd come -- we were hoping you were going to get to 50 but it doesn't look like you're at 50. So is your request the same still, or are you amending your request?

MR. JOHNSTON: Let me try to address it Mr. Scali. We haven't formally amended the request. There are I think without question improvements made up on the roof in terms of the equipment. There have been improvements in the sound readings as evidenced by what happened in May.

A couple of problems that the company

Still confronts as it tries to go forward in the context of the variance application are No. 1: There seems to be some uncertainty as to where the readings will be taken from in the future. I think you may know there has been controversy already as to whether the readings should be done at the lot line, which by practicality has to be 5 feet up because there has to be a stand running from the lot line up five feet to hold the meter. Or, whether it should be at 16 feet, which more approximates the windows of some of the houses.

It's the company's position that it should be 5 feet or really ground level as opposed to 16, but there does seem to be a difference depending on whether you do it at 5 or 16, and since the company thinks it should be 5 and others may think it should be 16, we think there needs to be some clarity going forward so that there isn't inconsistency later on when the readings are taken.

Second of all, and Mr. Gilman has mentioned this already and it's in the Tocci report as well, there is a lot of ambient noise coming

from various quarters in and around the Idenix building. And even if Idenix were to be within the limit, the fact that the local community and other contributors in the neighborhood in an algorithmic way create a system whereby the readings will be above the limit, we're almost - I shouldn't say "we," but Idenix is in violation almost just by operating, no matter what it does.

So in the context of the variance we want to be careful that Idenix is not subjected later on to severe penalties if in fact the ambient noise gets even louder than it is. And it does appear from the most recent test results that on May 25, the ambient noise coming from the local community was even greater than it has been in the past.

MR. SCALI: And that maybe because of the changes you've made there's a different dynamic going on then; am I right?

MR. JOHNSTON: It's possible. I'd have to ask Mr. Tocci to address that. It's not really my province. But the fact is that there are

other significant contributors and that makes it very difficult for Idenix to operate in a vacuum and be penalized for things that are coming from next-door or down the street.

So in the context of your question, you want to know whether the company is prepared to do something less than 60, I think it is apparent from the test results that there have been improvements that have brought it down into the mid-50s, but we don't know what you're going to do with respect to where the readings are going to be taken, and we don't know what's going to happen with respect to the ambient. So we're trying to be I guess as flexible and careful from the company's standpoint as possible, keeping in mind what you have said in the past about 60 probably not being something the company can realistically expect to get from you, even though we think it would be warranted under the circumstances.

So obviously you have a number of factors you have to consider. We would request that as you think about what you're going to do

that you address not just what the variance level will be but where the readings will be taken and how we get some protection for Idenix against increases in the ambient in the future.

MR. SCALI: I think if we granted the variance, and I say "if," meaning there's no decision made yet, there probably would be a number of conditions that we would have to consider to go along with that being then items you had talked about. I've thought a little bit about that myself in terms of what that would include. So you're right, there would need to be clarity on that.

MR. JOHNSTON: If I may just address a couple of other points?

MR. SCALI: Yes.

MR. JOHNSTON: One is that this property is in a buffer zone, and as you know, your ordinance requires you taking a look at variance applications and consider the impact of the buffer zone. So that is something that you should do. It's not simply in a zone where the treatment is clear. It is in a buffer zone so it should be

given some latitude.

As you know, the standards that you're supposed to follow are to balance the hardship of the applicant in the community and also to consider whether the noise disturbance or the alleged noise disturbance occurs across the buffer zone. We would submit that the hardship factors favor granting the variance.

First if all, the company's recent readings in the mid-50s are a significant improvement. But because of the fact that it is subject to ambient considerations, it is entitled to a variance, because otherwise it might not be able to stay open. And really, no amount of sound reduction by Idenix even if it completely shut down could wipe out the fact that there is ambient noise in the neighborhood. So enforcing the 50db limit would unfairly punish Idenix without really providing a whole lot of relief for the neighborhood because of the ambient conditions.

Second, if the solution were to shut Idenix down at night, it would be an unreasonable

burden on Idenix and really have limited benefit for the neighborhood. The hardship to Idenix from a shutdown follows from the conditions in which Idenix operates. The City fire regulations and OSHA requirements insist that Idenix have to operate the HVAC system continuously for both health and safety reasons. So if you imposed a nighttime shutdown, it would basically kill the operations at that facilities.

MR. SCALI: I just want to make clear to you that we don't have the power to shut you down. We have the power to say, "Come into compliance with the noise ordinance." Whatever that takes to do that is up to you. We can't order you to shut down; we can order you to come into compliance with the noise ordinance. It's just a terminology change.

MR. JOHNSTON: Whatever you do that would require in essence the company to shut down at night would basically compromise and put out of business the research and lab operations that go on at 60 Hampshire. We have talked about some of the

hardships in the past so I don't have to spend a lot of time talking about it tonight. We did submit a short statement from Mr. Weidenbruch who is the Vice President and General Counsel of the company that outlines some of the impacts if a shutdown would occur, given the fact that it is basically a start up research and development facility.

MR. SCALI: We have that. I think we've got that information from our hearings before, too. We don't want to repeat the same information again, but we do have his statement here and it is part of the record.

MR. JOHNSTON: We submitted it so that I wouldn't have to talk at length about it tonight.

Finally, and I touched upon this a few moments ago, because of the fact that 60 Hampshire is located in a buffer zone, the noise ordinance has created an exception, or at least has created a concept of a buffer zone for the purposes of determining whether a special variance should be granted. This concept recognizes that sound,

unlike zoning, can't really be defined by clear, fixed imaginary lines. It's at the confluence of various types of districts, and because the sound can travel across those district lines the variance in this multi-zone area would be in keeping with the spirit of the special variance provision in the ordinance.

So we would request at the end of the evening or in your decisionmaking process, whenever you choose to do it that you grant the variance. It has been applied for at 60. Obviously a lot has happened since we applied for it at 60. I've addressed the reasons why we think the company needs some latitude and we hope that the Commission will act accordingly and grant a variance.

MR. SCALI: Thank you, Mr. Johnston.
Any questions?

MR. HAAS: No questions.

MR. REARDON: I guess again, big "if" this was to be granted, conversely from the City's side, after a period of time when things wear down there could be creep back to -- I guess you'd have

to come up with something that made some sense that it would stay at or lower than what you have now and not slide back up to a higher end. So I guess from both sides of the fence, if this was a possibility, there would have to be something where you wouldn't want the creep to go from 52 to 60 before it became a problem again; that there would be some sort of maintenance. As time goes on there's bearings, there's all kinds of issues that would potentially cause this to slide back up again.

MR. JOHNSTON: And as Mr. Scali said, there would be conditions in all likelihood.

MR. REARDON: I think the same issues you have would apply to our side of it as well.

MR. JOHNSTON: Understood, and that's fair.

MR. SCALI: Any other questions?

MR. HAAS: No questions.

MR. SCALI: Ms. Boyer, I just wanted to make clear that your participation in the May 25 readings, could you just clarify that you were

there and observed the - what happened that evening? I wanted to make sure that was on the record.

MS. BOYER: Andrea Boyer, Licensing Investigator, City of Cambridge, B-O-Y-E-R. I was there on the night in question. I was there to verify that all the machinery on the rooftop was on, which I did. I also walked with Bill and Chris from the premise whenever we did the readings, including the Bristol Street location. I verified that the background levels of the night definitely contributed to the ambient levels, specifically Amgen on that night. It actually made like a hovering of a helicopter sound where it was really hard to get a reading of just what was going on at Idenix on the rooftop that evening. It was a very hot evening. There were also neighbor's air-conditioning units that were on in windows.

MR. SCALI: So you could definitely tell the difference between the background, other items that were on besides what was going on with Idenix?

MS. BOYER: Yes. Background levels are the levels that the area makes. Ambient levels are what the area makes including Idenix. So the background levels definitely contributed to the ambient levels. You could definitely determine that it was Amgen that evening. When you do the readings you take into consideration dogs barking, doors closing, birds, so many different things. And on that evening you could definitely state that it was Amgen.

MR. SCALI: Any questions for Ms. Boyer?

MR. HAAS: No.

MR. REARDON: Could you get a rough idea what that the background level was?

MS. BOYER: I did not perform readings that night.

MR. REARDON: Because we didn't do a complete shutdown to find out what the background was minus this?

MS. BOYER: Correct.

MR. HAAS: Just tell me where the

readings were taken again?

MS. BOYER: They were on the corner of Market and Clark Street, what is listed here in the middle of the street, in the middle of Clark, and also the corner of Hampshire and Clark Streets.

MR. HAAS: At the 5-foot level?

MS. BOYER: The 5-foot and the 16-foot level with a pole.

MR. SCALI: The 16-foot level is not level with Mr. Lindquist's window; right? Is that 20 feet up?

MS. BOYER: I don't know exactly how high it is. It's close. You really can't tell the angle because you're looking straight up and trying to see.

MR. SCALI: It's further up but you're not sure how much further.

MR. LINDQUIST: It's 24 feet to that window.

MR. SCALI: Any other questions of Ms. Boyer?

MR. HAAS: No questions.

MR. SCALI: If you all could step back or step to the side. Anybody who wishes to comment on the report, I want to make clear that we're not rehashing everything we've heard over the last six months to a year. We're talking specifically about comments on the new information that was submitted. I think we're pretty clear on your positions from the past, unless something has changed drastically. So if you could keep your comments to those items, we would appreciate it.

MS. LINDQUIST: I will. I just have a question.

MR. SCALI: Tell us your name.

MS. LINDQUIST: Linda Lindquist, 11 Market Street. I just want to clarify something. Andrea, you said that we're not able to separate the ambient noise from Idenix. The only way we could do that is if Idenix shut everything down.

MS. BOYER: We could not determine the background levels unless Idenix goes down, correct.

MS. LINDQUIST: And they can never do that.

MS. BOYER: I can't answer that question.

MS. LINDQUIST: I know they shut some things down but I thought some awful things would happen in that lab.

MR. SCALI: It's a very difficult scenario to do that. I don't know the complete ramifications but it is dangerous.

MS. LINDQUIST: I didn't think it had been done. I just wanted to check. It's kind of my word against everyone else's but we lived there in 2001, and it's pretty noisy outside there now, and it was not before. We lived with the ambient noise for how long Peter?

MR. LINDQUIST: Five years.

MS. LINDQUIST: And that's Broadway, and fire trucks, and all of that. That was bearable for us because nothing could be done about that.

MR. SCALI: Pre 2001?

MRS. LINDQUIST: No. We moved in 2001.

MR. SCALI: It was bearable at one point?

MS. LINDQUIST: The minute we moved in, the ambient noise.

MR. SCALI: Ambient noise is everything in the whole area.

MS. LINDQUIST: Right. That's before Idenix did their thing, and that was bearable. We looked at our house, we said hey, this is city noise and that's the way it is. That changed when Idenix started putting their equipment up on the roof, and nobody would know that.

MR. SCALI: I don't want to be disrespectful but we have already heard all of this before. I don't disagree or agree. I just need your comments on this information that was submitted from you to us so we can narrow down our -- and I'm not trying to be disrespectful at all.

MS. LINDQUIST: I understand, I do. I just wanted to get in my two cents because I think it's important.

MR. SCALI: And you have before, I

know you have. I just want to make sure you just comment on the report.

MS. LINDQUIST: Thank you.

MS. SCALI: Thank you.

MR. LINDQUIST: Peter Lindquist, 11 Market Street. I just passed out a little comparison I did. I have noise readings I've done. Andrea has - and you don't seem to like those. Andrea has them. Idenix doesn't seem to like hers. So I've taken Cavanaugh/Tocci's readings from their report dated July 24, 2008, of readings taken between June 14 and June 22, 2008, and matched those up as best I could to the readings that they took on May 25.

In their report they say that they have decreased the noise from 2008 to 2010, in a range of five to six decibels. These are their figures and you can do the math. By my addition and subtraction it comes out to at the best case scenario, four decibels. And at the other location it's the same in 2010 as it was in 2008. These are taken directly from --

MR. SCALI: I have a very bad memory remembering that report from 2008.

MR. LINDQUIST: That's why I did this. If you want to actually see, it's on Page 5 of the Cavanaugh/Tocci report dated July 24, 2008. It's Table No. 2.

MR. SCALI: Is that with all the same conditions though?

MR. LINDQUIST: Yes. I show both with the equipment on and with the equipment off on the first part of the table since they did that that evening. In 2010, it was only with the equipment operating, the appropriate equipment operating. These were taken at 16 feet, or I don't know, whatever height they had the equipment strapped to poles.

MR. SCALI: We'll have to take a look at that.

MR. LINDQUIST: There seems to be some discrepancy there. I would just like to kind of enforce what Mr. Gilman said about moving that one piece of equipment. They moved it to a location

where it probably should have been put in the first place, and he now states that it has absolutely no impact to the noise on Clark Street.

MR. SCALI: That's his opinion; that may not be true.

MR. LINDQUIST: And it's my opinion that this equipment should have gone there in the first place and it wasn't.

MR. GILMAN: Mr. Scali, can I make a comment on this?

MR. SCALI: No, no. Mr. Lindquist has the floor right now.

MR. REARDON: You were saying it's not an affect on you now in the new location?

MR. LINDQUIST: That particular piece of equipment I noticed in my own readings, which I know you don't care to hear, but I --

MR. REARDON: Just your opinion is fine.

MR. LINDQUIST: Based on my own readings, yes, it made a dramatic difference moving that one piece of equipment.

In terms of in their report, the readings taken around Cambridge do show that Cambridge is a noisy place. I could walk around Cambridge to areas where there are office zones abutting residential zones, and could show you very different readings. So these are kind of spot readings meant to show a particular point.

MR. SCALI: Conditions all around the city are different depending on - it's hard to compare one corner to another.

MR. LINDQUIST: I can point out 10 locations where you'd get readings and then residential zones abutting an office zone of 48 decibels at night.

MR. SCALI: It just depends on the specific conditions of that particular location.

MR. LINDQUIST: I wouldn't hold a lot of credence to that.

Regarding the curtains, we've mentioned these wonderful gray curtains. I don't know if you've been by there but what they have effectively done is built a wall out of these

individual curtains, which I do recall this Commission saying no, we didn't want a wall there. Well, effectively we have a wall. Although each one wraps particular pieces of equipment, they are side by side and do a wonderful job of blocking the light, sunlight and air from our neighborhood.

The other issue with the curtains is what is going to happen when those curtains are removed, or the lower half of those curtains are removed?

In March of this year, on March 2, I was getting readings up on the third-floor ranging between 58 and 59 decibels with the curtain bottoms removed. On March 9 - and that was at 10:00 p.m.

MR. SCALI: This was all before all the changes were made; right?

MR. LINDQUIST: Yes. I'm addressing the effect that the curtains have, the lower half of the curtains, which have to be removed come November.

MR. SCALI: But the conditions will be different with the equipment that's been changed.

MR. LINDQUIST: My point is that they have a dramatic affect on stopping the noise. And on March 9, when the curtain bottoms had been installed the readings were 54 to 55 dba. So we saw a four to five dba drop in the noise level with the curtain bottoms on as opposed to off. I will agree that it will be a different set of parameters come November, but I also maintain that we will see an increase in the noise levels.

Also was mentioned they allowed for the amount of background noise in the neighborhood. I was not able to be there that evening of the testing. Actually I was there but we had out-of-town guests and I could not break away. I think Amgen was a prime offender that night.

MS. BOYER: Yes.

MR. LINDQUIST: Camp, Dresser and McKee Building also produces a lot of background noise to that environment. As a matter of fact, some nights the Camp, Dresser and McKee equipment overshadows anything coming from Amgen. I think Andrea has heard that noise as well.

In the fall of 2007, this Commission issued a license to Metropolitan Life Insurance Company for a flammable liquid storage license, an increased flammable liquid storage license. They were the permittee for that license. They are the landlord for Idenix as well as Camp, Dresser and McKee. It seems to me that if this background noise is an issue, then this Commission should have some authority to ask the landlord whom they granted a permit to, to aid in bringing this noise situation under control.

Finally, I'd like to address the issue of the buffer zone, which Mr. Johnston addressed. I think you can look at a buffer zone two ways. One, it's a buffer zone that anything goes in, which seems to be the interpretation that we are being presented with. But rather I think the buffer zone should have been a hands-off zone because it was a buffer zone between a residential area and an office area. I'm sure you all remember the photograph, the satellite photograph of the building in 2002, pre-Idenix, which I had

previously given you copies of, and pictures of the building as it exists today. You will notice that the preponderance of the equipment was placed within that 50-foot buffer zone.

MR. SCALI: I think we've already been through that, yes.

MR. LINDQUIST: I'm just hoping that you recall all this when it comes time to make a decision.

MR. SCALI: It's really hard to forget a lot of this.

MR. LINDQUIST: Well, just as you didn't recall the numbers on --

MR. SCALI: In terms of comparison of numbers is a different thing.

MR. LINDQUIST: And with that I bid you a good night.

MR. SCALI: Thank you very much, Mr. Lindquist.

Does anybody else want to be heard on this matter? This lady right here in the front and then the lady in the back. If you've heard

something that was already said, just say "ditto, I agree." There's no need to repeat everything. Tell us who you are first. Do you want to have a seat?

MS. GREELEY: If I talk here then the people can hear me, if you don't mind.

MR. SCALI: Not a problem. Just tell us your name.

MS. GREELEY: I just wanted to make a comment.

MR. SCALI: Your name?

MS. GREELEY: My name is Lillian Greeley, and I'm from Harvard Square, and I was on the original noise ordinance committee that had the ordinance passed for the street performers in Harvard Square.

MR. SCALI: You do not live in this neighborhood.

MS. GREELEY: No, but I'm very interested in having any precedent set that will help other buildings in Cambridge to have an ordinance -- what do they call it?

MR. SCALI: A special variance. A special variance is a case-by-case basis. There's no precedent. Each case is different individually so I need for your comments to be related to the report on this location.

MS. GREELEY: That's what I'm going to do.

First, I wanted to make a comment about the necessity for getting a criteria about where the decibel readings should be taken. It should be articulated and defined because we are all working in the dark even though we sought of know exactly what we want, but it's not defined.

Secondly, there is a design for noise Reduction, and instead of the curtain, if there were plastic or Lucite or whatever walls with the curved arch with an opening that would reduce the noise a lot, because we had to do that research for the building that's going on the bus terminal street.

I'm a member of the Cambridge Biosafety Advisory Committee and I know that

biotech companies do have emergency generators for problems. If you could coordinate that test of that system with the ambient noise reading that might be --

MR. SCALI: You're coming very late to this game. We've already been through all of this. This has been going on for more than a year. I appreciate your comments but we're way past all those thing.

MS. GREELEY: Thank you.

MR. SCALI: Next. Hello.

MS. SALAT: Hi, I'm Jo Salat (phonetic), I live at 15 Berkeley Street. I'm here primarily not to speak as a historical commissioner, though I am one for the City, and therefore, my attention to the open meeting laws. Because I do want to make sure that any decisions that are made meet all requirements and aren't later said to have been inadequate. So forgive my need to make things loud and visible.

I am also a member of the Division of Sleep Medicine at Harvard Medical School, and

currently involved in research on sleep and noise disruption. In that regard I have actually worked with Cavanaugh/Tocci and have great respect for their work. I have a few comments particularly based on the report that we've heard and then one or two things to say about sleep, if I may.

First of all, with regard to the buffer zone I'm afraid that when we're talking about step down in use, we are not necessarily talking about a step down in noise. We are talking about noise into a residential district and I think the laws are very specific here. "Uncontrollable night noise is a health and safety issue. It is not a place for compromise any more than blood alcohol levels, or lead in paint and gasoline."

I would submit tonight a listing thoroughly backed by evidence based research on the consequences of poor sleep, which include impaired attention and reaction time, decreased memory and concentration, worse mood, psychosocial problems, risk of injury and falls, incidence of pain, weight gain, diabetes, cardiovascular disease. Let me

just say, we have shown that interrupted sleep is not necessarily reportable by the sleeper. We've done this by actually looking at the brains of sleepers. Your memory is not fully online when you're asleep and therefore in the morning while you might feel groggy, you might not be able to say I've been awakened 100 times. You don't know. You just know that you don't feel so great and you might just get in your car and nod off. So let me pass this to you because that's the health and safety issue you're talking about.

MR. SCALI: I know you've done a lot of research in this area because we've been here before on other issues. We're kind of narrowed down to the subject matter of this report and we have a lot of this information that you've given us before in other areas, so if you can kind of keep your comments to the report itself and not the history of what's happened and the effects. We're way past that in this situation.

MS. SALAT: I'm addressing the issue of whether or not a compromise should be made, and

it sounds like this is the time when that piece of the decision might be being considered.

With all due respect to Mr. Gilman's perceptions that there's a lot of noise coming from the other buildings, and interestingly Camp, Dresser and McKee and Liberty Mutual again being the landlord, I would beg the Licensing Commission to identify the buildings that are contributing to this violation and make them comply. I could sense there is no reason why Idenix should feel that the laws only apply to them. If other people are contributing to a degradation of residential neighborhoods, then they should be stopped.

Finally, with regard to where the readings should be taken I think it is logically reasonable that you look not just at the property line but at a vertical extension thereof. If someone is sleeping 16 feet up, and that's where they hear the sound, then that's where we have to know how loud it is. Thanks for your attention.

MR. SCALI: Thank you very much. This lady right here.

MS. BALOU: Carol Balou (phonetic), 257 Charles Street. I'm in East Cambridge and I was on the committee for noise issues that the city had. The tragedy here is Andrea does a fabulous job but nobody is doing the actual finalization of getting the noise levels down. This is a very awful situation over in this neighborhood because they're so close. Ours are more - you know in East Cambridge it's a little bit further away but with all the new development I'm sure we're going to have issues of our own.

My wish is that you can actually come to the table for the neighborhood because it is right in their backyard. It's not like they're 10 blocks away, it's right in their backyard and it is a problem. We ask these developers to please be considerate of the neighborhoods, but it would be terribly discouraging if we didn't get somewhere with this particular case because there are several behind this one.

MR. SCALI: We've come a really long way, Carol, from last year. We're not there yet

but we've come a real long way. We know your plight in your neighborhood so I'm familiar with your concern.

MR. BERGMAN: Gerald Bergman, 82 Elm Street. I think what I didn't see in the report was again talking about their own corporate responsibility. I think that's what's been missing really from the beginning. There's a lot in the report talking about Idenix wanting protection and their our own hardship. It sort of reminded me as a microcosm of the BP.

MR. SCALI: Oh, please don't. That's a huge comparison.

MR. BERGMAN: We've got a microcosm because we like to point at the really big guys. But Idenix - you know, big ownership from Novartis, tenant of Met Life. We're talking about multi-billion dollars of pharmaceuticals and a neighborhood. The report compliments themselves about what they've done to clean up the mess. They have three years of sound spillage. They're being forced by the Commission finally to try and clean

up the mess and they're complaining that they're spending some money. Does it sound familiar to BP that they created their own mess. When their engineers signed off -

MR. SCALI: I'm not trying to -

MR. BERGMAN: I'm talking about the Report because I didn't see that.

MR. SCALI: If you can comment on the specifics.

MR. BERGMAN: I didn't see that in the report. They say how much money they've spent and what they're done to clean up their own mess. When their engineers signed off on this they said they would stand with the noise ordinance; they would not be in violation of it. Well of course they were. And they've created this themselves. And they're spending money to clean it up and they haven't cleaned it up yet. Why would we as a neighborhood or society say okay, you created this mess, you've spent some money. That's enough; we can walk away from it. I think it just sounds too familiar.

I think what the Commission has to do in terms of its own oversight, and that's something the Federal government didn't do with the unmentionable - you don't want to hear the comparison.

MR. SCALI: Please don't.

MR. BERGMAN: We don't like to hear the comparison because we like to point at the big bad guy, but those little bad guys are in our own community. And unless we take oversight as commissions or a neighborhood, we're playing into the same game. I think if the Commission gives a variance and says you've done enough to clean up your own mess, you're off the hook, we're playing the same game and we're giving into the same thing. So I hope you don't do that. You know I make those other comments about this but you have to draw the line. You don't know where it's going to end up. There's other developments. They made the mess. Unless they clean it up, they can't operate.

When they filed to build this Idenix, and I was in the zoning that unfortunately allowed

I denix to be there because we didn't know about noise, we only talked about size, they said they would follow the law. They haven't and you have to hold firm on that. Thank you.

MR. SCALI: Yes.

MS. BROOKE: My name is Meghan Brooke. I live at 103 Inman Street, and great tie, Mr. Scali. I love that tie.

MR. SCALI: Thank you.

MS. BROOKE: Mr. Scali and I go way back because I was party to a very difficult noise case and I'm so glad to hear that the Commission is taking readings 16 feet above the ground; that's progress. If only they will consider the principle behind that which is that the property boundary is a plane, and anywhere along that plane, 10 feet, 20 feet, 30 feet, wherever the noise crosses the plane that's where it should be measured, if possible, and if not, extrapolated at that level.

Now with that said I would like to say that I beg the Commission not to grant a variance, because even though you say it's special and will

not apply to any others, it's very hard for me to believe that, to believe that the next defendant won't say, "Oh, but they got it."

Furthermore, I would like to say that it doesn't surprise me if noise is increasing. That's my experience. It's increasing everywhere. One of the reasons it increases is that it increases. In other words, if you have a noisy neighbor, you shut your windows and you turn on your air-conditioning, or you go buy air-conditioning you didn't used to use, and the noise increases. Because it started to increase it continues to increase. And that's what happens.

So I suggest that Idenix and its landlord have shown a willingness to hire lawyers and sound experts and engineers, and they should use those people to find out who in their immediate environs is creating this problem for them and aid the City and the Commission to persuade those entities to help reduce the noise, if in fact that is what's happening. But I hope we will not have a precedent here. It would be the beginning of the

end. We have too much noise. We need to go quieter, not noisier. Thank you so much.

MR. SCALI: Thank you, Ms. Brooke. Anybody else? This gentleman right here and then someone else in the back.

MR. JAKWITH: Mark Jakwith(phonetic), 213 Hurley Street, and also in East Cambridge. I wrote up a few notes based on Mr. Dillon's letter and the data that goes along with it.

First, Mr. Johnston I think made some reference to a buffer zone as if to imply that it was there to protect the industry from the residents. I think that's kind of ridiculous. It was obviously put there to protect residents, to buffer residents from a noise maker.

Under my remarks, contrary to what Idenix claims in its letter what this data points out is that noise levels are in excess in many parts of the city and we've done a really poor job of enforcement and have a lot of work to do to bring levels to compliance and to acceptable healthy safety levels. The decibel creep that

their letter attempts to justify can't be allowed to proceed. Excessive noise is not only a quality of life, but a health issue as has been pointed out many times by Mr. Lipson of the Cambridge Public Health Department.

Mr. Gilman argues that measurement locations should be determined with the convenience of the emitter or measurer in mind. This is clearly not in the spirit of the noise ordinance, which is written for the protection of residents. Noise generally travels along sight lines so a measurement a ground level will often miss noise that at greater elevations will travel on to cause trouble to neighbors.

Our noise ordinance needs a lot of work, but making exceptions such as this is not in the interest of our city. Please don't grant the variance. Thank you.

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

MR. ZEVIN: Hi, I'm Barry Zevin, 67 Hampshire Street, which would make me when I'm

asleep or trying to be asleep your 16-foot data point, 116 feet off of the Hampshire Street corner of the Idenix building. I'm very concerned about the assertion that complying at night will put these folks out of business, because their not complying at night is pretty much putting me out of business. I do some of my best work when I'm asleep actually. I come up with a good idea in the morning.

And the notion that the ambient is controlled only in the daytime is really bogus. There's a real quality-of-life issue around quiet weekends, and the ambient on the weekends is very much different from during the week, and at night. You've heard from me at length before so that's all I want to add.

MR. SCALI: Thank you very much, Mr. Zevin. Anybody else? This lady right here.

MR. KONG: My name is Kong, K-O-N-G, One Crossland, very near this company. I can say one thing. Last year my friend from China, he come here in my house. One night he say, " It's too

noise. I can't sleep." He's doctor working at MGH.

Another thing I want to say is it's not just the noise. Sometime especially in the nighttime we can get a very bad smell from the air. That's air pollution. I'm not sure what they burn as a company to pollute the air.

MR. SCALI: Thank you. Yes, ma'am. Just tell us your name.

MS. BROUSSARD: Barbara Broussard, East Cambridge Planning Team. We have our own issues as you well know, but was just sitting here listening. I honestly believe if you don't have a baseline, you really can't attribute any of these figures to ambient noise. You can't separate it. You need to have a baseline mathematically in order to do this correctly.

Second of all, I felt a little incensed when someone said -- I forget who it was and I could see who was talking -- that they should receive -- this isn't the word -- special consideration. Actually the person who lives in

the neighborhood who was here first receives the special consideration. You're asking for a favor, because that's exactly what you're asking for, the company. As my mother would have said, "Don't worry about what everybody else does in the whole city; worry about yourself because that's your job." You signed on, you decided to stay in this area. And I can tell you at 6:00 in the morning it's extremely noisy when I walk. So I actually vote that they don't get the variance either. Thank you.

MR. SCALI: Thank you very much. Anybody else? Sir, last comment. Just tell us your name.

MR. MACDONALD: I just wanted to offer another neighboring - my name is Glenn MacDonald. I live at One Lilac Court, which is about 20 feet from the corner of Webster and Hampshire, so I'm directly across the street. Lilac Court you might also know as the walkway between the two Idenix facilities. That's how we've come to think of it. Employees go back and forth.

So I can see Idenix out my bedroom windows from about 20 feet off the ground. It's true that Amgen is bad; it's true that Camp, Dresser and McKee is bad, contributing as well. I just want to echo the sentiment that the fact that the other two companies are contributing a lot of noise is a terrible, totally unjustifiable reason to ask for a variance for anybody else.

MR. SCALI: Questions from the Commissioners at all? Mr. Gilman, you have the last word. Is there anything else you want to say?

MR. GILMAN: No.

MR. SCALI: Pleasure of the Commissioners? I know we had mentioned that we were going to make some kind of decision this evening, but I'm not sure that the Commissioners are ready to make a decision this evening; am I correct? I think there's more information that we need to ponder over.

MS. LINT: I have something here.

MR. SCALI: Mrs. Lint.

MS. LINT: As you said earlier, I did

forward to you all the e-mails I received today. They've all been incorporated in the file. IF I missed any putting them in the file, I have them all in my computer in a separate file so they are certainly accessible. If you want them, I can get them to you.

MR. SCALI: All the e-mails and letters?

MS. LINT: Yes. And I have letters from Councilor Decker opposing granting the variance, Councilor Toomey reiterating his opposition from before, and Vice Mayor Davis, as well.

MR. SCALI: I think we need some time to ponder over some of the information we received this evening. We're not going to have this go on and on. We did make a commitment that we were going to make a decision; that we were going to do it soon. We are scheduled to meet on July 1 for our Decisionmaking meeting. I think that will give us enough time to go over the information that we have received this evening.

Any other comments the Commissioners want to make on this matter?

UNIDENTIFIED SPEAKER: Is that an open meeting on July 1?

MR. SCALI: It is. It's at 10:00 in the morning. It's right here in this room on July 1. It's our regular Decisionmaking meeting where we decide all of our items from the month of June.

Comment, Minka?

MS. MINKA: My name is Minka, and I live in Area 4, which is part of the neighborhood where this problem is located. I'm just wondering what additional information you need. Why is it difficult after all this time to make a decision? You had the report ahead of time.

MR. SCALI: I don't think we need any additional. I think we just want to ponder over the information that we received this evening. There's no additional information that would be taken at that meeting. I think I want to look up some of the tables that Mr. Lindquist mentioned in terms of the information received before, do some

comparison on the numbers. I am curious as to what Mr. Lindquist brought up in terms of the numbers from before and now.

MS. MINKA: I think that there's a lot of people here who are interested in the answer and they made the effort to come tonight thinking that there would be some kind of decision, even a preliminary decision reached. So it's unfortunate that you still need time. So it's July 1?

MR. SCALI: July 1, and it will be right here in this room at 10:00 a.m.

MS. MINKA: And the AC will be on?

MR. SCALI: It's usually on during the day, believe it or not. Usually it's pretty cold in this room.

MR. JOHNSTON: Based on your comments about looking into some of numbers, Mr. Tocci is here. Do you have any questions for him?

MR. SCALI: Do the Commissioners have Any questions for Mr. Tocci? I think we have the information from before. I just need to look up those numbers from before.

MR. HAAS: I just have one question. Mr. Lindquist presented us with a chart. Are those numbers accurate from your recollection of your 2008 report and 2010 report? Are they accurately represented?

MR. TOCCI: Greg Tocci, Cavanaugh/Tocci Associates. I can't really speak off hand without going through the reports and checking the numbers but it's worthwhile doing.

MR. HAAS: Can you verify that for us before July 1?

MR. TOCCI: Yes. I'd be pleased to.

MR. SCALI: Motion then to take the matter under advisement to July 1. Moved.

MR. REARDON: Seconded.

MR. SCALI: All in favor?

MR. REARDON: Aye.

MR. SCALI: Thank you all very much. I appreciate your patience.

MS. LINT: Was that a yes, or no, or an abstention?

MR. SCALI: We'll go back on the

record to clarify the vote. To clarify the record on the vote for Idenix, the vote was two to one, to take the matter under advisement. Or, are you abstaining?

MR. HAAS: No, two to one.

MS. LINT: Application: Fawaz Abu-Rubayah, d/b/a Olive Tree Café, holder of a Common Victualer license at 245 Massachusetts Avenue has applied to extend their current closing hour of 12:00 midnight until 4:00 a.m., seven days per week.

MR. SCALI: Good evening. So how long have you been open there?

MR. ABU-RUBAYAH: Almost 11 years.

MR. SCALI: What time are you open until now?

MR. ABU-RUBAYAH: I'm open to 12:00 midnight.

MR. SCALI: So you think you need to 4:00 a.m.?

MR. ABU-RUBAYAH: I try to help the business a little bit. It's quiet. People like to order after 12:00 sometimes, the students.

MR. SCALI: So you get a lot of MIT students at that time?

MR. ABU-RUBAYAH: Yes.

MR. SCALI: Don't we have other places

that are open in that area, too, until 4:00?

MS. LINT: Hi-Five is open until 3:00, Pizza Ring down on Western Ave. is open until 4:00. I think that's it.

MR. SCALI: So 4:00 a.m. means closed at 4:00 a.m., nobody in there, lights out. That doesn't mean people in there hanging around waiting. Do you any deliveries?

MR. ABU-RUBAYAH: I want to try to do some deliveries.

MR. SCALI: So that means deliveries done, everything closed up at 4:00 a.m.

MS. LINT: That's actually an important point because we're starting to get some complaints about some places that they close say at 2:00, but they're taking deliveries out at 2:00 and then having to go back and count money and all of that.

MR. SCALI: You can't take any orders that are going to take you past 4:00 a.m., if we even grant that. Questions?

MR. HAAS: Just describe what's around

your business right now. Describe the area around your business.

MR. ABU-RUBAYAH: There are more students in the area where I am.

MR. HAAS: So student housing; is that what you're saying?

MR. ABU-RUBAYAH: Uh-huh.

MR. REARDON: You don't presently do delivery; correct?

MR. ABU-RUBAYAH: I don't deliver but I want to try to have deliveries.

MR. SCALI: Does anybody from the public want to be heard on this matter? Did you do abutter notifications? Did you notify abutters?

MS. LINT: No.

MR. SCALI: Was it in the letter to do it?

MS. LINT: Yes.

MR. SCALI: Did you send notices out to your abutters, green cards? Did you cut out the ad out of the paper and send it to your abutters around?

MR. ABU-RUBAYAH: No.

MR. SCALI: In your letter it tells you to do that. You didn't do it?

MR. ABU-RUBAYAH: No.

MS. LINT: It says it right here.

MR. SCALI: You've got to notify your abutters, which means cutting the ad out or sending a copy of the ad to people that are next to and behind your store.

MR. REARDON: Certified mail; right?

MR. SCALI: I have just commercial buildings around.

MR. SCALI: Whoever, it doesn't make a difference. We'll have to re-advertise it for you. Motion to continue the matter to be re-advertised.

MR. HAAS: Motion to continue.

MR. SCALI: Moved.

MR. REARDON: Seconded.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye.

MR. SCALI: So we'll have to call you

back in for another hearing, I'm sorry, because you didn't notify abutters. Thank you.

MR. ABU-RUBAYAH: Thank you.

MS. LINT: Application: Bondir Restaurant, Inc., Jason Bond, Manager, has applied for a new Wine and Malt Beverages as a Restaurant license at 279A Broadway. Proposed hours of operation are 11:30 a.m. to 12:30 a.m. seven days per week with a seating capacity of 28. Applicant is also applying for an Entertainment license to include reading of poetry or other works, and an audio tape machine/CD playing music below conversation level.

MR. SCALI: Good evening. Just tell us who you are, please.

MR. LECCE: My name is Tony Lecce. I'm an attorney with Rudolph Freedman in Boston, and I'm representing Bondir Restaurant in this matter. With me today is Jason Bond, the sole owner, officer and director of the corporation, the chef and maybe head bottle washer as well. Like many young chefs he's served a long apprentice in many restaurants and food shops in the area. It became a good time for him to open his own restaurant. He found a location in Cambridge at

279 Broadway. He's a Cambridge resident; wanted a place in Cambridge because he knows especially in the beginning he'll be spending a lot of his time there.

As you mentioned, 28 seats, a small Chef owned restaurant with beer and especially wine will complement his cuisine. He's here to answer any questions you might have.

MR. SCALI: Tell us a little bit about your experience. What have you done before?

MR. BONDIR: My experience is I've been cooking for 20 years, largely high end restaurants, French restaurants. Although this restaurant won't be French, it will be based on local farms and local sustainable cuisine. It will be a lower price point than a lot of the places I've trained in.

MR. SCALI: Is there a menu that we can see?

MR. LECCE: There's a menu included, although it's one taken from his current restaurant.

MS. LINT: That's what I was going to say. We have one from -

MR. BONDIR: It will be representative of what I do now.

MR. SCALI: In the same price point?

MR. BONDIR: Same style.

MS. LINT: There's no prices.

MR. SCALI: Is it medium priced, high end price?

MR. BONDIR: Medium. We'll have a \$35.00 pre-fixed menu and we'll have options to spend up.

MR. SCALI: So what do the entrées range from?

MR. BONDIR: We'll have a three-course \$35.00 prefix menu. It will go up to five or seven courses on given nights depending on produce that's in the restaurant. Probably up to a \$50 or \$65 menu.

MR. SCALI: For a fixed five-course meal, or seven course meal?

MR. BONDIR: A set number of courses.

But it will be easy to eat for very little. You know, \$35 and even less for individual dishes.

MR. SCALI: I wouldn't consider that really a medium price.

So your target market is neighborhood people like the Oleana type crowd.

MR. BOND: I think it's the entire crowd. I look from Huron Village in Cambridge, up to Inman, to Central, MIT, Kendall Square. I see that entire mid-Cambridge area as the larger neighborhood I'm trying to draw from. And also where I work now in Beacon Hill it's an easy trip straight across the bridge.

MR. SCALI: So 28 seats, 11:30 a.m. to 12:30 a.m. So closing at 12:30?

MR. BOND: Absolutely.

MR. SCALI: Background music and -

MS. LINT: All set. Oh --

MR. SCALI: Background check is --

MS. LINT: It's fine, yes. Sorry.

MR. SCALI: Any entertainment, readings of poetry? Are you having a stage or some

kind of entertainment area?

MR. BOND: It would be very small events that we would do. I have a lot of friends that are poets and some of my family, so it's important to me. And that is a consideration of a way that I can reach out to support arts in the neighborhood and bring neighborhood in to have events and just get people together.

MR. SCALI: So a small little area in the front?

MR. BOND: There's a small bar area in front.

MR. SCALI: Is there a bar?

MR. BOND: It's a four-seat bar, yes.

MR. SCALI: Is this a non-capped area, Mrs. Lint?

MS. LINT: I believe so.

MR. BOND: My understanding is it's not capped.

MR. SCALI: Was this Console?

MR. BOND: Console was there and Tosca before that. It had a Beer and Wine license

previously.

MR. SCALI: So if you got this license it would be a no value, non-transferable license. You can't use it as collateral on a loan. You can't pledge it. If you leave, it comes back to us.

MR. BOND: Yes.

MR. SCALI: Does anybody from the audience want to be heard in this matter?
Mr. Bergman and Minka.

MR. BERGMAN: Gerald Bergman, 82 Elm Street. I guess I live sort of around the corner because they're between Elm and Columbia Street. I think we're working really hard to increase the vitality and visibility with street traffic, and I welcome this restaurant.

I've heard a lot of wonderful things about the chef and owner, and I think it would be a welcome addition to the neighborhood whether I can afford to eat there or not. Tonight has raised a real question in my mind. But for those who can afford it, I think it would be a wonderful

addition.

MR. BOND: I'll take my own notes on the price.

MR. SCALI: I was giving you every opportunity to show us the lower price points.

MS. MINKA: My name is Minka, again, part of the Area 4 Neighborhood Coalition, and I'm so pleased this came right after the other ordinance. Because this is a prime example of something that should be in the neighborhood. As he said, he wants people to walk there; he wants to draw from the local neighborhood. As opposed to the other case that you just heard where it was an inappropriate use of a building. I hate to draw back references to the case you just heard. That's one point.

The other point is that this building has been vacant for two-and-a-half maybe -- something like that -- years, and there was a restaurant in there before that was a local restaurant. I wouldn't say it was really a hub of activity but it was nice to have some place that

you could walk to. And there really aren't that many restaurants in that particular area, so that's good.

And of course, the fact that he wants to use local produce wherever he can is another plus I think as we're trying to be more sustainable and have more local produce. So all in all, I think the neighborhood welcomes you with open arms if we can. Thank you.

MR. SCALI: Does anybody else want to be heard? Questions at all?

MR. HAAS: When you refer to the other place in Beacon Hill, you don't own that other place, or you do own the other place?

MR. BOND: No, sir. I'm an employed chef.

MR. HAAS: So you don't have any other establishments?

MR. BOND: No.

MR. HAAS: You've mentioned there's no other establishments and then you mentioned my other place in Beacon Hill.

MR. LECCE: He currently works at a restaurant in a small hotel.

MR. SCALI: This would be your full-time employment then? Would you be working elsewhere?

MR. BOND: This will be full-time.

MR. REARDON: Any previous experience with alcohol?

MR. BOND: Only through my - I've worked in the industry for 20 years, so just through that.

MR. SCALI: Has your name ever been on a license before as a manager?

MR. BOND: When I helped open Restaurant Pava in Newton, I was the wine buyer and the manager there.

MR. SCALI: Were you on the license though?

MR. BOND: I don't think I was, no.

MR. SCALI: Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. REARDON: You have to do the 21-Proof; right?

MR. SCALI: We require that all new owners, managers, and servers go to our 21-Proof training, so it would be all your staff. 21-Proof is our citywide training program that Frank Connolly runs through the CPC. They come to you, or you can go to another training depending on where they're located in the city. You're required to do that before you open.

No value, non-transferable, 12:30 a.m. closing. Any standing, or just seating?

MR. BOND: There are 24 seats and 4 bar stools.

MR. SCALI: So 28 seats?

MR. BOND: Yes.

MR. SCALI: So that's a motion by the Commissioner. Moved and seconded. All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. SCALI: Thank you very much.

MS. LINT: Application: Lucksamee of Cambridge, Inc. d/b/a Rod Dee Thai Cuisine Original, Osmin Hernandez, has applied for a Common Victualer license at 1906 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and to have a seating capacity of 40. The hours of operation will be from 10:00 a.m. to 1:00 a.m. seven days per week.

MR. SCALI: Hello. Tell us who you are.

MR. CERULLO: I'm Dave Cerullo on behalf of Lucksamee of Cambridge. I'm going to be doing business as Rod Dee Thai Cuisine.

MR. SCALI: So you're the applicant?

MR. CERULLO: No. I'm the attorney representing them. I'm here on behalf of them. This is Osmin Hernandez.

MR. SCALI: So is this an existing location?

MR. CERULLO: It's going to be a build-out. It was formerly the Cambridge Music

Store, and how they're going to be doing some substantial work in there to create a 40 seat family style restaurant.

MR. SCALI: It was not a restaurant before?

MR. CERULLO: No, it was not.

MR. SCALI: So this is a new location?

MR. CERULLO: Yes.

MR. SCALI: Can you tell us your client's experience in the restaurant business?

MR. CERULLO: Presently my client has two other locations in Brookline, both of them are Thai cuisine. So they've been in operation for 14 years in one and seven years on the other. So they've had some substantial experience in the industry.

As I mentioned before, there's going to be quite a bit of renovation going on there. They're going to make everything up to code. Once the work is begun, of course they'll be complying with whatever the city requires.

MR. SCALI: So a 1:00 a.m. closing?

MR. CERULLO: Correct.

MR. SCALI: Forty seats. Is there a menu that we can see?

MS. LINT: Right here.

MR. SCALI: Patio at all, outside patio?

MR. CERULLO: No.

MR. SCALI: Deliveries?

MR. HERNANDEZ: Yes.

MR. SCALI: So where is your delivery car going to park?

MR. HERNANDEZ: We have parking behind the building.

MR. SCALI: Is it shared parking with somebody else?

MR. HERNANDEZ: Yes.

MR. SCALI: Is there a dumpster back there?

MR. HERNANDEZ: Yes.

MR. SCALI: Is that where your trash would go, in that dumpster?

MR. HERNANDEZ: Yeah.

MR. SCALI: How often do you have pickups and deliveries? I'm sorry, I mean trash disposal. How often?

MR. HERNANDEZ: We will do us, whenever basically. If we have to do it every day, we have to do it. We don't want the trash to sit there for too long.

MR. HAAS: How often do you do it at your existing establishments?

MR. HERNANDEZ: Every day.

MR. SCALI: Is that your plan to have pick up every day, trash pick up?

MR. HERNANDEZ: We see the business how it goes. As soon as we open the business we'll see how often we will need.

MR. SCALI: So you know that if you have customers that are out in front of your restaurant, you're responsible for cleaning up the area in front of your establishment. They may be out there smoking or dropping litter and that's been part of the items that we've been recommending that all licensees are responsible for cleaning up

their front area.

MR. REARDON: Do you do a lot of fried food?

MR. HERNANEDZ: Not too much. Mostly it's --

MR. REARDON: Are you using charcoal as a fuel or are you using just fire lighters?

MR. HERNANDEZ: Fire lighters mostly.

MR. REARDON: Just be aware of the new hood regulations that were promulgated this year in terms of that and cleaning. So when they put them in you want to make sure that the access panels are there for the new hood so you don't have to turn around and retrofit it after you put it in. So make sure who ever your company is well aware.

MR. SCALI: No entertainment, no background music?

MR. HERNANDEZ: Just radio music.

MR. SCALI: You probably want to apply for the background music then. Any other questions?

MR. HAAS: In you establishments in

Brookline, do you serve alcohol there?

MR. HERNANDEZ: No.

MR. HAAS: In neither one?

MR. HERNANDEZ: No.

MR. HAAS: So you're pretty much satisfied that that's not going to be an issue coming into Cambridge?

MR. HERNANDEZ: We see how we start off without the alcohol. If later we might have to maybe if the customer requests sometime, we might have to come for beer and wine.

MR. SCALI: It is a capped zone for alcohol, meaning you have to try to buy a license first before anything happens in that area. If you can't find one for sale, then in Cambridge we do allow you to apply for and a new license, but that would only be after you searched for one. And it's not guaranteed that you would get that license. So just make sure your plan doesn't need it to have that license to succeed.

Does anybody from the public want to be heard in this matter? No hands. Pleasure of

the Commissioners?

MR. HAAS: Motion to approve.

MR. REARDON: Second.

MR. SCALI: Motion to approve, moved and seconded. All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye.

MR. SCALI: Good luck. When do you plan on opening?

MR. HERNANDEZ: Within two months. It all depends how the build-out close.

MR. HAAS: Have you started the renovations?

MR. HERNANDEZ: We haven't done --

MR. CERULLO: They're doing some repairs to the building before they start. There's quite a bit of work; it's an old building.

MR. REARDON: Make sure you get all your permits and everything so you don't get hung up on anything.

MR. CERULLO: We will.

MR. HERNANDEZ: Oh, one question: The

entertainment license, even radio music we need a special license?

MR. SCALI: We allow radios and background music over the counter if there's no alcohol and other issues. So you can just apply for that when you come in for your Common Victualer license.

MR. HERNANDEZ: Okay.

MR. SCALI: Thank you very much.

MS. LINT: Application: PZJJA, LLC d/b/a Ritchie's Italian Ice, Jeffrey Apotheker, Manager, has applied for a Peddler's license to be exercised at the Cambridgeside Galleria.

MR. SCALI: Hello, how are you?

MR. APOTHEKER: I could use an Italian ice about right now to be honest with you. It's so hot in here.

MR. SCALI: Tell us your name, please.

MR. APOTHEKER: Jeffrey Apotheker.

MR. SCALI: Are you going to be in the mall?

MR. APOTHEKER: If you walk through the Food Court and they have that little bay where the Charles River Boat comes in to take passengers on a sightseeing tour, we're going to be like right immediately out side of those doors to the left-hand side.

MR. SCALI: So you're going to be outside under that kind of --

MR. APOTHEKER: Outside under the overhang.

MR. SCALI: So that's why you applied for a Peddler's license.

MR. APOTHEKER: Exactly.

MR. SCALI: I couldn't figure out why you were applying for a Peddler's license.

MR. APOTHEKER: Chris called me Yesterday. I just wanted to verify that before I came in today.

MS. LINT: I told him to do that.

MR. SCALI: When do you want to be there?

MR. APOTHEKER: We want to try to open up as soon as possible because we're only going to be seasonal.

MR. SCALI: What days of the week and hours?

MR. APOTHEKER: We're going to open up only on the weekends at first and we're going to try during the week, and if business warrants it, then we'll have it open seven days a week until probably after Labor Day.

MR. SCALI: We need to know what

you're exactly going to do in order to give you the permit.

MR. APOTHEKER: I would say seven days a week, mall hours.

MR. SCALI: Which are 9:00 to -

MR. APOTHEKER: They're 10:00 to 9:00, I believe. I'm not really sure.

MR. REARDON: They open at 10:00.

MR. APOTHEKER: I know the Simon Malls that I'm at now, they're 10:00 to 9:00, and then 12:00 to 6:00 on Sunday.

MR. SCALI: So you're saying 10:00 to 9:00?

MR. APOTHEKER: 10:00 to 9:00, Monday through Saturday, and then on Sunday it's 12:00 to 6:00.

MR. SCALI: And selling just Italian Ice.

MR. APOTHEKER: Italian Ice, we're going to sell popcorn, and maybe cotton candy. Then again, it really just depends upon how business is over there. We might open up for a

week and have to shut it down. We've done that before, too.

MR. SCALI: You never know, do you? It's all a game.

MR. APOTHEKER: You never know. We're in a lot of malls right now around Massachusetts and it's kind of like the malls because of the way the economy is, they're looking for things like what we do to bring in more business to make it more like a family type - like hey, let's go to the mall. We'll do some shopping, get an Italian Ice, popcorn and cotton candy. Make it kind of like a nice experience for the family.

MR. REARDON: Are you working out of a truck?

MR. APOTHEKER: No. We have RMUs, retail merchandise units that we work out of. We're refrigerated.

MR. REARDON: So for the popcorn and the others you'd be using electric.

MR. APOTHEKER: Yes, exactly.

MR. REARDON: And provided from the

mall; no generators?

MR. APOTHEKER: Yeah. The mall is really going out of their way to accommodate us right now.

MR. REARDON: The generator brings in another whole thing.

MR. APOTHEKER: We don't have a generator.

MR. SCALI: Is it you at the cart or employees?

MR. APOTHEKER: Both. I'm going to work it myself and I'm going to have also employees working there too.

MR. SCALI: Do you have a State Peddler's license?

MR. APOTHEKER: Yes, I do.

MR. SCALI: For each of those people?

MR. APOTHEKER: I don't have a State Peddler's permit for each employee because my employees that work for me are part-time college students and a lot of them might work a week and quit, and I might have to hire somebody else. I

have the Arsenal Mall in Watertown that I operate out of and some other malls, so I'm just going to basically rotate some of the girls that work for me into Cambridge, and myself, too, because I'd like to get it off on the right foot and then bring them in.

MR. SCALI: It does require that you have each person have a State Peddler's license; that's what we require.

MR. APOTHEKER: Each person?

MR. SCALI: That's what the law requires.

MR. APOTHEKER: I didn't know that. I've got a State Peddler's permit, obviously, and I thought it was covered under the company.

MR. SCALI: Each person has to be permitted.

MR. APOTHEKER: We might have to pull the plug on it then because it's just ridiculous for me to spend \$62 for people that might not be working for me more than a week, plus I have to go through Chief of Police, or they've got to go

through the Chief of Police from each town that they live in. Like I had to go through the Chief of Police in my town to sign off on it. So if I hire somebody that might only be with me for - they might not even like the job after one day, even if I pay for the Peddler's permit, it could be a couple of thousand dollars by the end of the season.

MR. SCALI: It requires that's there's a background check on each one of those people. That's what we understand. So that's up to you how you want to handle that, but that's what's required by the law.

MR. APOTHEKER: If I were to go inside then there's not an issue with any permitting at all.

MR. SCALI: That's true. That's why we asked if you were inside or outside.

MR. APOTHEKER: They're property line as far as what the mall owns themselves and they operate. I'm assuming that because I'm paying them money to be there, that they own that property that

I'm going to be going on. So would that be under their jurisdiction as far as being on their property? Because that's why I thought this thing was a little bit - you know, I wasn't going to open up a can or worms with the mall, but I'm paying them a pretty substantial amount of money each month to be on their property. So when you go through a set of sliding glass doors, does that say you are no longer on the mall property, you are now on City of Cambridge property and you need a permit for the City of Cambridge?

MR. REARDON: I believe under that overhang is mall property.

MR. SCALI: It all depends on where you're located.

MR. APOTHEKER: Well that's the thing, I'm going to be under the overhang so I'm going to be on mall property. So then if that's the case, will I need a special permit in the first place, other than a health permit from the City of Cambridge.

MS. LINT: Once you're outside.

MR. SCALI: We'll have to find out. I'm not sure where the line is. We'll have to find out for you.

MR. APOTHEKER: That's cool. That bay area back there, is that owned by the City of Cambridge?

MR. HAAS: The canal is considered City of Cambridge.

MR. APOTHEKER: So hypothetically speaking, if I was to do it myself say and put a cart back there with your permission obviously, I don't have to pay them what they want for rent then.

MR. SCALI: Let me make it clear to you that there's a very tough stringent criteria on public property to do that. It's not likely you would get that because there are certain issues with health permits and that kind of thing on public property.

MR. APOTHEKER: In a way though, ain't I applying for that anyway tonight?

MR. SCALI: No.

MR. APOTHEKER: I'm just thinking I could save a couple of thousand dollars a month, you know.

MR. SCALI: That's up to you. If you to change and apply at a different location that's up to you. Let's find out where you're going to exactly be located in the mall, if we could find out exactly whether it's public or private.

MR. APOTHEKER: You are right, Chief, as far as that overhang right out there. I'm going to be right underneath that overhang.

MR. REARDON: There's a line of demarcation out there.

MR. SCALI: Well let's find out.

MR. APOTHEKER: So I can call Mrs. Lint tomorrow or next week.

MR. SCALI: You need to find out from the mall and we need to confirm that with the mall as to where you're going to be located.

MR. APOTHEKER: I'm going to right under the overhang.

MS. LINT: That's mall property.

MR. SCALI: We're going to try and confirm that. Talk to the mall, please.

Motion to take the matter under advisement.

MR. HAAS: Motion.

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

MR. REARDON: Aye.

MR. SCALI: So we'll clarify that and then we'll vote July 1.

MR. APOTHEKER: So do I come back on July 1?

MR. SCALI: You don't have to come back. You can just clarify through Mrs. Lint what the issues are and that whether you even need a permit is another issue.

MR. APOTHEKER: When should I call you?

MR. SCALI: Any time between now and July 1.

MR. APOTHEKER: Not to rehash it but I'm going to be using the mall's electricity too.

MR. SCALI: See you're part of the mall.

MR. APOTHEKER: Keep my fingers crossed that I am part of the mall. That would be even better.

MR. REARDON: That rent check might work out.

MS. LINT: Application: Mass. Ave. Restaurant, LLC, David Barlam, Manager, has applied for a Common Victualer license at 906 Massachusetts Avenue. Said license, if granted, would allow food and non-alcoholic beverages to be sold, served, and consumed on said premises and have a seating capacity of 24. The hours of operation would be 7:00 a.m. to 4:00 p.m. seven days per week.

MR. SCALI: Hello. Tell us your name.

MR. BARLAM: David Barlam.

MR. SCALI: So this is a new venture for you?

MR. BARLAM: It is a new venture for me.

MR. SCALI: First time?

MR. BARLAM: It's the first time being an owner of a restaurant, yes.

MR. SCALI: Where have you worked before?

MR. BARLAM: I started cooking when I was 14. I worked at the Rockmore Floating Restaurant and Drydock in Salem for four years.

Then I was a manager of Pizza Pizazz in Swampscott from 2005 through 2006. I was a sous chef at the Times Pub on State Street in Boston from '06 to '07. Then from '07 to '08, I was a waiter at Cheesecake Factory while I attended Boston University, and as I continued school I moved over to Smith and Olinsky's in downtown Boston where I worked until the end of early '09, when I left. Then I worked for a months at this restaurant before -- working under their Common Victualer license for the past month.

The way I got into this restaurant is my other partner who's here, my girlfriend, has worked there for over a year and we just basically are keeping it the same

MR. SCALI: The old owner is retiring, or leaving, or selling it to you?

MR. BARLAM: The old owner, they have other businesses. There was a partnership between two other owners so they decided that they couldn't see eye to eye, and one of them was doing a lot more work than the other. One was running the

restaurant, the other one basically wasn't doing anything. So they offered a very reasonable price on everything, so barring non-approval, we could still recoup purchase price and then some with just the equipment of the restaurant. So that's why we sort of went forward with everything pending approval of the Victualer license and obviously operating under theirs.

We've got our food and health license approved. I talked to the office and they said it wasn't necessary but we have a full insurance binder that's already in place. We have a policy that's active that is Workers' Compensation. So if we decide to do deliveries, our drivers are protected under insurance as well as our workers.

The customers are protected. If a customer injures themselves or anything in the restaurant, we're insured on that. We also have Stop Work insurance so if any of the equipment goes down, or there's another thing like the water crisis that happened a few months ago that caused a couple of restaurants to have to shut down.

MR. HAAS: Not in Cambridge.

MR. SCALI: Breakfast and lunch only?

MR. BARLAM: It's breakfast and lunch now. That's one of the things that came to the office the other day. One thing that's become apparent in the past month is that we would like to eventually be open for dinner. We can totally run as just a breakfast and lunch place. I know you guys already spent money on the advertising fee so if we have to get approval for this, operate, and then reapply for later hours, that's fine.

MR. SCALI: You can come back if you want to open for dinner.

MR. BARLAM: Okay.

MR. SCALI: So 24 seats staying the same?

MR. BARLAM: Staying exactly the same.

MR. SCALI: Menu staying the same?

MR. BARLAM: We're going to make it over a little bit nicer. We switched over from a lot of processed ingredients to fresh ingredients to just sort of have the healthier feel to it.

We're just going to continue to do that and sort of add value to it.

MR. SCALI: Is it just you that's going to be running it along with your girlfriend?

MR. BARLAM: I run it along with my girlfriend. Our other employees are Clemetina Barka, she's our ServSafe certified employee. She's full-time. She waits tables four times a week. And then we have the dishwasher/busser positions filled by my two younger brothers and her younger sister.

MR. SCALI: Any questions?

MR. HAAS: No questions.

MR. SCALI: 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. REARDON: Seconded.

MR. SCALI: All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. SCALI: Good luck.

MR. BARLAM: So I just reapply with the office if I want to extend the hours?

MR. SCALI: When you decide, just come back and talk to Chris and he'll re-advertise it for you.

MR. BARLAM: We'll probably try to do that immediately.

MR. SCALI: Whenever you're ready.

MS. LINT: Application: Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter Day Saints, has applied for a Garage license for 59 autos and 590 gallons of gasoline in tanks of cars and one, five-gallon container of gasoline at 65 Binney Street.

MR. BEZENT: My name is John Bezent. I'm a project manager of the church and the applicant. I've got here with me today, Tom Ertz, our architect who assisted in the application, and Gordon Lowe, the ecclesiastical leader of the church in the area. Both of them will help address you all.

I'll turn it over to Tom who can talk about the particulars of the garage.

MR. SCALI: So you're name is John Bezent.

MR. BEZENT: Yes.

MR. SCALI: Tom.

MR. ERTZ: Actually I met with the Fire Department to already get the flammable materials storage permit, and that was for the same

590 gallons. It's 59 parking spaces, five gallons for a mower, and extra fuel for the mower. The garage is a two-story underground garage underneath the new church on 65 Binney Street, so you actually access that from Rogers Street and it corkscrews down underground from there.

MR. SCALI: So this is a new project, 59 spaces in the garage only. Is there an outside lot, too?

MR. ERTZ: No.

MR. SCALI: And it's parking only for the church?

MR. BEZENT: Correct.

MR. SCALI: So no one else has access to it or can get in to park during the day?

MR. BEZENT: That's correct.

MR. SCALI: Do you charge your church people?

MR. ERTZ: The parishioners?

MR. SCALI: The parishioners.

MR. BEZENT: No.

MR. SCALI: So it's just an open

garage and you can come and go just for church services.

MR. BEZENT: There's actually security access. There's roll-down gates so they can open and close it as they need to, to keep the building secure when it's not in use.

MR. REARDON: Do you know if you already have your BDA system in?

MR. ERTZ: Yes.

MR. REARDON: It's been tested?

MR. ERTZ: It's all approved and tested. At this point, we're approved by everything. I think we have our temporary Certificate of Occupancy. We're just waiting for the Zoning Commissioner to come back from vacation to get the CO.

MR. SCALI: You have to wait for the Commissioner to come back to get a CO?

MR. ERTZ: I guess to switch it from the temporary to the full. If you can help us out?

MR. BEZENT: The temporary is working for now.

MR. SCALI: Is it out to Binney Street, the exit?

MR. REARDON: To Rogers.

MR. SCALI: Questions?

MR. HAAS: No questions.

MR. REARDON: No.

MR. SCALI: Concerns from the public, comments? No comments. Pleasure of the Commissioners?

MR. HAAS: Motion to approve.

MR. SCALI: Motion to approve, moved. Seconded. All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

MR. SCALI: Aye. Good luck.

MS. LINT: Application: Yang, Inc. d/b/a Chinese Kitchen, Frank Yang, Manager, holder of a Peddlers license has applied for a change of corporation and d/b/a to Enterprise Management Company, Inc. d/b/a Savory Food Truck, Jack Yang, Manager.

MR. HOPE: Good evening. Attorney Shawn Hope on behalf of petitioner and owner/manager of Savory Foods. An application was submitted to change the corporate name and the d/b/a. This move was purely corporate restructuring. There's nothing changing about the operation or the management. Primarily this was about the name. I guess the last year of business was low and so the petitioners really wanted to change the corporate name and the d/b/a as a way of increasing revenue and business.

MR. SCALI: So who is changing? So Mr. Frank Yang is this gentleman here?

MR. HOPE: Yes.

MR. SCALI: You were the previous owner?

MR. YANG: Yes.

MR. SCALI: And you're leaving? Are you leaving?

MR. YANG: No, no.

MR. SCALI: You're still going to be there working?

MR. YANG: Yeah.

MR. SCALI: And Mr. Jack Yang is going to be the manager? Are you both on the corporate documents?

MR. HOPE: They both are. They both have Hawker and Peddlers license but there is actually no change. As I saw the paper it seemed like Jack was somehow listed as the contact person, but that hasn't changed at all. So we really just changed the corporate name. Franklin Yang is the manager and owner, and will remain so. His brother Jack also works and is an employee of the corporation.

MR. SCALI: So he's not one of the owners?

MR. HOPE: No.

MR. SCALI: Where's the truck located now?

MR. HOPE: 35 Oxford Street. All the food prep is all done in Watertown.

MR. SCALI: So you just have that one location on Oxford Street?

MR. HOPE: In Cambridge.

MR. REARDON: Is business good?

MR. YANG: It all depends. Students on vacations and it's slow.

MR. SCALI: It's not a bad spot. People would kill for that spot right near Harvard.

MR. HOPE: We're hoping the name "Savory Food" kind of -- it was Chinese Kitchen and we think it may drive a little bit more business.

MR. SCALI: So now it will be called "Savory Foods."

MR. REARDON: How long have you been there? Quite a while; right?

MR. HOPE: 1993.

MR. YANG: 1992.

MR. SCALI: Questions?

MR. HAAS: Why do you think the name change will affect business? I'm just a little bit curious about that.

MR. YANG: We don't know, just try.

MR. SCALI: What's wrong with the name Chinese -- are you selling a different menu?

MR. YANG: Yang Corporation seem like too personal.

MR. HOPE: His name is Franklin Yang and it was Yang Incorporated, so one it was just a corporate restructuring to make some separation, but the d/b/a could have stayed the same but I think that was an opportunity to try something different in terms of the marketing.

MR. SCALI: I'm not understanding the corporate restructuring. Is it for tax purposes or something?

MR. HOPE: Primarily it was for business reasons. He was saying that is was one, to change the name, and they could have kept it Yang Incorporated and just had a different d/b/a/, but I think the thought was to create some

separation so that his name wouldn't be part of the corporation. So I think it was two-fold.

MR. SCALI: I guess I'm not really understanding why you're changing all the corporations and names and stuff. Are you sure there's not a change of ownership here?

MR. YANG: No.

MR. SCALI: There's no ownership change.

MR. YANG: I am still the owner.

MR. SCALI: And you're not trying to escape any kind of tax problems or that kind of thing by changing the corporation?

MR. YANG: Not at all. This is like a Chinese tradition if things bad, if you get a very not to have a good luck, you just change name or something and try to do better. I don't know if you understand this.

MR. HAAS: It seems to have worked for you since 1992.

MR. YANG: Because the food, the price is going up and the wages are going up, so we tried

to do more business.

MR. HAAS: So you think your customers will think it's a new business and that will draw them to the truck?

MR. HOPE: I think the name Savory Food is a little bit more appealing and maybe not so limiting. But it's going to be the same menu. There's no change in menu and I really do think it's an idea. This last year business has been particularly bad and so I think there was an opportunity to use Savory Foods as a different way.

But as you know, even if they change the corporation there would really be no way to avoid any tax liability. It wouldn't work.

MR. SCALI: I was just wondering if there was a problem or something that you had that you were trying to reinvent yourself or something because of some problem you were having. That's all. It just seems like an awful lot of work to go through just because you want to change the name on the outside. That's what I was wondering. That's all. I'm sure your attorney has advised you.

MR. HOPE: I promised him that we would be first on the agenda tonight.

MR. HAAS: Mr. Chair, brings up a good point. So you're changing all the markings and everything on your truck as well, to reflect the new name? What are the markings that are on your truck now?

MR. YANG: We haven't changed anything yet. We wait until you approve.

MR. SCALI: Are you going to get a new truck?

MR. YANG: No.

MR. SCALI: Just changing the name on the outside of the truck?

MR. YANG: Yeah, right.

MR. SCALI: I don't mean to be suspicious; it just sounds like an awful lot of work to do all that.

MR. REARDON: There's a lot of custom in terms of change your name changes your luck.

MS. LINT: That's right.

MR. SCALI: Maybe I'm misreading it.

MR. HOPE: Thank you, Chief.

MR. REARDON: Well, I'm here to help Mr. Scali out.

MR. SCALI: Pleasure of the Commissioners?

MR. REARDON: Move to approve.

MR. SCALI: Motion to approve, moved.

MR. HAAS: Second.

MR. SCALI: All in favor?

MR. HAAS: Aye.

MR. REARDON: Aye.

MR. SCALI: Thank you very much. Good luck. Make sure you get all your permits before you change everything over.

Any other matters before us?

MS. LINT: I have nothing.

MR. SCALI: No ratifications.

MR. HAAS: I make a motion to adjourn.

MR. SCALI: Motion to adjourn, moved, seconded. All in favor?

MR. REARDON: Aye.

MR. HAAS: Aye.

(Whereupon, the proceeding was
concluded at 8:34 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 30th day of June, 2010.





ANNE OUELLETTE
Notary Public
Commonwealth of Massachusetts
My Commission Expires
March 16, 2012

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