

SELECTMEN'S MEETING
Wednesday, April 9, 2014
Selectmen Meeting Room
6:30 p.m.

AGENDA

- 6:30 p.m. PUBLIC COMMENTS (10 min.)**
- 6:40 p.m. SELECTMEN CONCERNS AND LIAISON REPORTS (5 min.)**
- 6:45 p.m. TOWN MANAGER REPORT (5 min.)**
- 6:50 p.m. ITEMS FOR INDIVIDUAL CONSIDERATION**
1. Liquor License – Pledge of License – il Casale (10 min.)
 2. Article Positions (10 min.)
 3. Approve Dates for Center Parklet (5 min.)
- 7:15 p.m. CONSENT AGENDA (5 min.)**
1. Water and Sewer Commitments and Adjustments
- 7:20 p.m. EXECUTIVE SESSION (10 min.)**
1. Exemption 3 – Pending Litigation Update: Sellars v Lexington et al
- 7:30 p.m. ADJOURN**

The next meeting of the Board of Selectmen is scheduled for Wednesday, April 16, 2014 at 6:00 p.m. in the Selectmen's Meeting Room, 1625 Massachusetts Avenue.

AGENDA ITEM SUMMARY

LEXINGTON BOARD OF SELECTMEN MEETING

DATE: 4/9/13

STAFF: Lynne Pease

ITEM NUMBER: I.1

SUBJECT:

Liquor License – Pledge of Liquor License - il Casale, 1727 Massachusetts Avenue

EXECUTIVE SUMMARY:

I have received all the necessary paperwork to request your approval to approve a pledge of license for Sfizi LLC d/b/a il Casale, located at 1727 Massachusetts Avenue.

I have requested representatives from il Casale attend your meeting so you can discuss the proposed name they want to use for signage on the building.

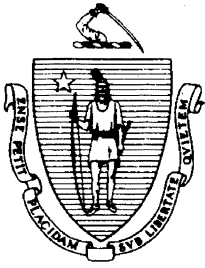
FINANCIAL IMPACT:

RECOMMENDATION / SUGGESTED MOTION:

Motion to approve the application for a pledge of license of the all alcohol restaurant liquor license for Sfizi LLC, d/b/a il Casale, located at 1727 Massachusetts Avenue.

STAFF FOLLOW-UP:

Selectmen's Office



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street
 Boston, MA 02114
 www.mass.gov/abcc

For Reconsideration

FORM 43
 MUST BE SIGNED BY LOCAL LICENSING AUTHORITY

061200023

ABCC License Number

Town of Lexington

City/Town

04/09/2014

Local Approval Date

TRANSACTION TYPE (Please check all relevant transactions):

- | | | | |
|---|--|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> New Officer/Director | <input checked="" type="checkbox"/> Pledge of License | <input type="checkbox"/> Change Corporate Name |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Pledge of Stock | <input type="checkbox"/> Seasonal to Annual |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Transfer of Stock | <input type="checkbox"/> Change of License Type |
| <input type="checkbox"/> Cordials/Liqueurs Permit | <input type="checkbox"/> Issuance of Stock | <input type="checkbox"/> New Stockholder | <input type="checkbox"/> Other <input type="text"/> |
| <input type="checkbox"/> 6-Day to 7-Day License | <input type="checkbox"/> Management/Operating Agreement | <input type="checkbox"/> Wine & Malt to All Alcohol | |

Name of Licensee Sfizi LLC

EIN of Licensee 46-3907817

D/B/A il Casale

Manager Filippo de Magistris

ADDRESS: 1727 Massachusetts Avenue

CITY/TOWN: Lexington

STATE MA

ZIP CODE 02420

Annual

Annual or Seasonal

All Alcohol

Category: (All Alcohol- Wine & Malt Wine, Malt & Cordials)

Restaurant

Type: (Restaurant, Club, Package Store, General On Premises, Etc.)

Complete Description of Licensed Premises:

Approximately 4000 square foot restaurant space with main dining room on the right and counter service area on the left. Seating capacity is 138. Main entrance on Massachusetts Avenue; entrance/exit in rear. Seasonal private outdoor patio with seating for 30. Kitchen in rear; storage in the rear and in the basement.

Application Filed: 040114 1 p.m.

Date & Time

Advertised: NA

Date & Attach Publication

Abutters Notified: Yes No

Licensee Contact Person for Transaction Kristen Scanlon, Esq.

Phone: 617-334-5032

ADDRESS: 112 Water Street, 2nd Floor

CITY/TOWN: Boston

STATE MA

ZIP CODE 02109

Remarks: Pledge of Sfizi LLC d/b/a il Casale Liquor License.

The Local Licensing Authorities By:

Alcoholic Beverages Control Commission
 Ralph Sacramone
 Executive Director

ABCC Remarks:



The Commonwealth of Massachusetts
 Alcoholic Beverages Control Commission
 239 Causeway Street
 Boston, MA 02114
 www.mass.gov/abcc

PETITION FOR CHANGE OF LICENSE

061200023

ABCC License Number

Lexington

City/Town

The licensee Sfizi LLC d/b/a il Casate respectfully petitions the Licensing Authorities to approve the following transactions:

- Change of Manager
- Pledge of License/Stock
- Change of Corporate Name/DBA
- Change of License Type (\$12 ONLY, e.g. "club" to "restaurant")
- Alteration of Premises
- Cordial & Liqueurs
- Change of Location

Change of Manager

Last-Approved Manager:

Requested New Manager:

Pledge of License /Stock*

Loan Principal Amount: \$ 700,000.00 Interest Rate: 5.25%

Payment Term: 10 yrs Lender: Belmont Savings Bank

Change of Corporate Name/DBA*

Last-Approved Corporate Name/DBA:

Requested New Corporate Name/DBA:

Change of License Type

Last-Approved License Type:

Requested New License Type:

Alteration of Premises: (must fill out attached financial information form)

Description of Alteration:

Change of Location: (must fill out attached financial information form)

Last-Approved Location:

Requested New Location:

Signature of Licensee

(If a Corporation/LLC, by its authorized representative)

Date Signed

3/12/14

*Must have Certificate of Good Standing from MA Department of Revenue

Belmont Savings Bank
COLLATERAL PLEDGE AGREEMENT

AGREEMENT entered into at Newton, Massachusetts on March 24, 2014, by and between **SFIZI LLC of 51 Dexter Road, Lexington, Massachusetts 02420** (Hereinafter called the "Borrower") and **Belmont Savings Bank** (hereinafter called the "Bank").

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the undersigned Guarantor does hereby set over all right and interest, without limitation, in the property described below (Collateral) to the Bank, to secure in whole or in part any and all obligations now owing or from time to time owing by **SFIZI LLC a Massachusetts limited liability company**, to the Bank. The Bank's rights with respect to such collateral are cumulative. The Bank shall have no duty to take steps to preserve rights against prior parties as to such Collateral. The Collateral assigned to the Bank by this Agreement is described as:

Town of Lexington All Alcoholic Beverage 7 Day License

The Borrower will execute and deliver to the Bank any writings and do all things necessary, effectual or requested by the Bank to carry into effect the provisions and intent of this Agreement, or to vest more fully in or assure to the Bank (including, without limitation, all steps to create and perfect) the security interest in the Collateral granted to the Bank by this Agreement or to comply with applicable statute or law and to facilitate the collection of the Collateral.

The Borrower covenants with and warrants to the Bank that: at the date hereof the Borrower is (and as to Collateral that the Borrower may acquire after the date hereof, will be) the lawful owner of the Collateral, and that the Collateral, and each item thereof, is, will be, and shall continue to be free of all restrictions, liens, encumbrances, or other right, title or interest (other than the security interest therein granted to the Bank hereby), credits, defenses, recoupment's, set-offs or counterclaims whatsoever; that the Borrower has and will have full power and authority to grant to the Bank a security interest therein; that the Borrower has not transferred, assigned, sold, pledged, encumbered, subjected to lien or granted any security interest in, and will not transfer, assign, sell, pledge, encumber, subject to lien or grant any security interest in any of the Collateral (or any of the Borrower's right, title or interest therein) to any person other than the Bank; that the Collateral is and will be valid and genuine in all respects; no part of the Collateral (or the validity or enforceability by the Bank thereof) is or shall be contingent upon the fulfillment of any agreement or condition whatsoever; and that the Borrower will warrant and defend the Bank's right to and interest in the Collateral against all claims and demands of all persons whatsoever.

Every maker, endorser, and guarantor of this Agreement, or the obligation represented by this Agreement, waives presentment, demand, notice, protest, and all other demands or notices in connection with the delivery, acceptance, endorsement, performance, default, or enforcement of this Agreement, assents to any and all extensions or postponements of the time of payment or any other indulgence, to any substitution, exchange, or release of collateral, and / or to the addition or release of any other party or person primarily or secondarily liable, and generally waives all surety ship defenses and defenses in the nature thereof.

The undersigned will pay all costs and expenses of collection, including attorneys' fees, incurred or paid by the Bank in enforcing this Agreement or the obligations hereby evidenced, to the extent permitted by law.

No delay or omission of the Bank in exercising any right or remedy hereunder shall constitute a waiver of any such right or remedy. A waiver on one occasion shall not operate as a bar to or waiver of any such right or remedy on any future occasion.

This Agreement shall take effect as an instrument under seal.

SFIZI, LLC

By:



Filippo deMagistris, Authorized Signor

Witness:



Neil S. Cohen, Esquire

**BELMONT SAVINGS BANK
PROMISSORY NOTE**

\$700,000.00

Newton, Massachusetts

March 24, 2014

FOR VALUE RECEIVED, SFIZI LLC, a Massachusetts Limited Liability Company, of 51 Dexter Road, Lexington, Massachusetts 02420 (hereinafter, the "Borrower") promises to pay to the order of BELMONT SAVINGS BANK of 2 Leonard Street, Belmont, Massachusetts 02478 (hereinafter, with any subsequent holder, the "Bank") at an office of the Bank, the principal sum of **SEVEN HUNDRED THOUSAND AND 00/100 (\$700,000.00) DOLLARS**; (the "Note"), with interest thereon, in accordance with the provisions below.

INTEREST RATE

The interest rate for the entire term of the Note shall be Five and one-quarter (5.25%) percent fixed for the term of the loan. Interest shall be computed and shall accrue on the basis of a three hundred sixty (360) day year and actual number of days elapsed.

PAYMENTS

Payments shall be made monthly of principal and interest in arrears during the entire term of the Note in the amount of **\$7,537.92**. Payments shall begin on April 24, 2014 continue thereafter on the 24th day of each month thereafter until the Maturity based on an amortization schedule of 120 months. The outstanding indebtedness shall be paid in full on the Maturity Date of the Note. The Maturity Date of this Note is March 24, 2024 (the "Maturity Date"). The Borrower shall establish a Commercial Demand Deposit Account ("Account") with the Bank as its primary operating account and the Bank is hereby authorized to automatically withdraw funds from the Account from time to time to satisfy any and all payment obligations of the Borrower under the loan, as such amounts become due. The account number is 0751008364. The monthly payments of principal, interest and any other charges shall be automatically deducted from this Account on the due date. The Borrower shall ensure that sufficient collected funds exist in the Account to pay such amounts on the dates the same are due and payable

CERTAIN DEFINITIONS

- (a) Borrower. As used herein, "Borrower" means the person and/or entity named herein as Borrower, and/or otherwise signing the Note as maker, and each of them, jointly and severally if more than one.
- (b) Guarantor. As used herein, "Guarantor" means the endorsers and/or guarantors of the Note.
- (c) Borrower and any Guarantor. As used herein, "Borrower and any Guarantor" means all persons and/or entities which constitute the Borrower, and if any, the Guarantor, and each of them.
- (d) Loan Documents. As used herein, "Loan Documents" means documents, if any, which secure, evidence and/or relate to the loan evidenced by the Note, including without limitation any security agreements, financing statements, loan applications, pledges, collateral assignments, commitment letters, loan agreements, and set-off rights contained

in any other instrument whatsoever, any document executed in conjunction with this loan, all the foregoing now existing and/or hereafter arising.

(e) Note. As used herein, "Note" means this promissory note.

This Note represents indebtedness for one or more advances made by the Bank to the Borrower under the terms of a commitment letter dated **November 29, 2013** (the "Commitment") and Loan Agreement of even date herewith (the "Loan Agreement") between the Borrower and the Bank to which Commitment and Loan Agreement references are made for a statement of the terms and the respective rights of the Borrower and the Bank. The Commitment and Loan Agreement is incorporated in this Promissory Note by reference, and capitalized terms not defined in this Promissory Note have the meaning defined in the Commitment and Loan Agreement.

The Borrower hereby certifies, represent and covenant to the Bank that the proceeds and basis of the loan evidenced by the Note are for business and commercial purposes only, and that the proceeds of the Note have not been and/or will not be used for personal (non-business), family, household or agricultural purposes, and this has been relied on by the Bank.

LATE FEE AND DEFAULT INTEREST RATE

The Borrower shall pay to the Bank a late fee of five (5%) percent of any periodic payment under the Note not received by the Bank within ten (10) days after the periodic payment is due. Neither the inclusion of this provision nor the Borrower's payment of such a late fee shall excuse the Borrower from making those payments otherwise required to be made under the Note in a timely manner, or waives or limits any rights which the Bank has under the Note. The obligation of the Borrower to pay such late fees is in addition to all other payment obligations of the Borrower under the Note.

If the Note is not paid when due on the Maturity Dates or by acceleration, upon any Event of Default, or otherwise, interest shall accrue thereafter on the entire unpaid principal balance, until the Note is paid in full, at a rate of Four (4.00%) percent in excess of the rate under the Note until paid in full ("Default Rate"). The Default Rate is separate and in addition to the late fee set forth herein for any principal and/or interest installment under the Note not received by the Bank within ten days (10) days after the installment is due. There shall be no increase of interest under the terms hereof, the accrual or payment of which would exceed the rate of interest permitted to be charged under the laws of the Commonwealth of Massachusetts.

APPLICATION OF PAYMENTS

Any payments received by the Bank on account of the Note prior to demand or acceleration shall be applied first, to any costs, expenses, or charges then owed the Bank by the Borrower; second, to accrued and unpaid interest; and third, to the unpaid principal balance hereof. Any payments so received after demand or acceleration shall be applied in such manner as the Bank may determine in the Bank's sole discretion.

EVENTS OF DEFAULT

If the Note is not payable on demand, then on that date on which by the terms hereof, the then entire principal balance of the Note is due, at all times thereafter, the aggregate of the then unpaid principal balance of the Note, and all accrued and unpaid interest not so paid shall be payable on demand. If the Note is payable on demand, then the inclusion of the following default provision shall not alter, affect, or otherwise limit the Bank's right to make demand at any time. The Bank, at its option, may declare the entire unpaid principal balance of the Note and accrued unpaid interest thereon to be

immediately due and payable without demand, notice or protest (which are hereby waived) upon the occurrence of any breach of the Affirmative Covenants, Event of Defaults and Remedies set forth in the Loan Agreement executed by Borrower of even date (herein, collectively, "Events of Default").

WAIVER OF PRESENTMENT, DEMAND AND NOTICE OF DEFAULT

The Borrower waives presentment, demand, notice, and protest, and also waives any delay on the part of the holder hereof. The Borrower assents to any extension or other indulgence (including, without limitation, the release or substitution of collateral) permitted the Borrower and any Guarantor by the Bank with respect to the Note and/or any collateral given to secure the Note or any extension or other indulgence, as described above, with respect to any other liability or any collateral given to secure any other liability of the Borrower and any Guarantor to the Bank. All monies due under the Note and/or Loan Documents shall be without setoff or counterclaim on the part of the Borrower.

BANKS RIGHT OF SETOFF

Any and all now existing and/or hereafter arising deposits, or other sums at any time credited by, or due to, the Borrower from the Bank including without limitation, being a participant under the Note, if at all, and any now existing and/or hereafter arising monies, securities, instruments, certificates, repurchase agreements, and/or other property of the Borrower in the possession of the Bank, regardless of the reason the Bank had received same (all the foregoing collectively called "Deposits") shall at all times constitute security for the Liabilities including the Note, and may be held, applied and/or set off by the Bank against the Liabilities at any time when due, whether or not other collateral is held by or otherwise available to the Bank, whether such collateral be security in full or in part. Without limitation, and in addition to the foregoing, in the event the Bank at any time or times hereafter is served with trustee process of any kind which attach or order any payment from any goods, effects and/or credits of the Borrower in the hands or possession of the Bank, then the Bank, without notice or demand to the Borrower may deem the dollar amount set forth in the trustee process as becoming immediately due and payable under the Note, and/or any other loan arrangement with the Borrower, and setoff said amount against any Deposits being held by the Bank, and any such payment made by said setoff shall be applied as the Bank shall in its sole discretion determine, and when applied to any outstanding principal, may be applied in inverse order of maturity. The Borrower hereby grants to the Bank a security interest in the Deposits to secure all obligations of the Borrower to the Bank under the Liabilities. The Borrower hereby authorizes the Bank to charge the Deposits, which the Borrower may at any time maintain with the Bank for any payment due on account of the Liabilities. The Borrower agrees that the rights to setoff against Deposits and to charge Deposits granted herein by the Borrower to the Bank: (a) are irrespective of the source or contributor(s) of funds or other property which comprise the Deposits, whether or not the Deposits or Liabilities are (i) individual and/or joint of the Borrower, and/or (ii) in the name of or by the Borrower and (b) are at the option of the Bank, and in no event is the Bank under a duty to exercise setoff against Deposits or to charge Deposits.

CHOICE OF LAW AND AGREED LIMITATION ON ACTION

In the event at any time the Borrower has a claim, cause of action, setoff, defense, counterclaim or third party claim (collectively "Borrower Claim") against the Bank, the Borrower agrees to commence a lawsuit and/or other proceeding on the Borrower's Claim against the Bank only in the Courts within Middlesex County of the Commonwealth of Massachusetts or such other place where the Bank has its principal place of business.

RELATIONSHIP BETWEEN BORROWERS AND GUARANTORS

The Borrower agrees not to seek or accept contribution, reimbursement, indemnity, subrogation or enforcement of any rights from anyone also obligated under the Note, as maker, guarantor, endorser

or otherwise, if at all; and any Guarantor agrees not to seek or accept contribution, reimbursement, indemnity, subrogation or enforcement of any rights from the Borrower, and any other guarantor or endorser hereof, or anyone otherwise obligated under the Note; all the foregoing in this paragraph until all obligations under the Note are paid in full and no claim whatsoever exists and/or may exist against the Bank for repayment, a preference payment in bankruptcy, or otherwise in connection with the Borrower and any Guarantor.

COSTS OF COLLECTION

The Borrower agrees to promptly pay to the Bank for all legal services hereafter rendered to the Bank including all time, legal fees and expenses, in connection with the review, drafting, preparation for enforcement, negotiation, enforcement, amendment, extension, substitution and/or modification of the Note, any endorsement and/or guaranty thereof, any endorsement and/or guaranty of the obligations of the Borrower to the Bank, any Loan Documents, any other instruments securing or otherwise relating to the Note, any other matters relating to the collection of the loan proceeds and/or realization on any collateral given to the Bank, any bankruptcy and/or foreclosure proceedings, procedures and expenses which relate to the Borrower and any Guarantor and/or other collateral given by the Borrower and any Guarantor, and all rights and remedies of the Bank, whether now existing and/or hereafter arising against the Borrower and any Guarantor and/or any collateral given by the Borrower and any Guarantor to the Bank, whether or not court proceedings are brought. The responsibility set forth anywhere in the Note of Borrower and any Guarantor to pay for the attorneys time, legal fees and expenses of the Bank shall include both outside counsel engaged by the Bank, and any in-house counsel employed by the Bank at the same rate as comparable outside counsel.

WAIVERS OF RIGHTS

IN ANY CASE, CONTROVERSY OR MATTER WHICH ARISES OUT OF, OR IS IN RESPECT OF, THE NOTE AND/OR LOAN EVIDENCED THEREBY, ANY LOAN DOCUMENTS, ANY COLLATERAL SECURING THE NOTE, ANY OTHER INSTRUMENT IN CONNECTION WITH THE NOTE, AND/OR ANY OTHER BUSINESS RELATIONSHIP OR TRANSACTION BETWEEN THE BANK WITH THE BORROWER, WHETHER NOW EXISTING OR HEREAFTER ARISING, THE BORROWER KNOWINGLY, VOLUNTARILY AND INTENTIONALLY: (A) WAIVES ANY RIGHT TO AND AGREES NOT TO BRING, COMMENCE, OR OTHERWISE TAKE ANY ACTION TO TRANSFER, ANY PROCEEDING INCLUDING WITHOUT LIMITATION COURT ACTION, ARBITRATION, MEDIATION, ADMINISTRATIVE PROCEEDING OR OTHERWISE AGAINST THE BANK OTHER THAN IN THE MIDDLESEX COUNTY, COMMONWEALTH OF MASSACHUSETTS; (B) WAIVES ANY NOW EXISTING AND/OR HEREAFTER ARISING RIGHT TO A TRIAL BY JURY; AND (C) WAIVES ANY NOW EXISTING AND/OR HEREAFTER ARISING RIGHT TO ANY CONSEQUENTIAL, PUNITIVE, SPECIAL, EXEMPLARY AND/OR INCIDENTAL DAMAGES.

FINANCIAL RECORDS

The Borrower shall maintain full and accurate books and records showing in detail the income and expenses, and assets and liabilities, of the Borrower which may secure the Note; and, upon request from the Bank, shall permit the Bank and/or its representatives to examine and make copies of the books and records of the Borrower. The Borrower shall deliver to the Bank annual tax returns and quarterly financial statements including without limitation a statement of assets, liabilities and net worth.

CROSS-DEFAULT AND CROSS-COLLATERALIZATION

Any Event of Default under the Note shall be a default by the Borrower under any other promissory note and/or other instrument by the Borrower to the Bank, now existing or hereafter arising. Any default by the Borrower under any other promissory note and/or other instrument by the Borrower to

the Bank, now existing or hereafter arising, shall be a default under the Note and Loan Documents. All other collateral from the Borrower to the Bank, if any, now existing or hereafter arising, shall also secure the obligations of the Borrower under the Note. All other collateral, if any, which secure the Note shall also secure all promissory notes and other obligations of the Borrower to the Bank, now existing or hereafter arising, whereof individual and/or joint of the Borrower, or any one or more persons or entities comprising the Borrower.

BANK'S OPTIONS UPON THE MATURITY DATE, ACCELERATION OR DEMAND

AT THE MATURITY DATE OR UPON EARLIER ACCELERATION OR ANY EVENT OF DEFAULT, THE BANK MAY DEMAND PAYMENT OF THE NOTE, MAY REWRITE THE NOTE BY AGREEMENT AT A GREATER OR LESSER RATE OF INTEREST, OR MAY, BY AGREEMENT, ALLOW PAYMENTS TO BE MADE ON SAID NOTE AT THE SAME, OR A LESSER OR A GREATER RATE OF INTEREST, IF AT ALL. THE NOTE IS A CONTRACT FOR A SHORT-TERM LOAN. THE LOAN IS PAYABLE IN FULL AT THE MATURITY DATE OR UPON EARLIER ACCELERATION, OR ANY EVENT OF DEFAULT. THE BORROWER MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST WHEN DUE. THE BANK IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. THE BORROWER WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THE BORROWER MAY OWN, OR WILL HAVE TO FIND ANOTHER BANK OR LENDER WILLING TO LEND THE BORROWER THE MONEY AT PREVAILING MARKET RATES, WHICH MAY BE CONSIDERABLY HIGHER THAN THE INTEREST RATE ON THE LOAN.

ESTOPPEL DOCUMENTS

Within ten (10) days after requested by the Bank by notice to the Borrower, Borrower agrees to execute and deliver to the Bank a written statement addressed to the Bank and signed by the Borrower under the penalties of perjury, and duly notarized, acknowledging the principal and interest balances then due under the Note, and further acknowledging that the Note is in full force and effect and unmodified, that the Borrower have no defenses, offsets or counterclaims to the payment and/or performance of the obligations of the Borrower under the Note, and has no claims or causes of action of any kind whatsoever then existing against the Bank, and a statement that the Bank is not in default under the Note or any loan or other agreement relating to the Note or any obligations evidenced thereby, all the foregoing in this sentence except as may otherwise exist in which event the Borrower shall specify what otherwise exists, and a statement regarding such other matters which the Bank may require.

CHANGE IN SECURITY OR FINANCIAL CONDITION

In the event that prior to the recording of a financing statement or other collateral instrument, if any, given herewith by the Borrower and any Guarantor to the Bank, there shall exist or otherwise be made known to the Bank any voluntary or involuntary creation or occurrence, of any encumbrance, lien, attachment, or other security interest on or in any real or personal property given herewith by the Borrower and any Guarantor as collateral to the Bank, or any portion thereof (except as otherwise specifically permitted, if at all, in any of the Loan Documents), or the transfer of such real or personal property or any portion thereof or any legal or beneficial interest therein, or the Borrower and any Guarantor become the subject of a bankruptcy petition, assignment for the benefit of creditors, or any arrangement with creditors, or any restraining order or injunction exists against the Borrower and any Guarantor, at the option of the Bank all obligations of the Bank to make the loan and/or advance monies pursuant to any loan agreement, of which the Note evidences the loan in whole or in part, shall be void, and the Note shall become immediately due and payable without notice or demand to the extent of all monies due thereunder which have previously been paid by the Bank.

LEGAL REPRESENTATION

The Borrower acknowledges that the Bank has notified and does hereby notify the Borrower and any Guarantor as follows:

- (a) THE RESPONSIBILITY OF THE ATTORNEY FOR THE BANK IS TO PROTECT THE INTEREST OF THE BANK;
- (b) THE BORROWER AND ANY GUARANTOR MAY, AT BORROWER'S OR GUARANTOR'S OWN EXPENSE, ENGAGE AN ATTORNEY OF THEIR OWN SELECTION TO REPRESENT THE BORROWER' OR GUARANTOR'S OWN INTERESTS IN THE TRANSACTION.

MISCELLANEOUS

No delay or omission by the Bank in exercising or enforcing any of the Bank's powers, rights, privileges, remedies, or discretions hereunder shall operate as a waiver thereof on that occasion nor on any other occasion. No waiver of any default hereunder shall operate as a waiver of any other default hereunder, or as a continuing waiver. The Note shall be binding upon the Borrower and each endorser and guarantor hereof and upon their respective heirs, successors, assigns, and representatives, and shall inure to the benefit of the Bank and its successors, endorsees, and assigns. The Note is delivered to the Bank and shall be governed by the laws of the Commonwealth of Massachusetts and shall take effect as a sealed instrument. The Borrower submits to the jurisdiction of the courts within Middlesex County of the Commonwealth of Massachusetts for all purposes with respect to the Note, any collateral given to secure its liabilities, obligations and indebtedness to the Bank, and its relationship with the Bank. The Borrower agrees that all assets in which the Borrower have previously granted or hereafter grants to the Bank a security or collateral interest shall secure the Liabilities. The Note includes all future amendments, decreases, extensions, increases, modifications, renegotiations, renewals, replacements, revisions, rewritings and/or substitutions thereof, in whole or in part ("Modifications/Substitutions"). The Borrower agrees that any collateral, if any, which may secure the Note, secure all Modifications/Substitutions of the Note, if any, now existing and/or hereafter arising, and include all future Modifications/Substitutions of such other collateral, if any, now existing and/or hereafter arising. Any prepayment of the Note shall be applied to principal in inverse order of maturity. Time of all payments and provisions hereof is of strict essence. In the event more than one person or entity comprises the Borrower, all provisions herein of the Borrower are joint and several obligations. The Borrower acknowledges and agrees, and says under the penalties of perjury, that (a) Borrower is executing the Note as the free act and deed of Borrower, (b) Borrower is not acting under any duress or undue influence, and (c) the Bank has made no agreements, warranties, representations or promises in connection with the Note and/or any loan agreements or other agreements relating to the Note, except as set forth herein or in a written instrument executed and delivered by the Bank. The provisions of the Note are hereby declared to be severable, and the invalidity of any provision or application thereof shall not effect any other provision or any other application thereof. Interest on principal under the Note shall accrue only on the amount of principal from time to time actually outstanding under the Note. The Bank records, including without limitation, computer printout of the Bank showing an account of the Borrower, shall be admissible as evidence in any action or proceeding in connection with the Note, and shall constitute prima facie evidence of the items contained therein. The Note may not be modified orally, but may only be modified by written instrument signed by the holder hereof.

LEGAL AUTHORITY AND BINDING EFFECT

Each person signing below on behalf of the Borrower certifies to the Bank that the persons executing the Note (a) is the Manager of the Borrower and (b) has been duly authorized, empowered and directed to execute and deliver the Note and, if any, all other instruments securing or otherwise relating to the Note, and any other agreements or instruments determined by such person in such

person's sole discretion to be appropriate or incidental to the loan evidenced by the Note, all in such form and with such modifications, substitutions, renewals, replacements, revisions, amendments and/or additions as such person from time to time deems proper, in the name of and in behalf of the Borrower, unanimously by all the beneficiaries of the Borrower, at a meeting duly held or by written consent in lieu of meeting, duly filed with the records of the minutes of the corporation.

HEADINGS

All section headings included within the Note shall be for reference only and shall not limit or restrict, in any manner whatsoever, the breadth or nature of the provisions included within each subject section.

The Borrower has read all of the terms and conditions of the Note and acknowledges receipt of an exact copy of it.

WITNESS: Signed in my Presence



Neil S. Cohen, Esquire

BORROWER: SFIZI LLC

By: 

Filippo de Magistris, authorized signor

LLC VOTE

March 13, 2014

At a meeting of the Managers of Sfizi LLC d/b/a "il Casale" held at 51 Dexter Road, Lexington, Massachusetts 02420 on February 4, 2014, it was duly voted that the LLC apply to the Town of Lexington Board of Selectmen for a Pledge of its 7-Day All-Alcoholic Beverages License (the "License") for the year 2014, to Belmont Savings Bank, with the Licensing continuing to be exercised on the premises located at 1727 Massachusetts Avenue, Lexington, MA 02420.

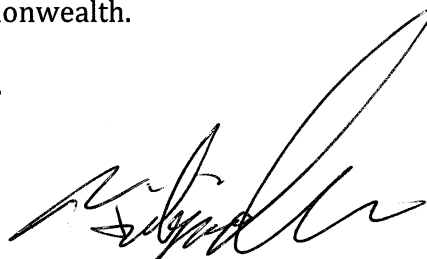
"VOTED: To authorize Filippo deMagistris to sign the application for the license in the name of Sfizi LLC and to execute on its behalf any necessary papers, and to do all things required relative to the granting of the license."

"VOTED: To maintain previously appointed Filippo deMagistris of Lexington, MA as its manager of record or principal representative, with as full authority and control of the premises described in the license of the LLC and of the conduct of all business therein relative to alcoholic beverages as the licensee itself could in any way have and exercise if it were a natural person resident in the Commonwealth of Massachusetts and that a copy of this vote duly certified by the Manager of the LLC and delivered to said manager or principal representative shall constitute the written authority required by Sec. 26, Chap. 138, G.L."

This is to certify that the Managers and Members of Sfizi LLC, a LLC duly organized under the laws of the Commonwealth of Massachusetts, are citizens of the United States and residents of the Commonwealth.

This LLC has NOT been dissolved.

A True Copy
Attest



3/13/14

Filippo deMagistris
LLC Manager and Member

AGENDA ITEM SUMMARY

LEXINGTON BOARD OF SELECTMEN MEETING

DATE: 4/9/14

STAFF: Lynne Pease

ITEM NUMBER: I.2

SUBJECT:

Article Positions

EXECUTIVE SUMMARY:

You have taken positions on all the articles. This is on the agenda only if something comes up that needs to be discussed.

I will provide an updated list of articles if there are any changes made during your April 7 meeting.

FINANCIAL IMPACT:

RECOMMENDATION / SUGGESTED MOTION:

STAFF FOLLOW-UP:

Selectmen's Office

ARTICLE	FINANCIAL ARTICLES (continued)	PRESENTATION	DM	PK	NC	JP	MC	AC	CEC	SC
	l) Parker Meadow Accessible Trail D&E m) CPA Debt Service n) Administrative Budget		Yes	Yes	Yes	Yes	Yes			
Article 9	Appropriate for Recreation Capital Projects		Yes	Yes	Yes	Yes	Yes			
Article 10	Appropriate for Municipal Capital Projects and Equipment a) Center Streetscape Improvements and Easements b) DPW Equipment c) Street Improvements and Easements d) Storm Drainage Improvements and NPDES Compliance e) Hydrant Replacement Program f) Comprehensive Watershed Storm Water Management Study and Implementation Measures g) Mass Avenue Intersections’ Improvements and Easements h) Sidewalk Improvements and Easements i) Dam Repair j) Town Wide Culvert Replacement k) Town Wide Signalization Improvements l) Traffic Island Renovation m) Ambulance Replacement n) Heart Monitors o) Replace Town Wide Phone Systems- Phase III p) Network Redundancy and Improvement Plan – Phase II		Yes	Yes	Yes	Yes	Yes			
Article 11	Appropriate for Water System Improvements		Yes	Yes	Yes	Yes	Yes			

ARTICLE	FINANCIAL ARTICLES (continued)	PRESENTATION	DM	PK	NC	JP	MC	AC	CEC	SC
Article 12	Appropriate for Wastewater System Improvements		Yes	Yes	Yes	Yes	Yes			
Article 13	Appropriate for School Capital Projects and Equipment		Yes	Yes	Yes	Yes	Yes			
Article 14	Appropriate for Public Facilities Capital Projects: a) School Building Envelope and Systems b) LHS Heating Systems Upgrade – Phases 2 and 3 c) Municipal Building Envelope and Systems d) Repairs / Replacements/Upgrades: <ul style="list-style-type: none">School Building Flooring ProgramSchool Window Treatments Extraordinary RepairInterior Painting ProgramMiddle School Nurses StationsRenovation and Update of Diamond Kitchen and CafeteriaClarke School Gymnasium Dividing Curtain e) School Paving Program f) East Lexington Fire Station Physical Fitness Room g) Public Facilities Bid Documents h) Middle School Science, Performing Arts and General Education Spaces i) Clarke School Elevator Upgrade j) Clarke School Auditorium Audio Visual System k) Fire Station Headquarters Design		Yes	Yes	Yes	Yes	Yes			

ARTICLE	ZONING/LAND USE ARTICLES (continued)	PRESENTATION	DM	PK	NC	JP	MC	AC	CEC	SC
Article 30	Amend Zoning By-Law – Medical Marijuana Treatment Centers	3/17 Tom Fenn Amend.	Yes Yes	No Yes	Yes Yes	Yes Wait	Yes Yes			
Article 31	Amend Zoning By-Law – Site Plan Review for Projects over 10,000 SF	3/17	Yes	Yes	Yes	Yes	Yes			
Article 32	Amend Zoning By-Law – Technical Corrections	3/17	Yes	Yes	Yes	Yes	Yes			

AGENDA ITEM SUMMARY

LEXINGTON BOARD OF SELECTMEN MEETING

DATE:

April 9, 2013

PRESENTER:

Melisa Tintacolis

ITEM NUMBER:

I.3

SUBJECT:

Approve Dates for Center Parklet

EXECUTIVE SUMMARY:

Melisa will update the Board on the plans for the parklet this year.

FINANCIAL IMPACT:

RECOMMENDATION / SUGGESTED MOTION:

Approve having the parklet open from May 1, 2014 through November 30, 2014.

STAFF FOLLOW-UP:

Economic Development Officer and DPW

AGENDA ITEM SUMMARY

LEXINGTON BOARD OF SELECTMEN MEETING

DATE:

April 9, 2014

STAFF:

William P. Hadley, Director

ITEM NUMBER:

Consent



SUBJECT:

Adjustments and Commitments of Water and Sewer Charges

EXECUTIVE SUMMARY:

Adjustments to Water & Sewer Charges as recommended by WSAB	(\$70,856.00)
Commitments of Water and Sewer Charges January 2014 Cycle 9	\$ 168,071.18
Commitments of Water and Sewer Charges Finals January 2014	\$ 1,512.54
Commitments of Water and Sewer Charges March 2014 Cycle 9	\$ 173,757.32
Commitments of Water and Sewer Charges March 2014 Finals	\$ 3,419.09

FINANCIAL IMPACT:

Allows the reconciliation with the General Ledger.

RECOMMENDATION / SUGGESTED MOTION:

Motion to approve the Water and Sewer commitments and adjustments as noted above.

STAFF FOLLOW-UP:

Revenue Officer



FY2014
ADJUSTMENTS TO WATER/SEWER
AS RECOMMENDED BY THE WATER AND SEWER ABATEMENT BOARD
April 9, 2014
PAGE 2 OF 2

ACCOUNT	NBR	STREET	WATER	SEWER	TOTAL	BILL	YEAR
Carried over from Page 1			(\$36,529.81)	(\$21,992.09)	(\$58,521.90)		
0300625100	4	Hastings Road	\$26.86	(\$1,011.96)	(\$985.10)	765847	2014
0100175900	15	Lexington Avenue	(\$386.07)	(\$939.60)	(\$1,325.67)	759004	2014
0200481600	16	Manley Court	(\$472.23)	(\$1,145.70)	(\$1,617.93)	763341	2013
0300619600	2408	Massachusetts Avenue	(\$76.12)	(\$235.71)	(\$311.83)	765776	2014
0200971802	17	Parker Street	(\$495.72)		(\$495.72)	765234	2014
0300836200	32	Partridge Road	(\$398.65)	(\$967.24)	(\$1,365.89)	768417	2014
0300673700	3	Patterson Road	(\$1,077.42)	(\$2,489.20)	(\$3,566.62)	752307	2013
0300678900	11	Paul Revere Road	(\$234.88)	(\$758.04)	(\$992.92)	766530	2014
0200482400	12	Utica Street	(\$6.64)	(\$17.72)	(\$24.36)	763351	2014
0100227900	503	Waltham Street	(\$462.20)	(\$1,100.60)	(\$1,562.80)	759664	2014
0300984900	100	Wood Street	(\$23.24)	(\$62.02)	(\$85.26)	770123	2014
			(\$40,136.12)	(\$30,719.88)	(\$70,856.00)		

It is further recommended to waive all accumulated interest on disputed bills for which no abatement is recommended:

ACCOUNT	NBR	STREET	WATER	SEWER	TOTAL	BILL	YEAR

It is the recommendation of the Water and Sewer Abatement Board that the Town Collector be authorized to waive interest that has accrued on the bills included herein, unless stated here otherwise, from the due date of the bill until 30 calendar days after the date of written notification to applicant of the Selectmen's action.

THE SUM SET AGAINST THE ABOVE ACCOUNTS IS HEREBY ADJUSTED.

WATER	SEWER	TOTAL
(\$40,136.12)	(\$30,719.88)	(\$70,856.00)

William A. Dudley

 DIRECTOR OF PUBLIC WORKS

BOARD OF SELECTMEN

April 9, 2014



FY2014
ADJUSTMENTS TO WATER/ SEWER
AS RECOMMENDED BY THE WATER AND SEWER ABATEMENT BOARD
 APRIL 9, 2014 PAGE 1 OF 2

ACCOUNT	NBR	STREET	WATER	SEWER	TOTAL	BILL	YEAR
0100093900	18	Blueberry Lane	(\$39.58)	(\$331.88)	(\$371.46)	720747	2013
0200428100	102	Burlington Street	(\$11.62)	(\$157.01)	(\$168.63)	762674	2014
0200428200	103	Burlington Street	(\$124.72)	(\$959.26)	(\$1,083.98)	762675	2014
0100135800	28	Chase Aveune	(\$328.10)	(\$1,119.16)	(\$1,447.26)	758475	2014
0200340800	19	Dane Road	(\$444.82)	(\$1,540.99)	(\$1,985.81)	761576	2014
0200439900	7	Diamond Road	(\$67.82)	(\$188.56)	(\$256.38)	762824	2014
0200591200	17	Franklin Road	(\$252.66)	(\$820.63)	(\$1,073.29)	764869	2014
0200524200	25	Hathaway Road	(\$132.86)	(\$419.76)	(\$552.62)	744948	2014
0200571500	3	Juniper Place	\$14.22	(\$975.03)	(\$960.81)	764569	2014
0200307200	1412	Massachusetts Avenue	\$58.46	(\$495.59)	(\$437.13)	761092	2014
0200567700	21	Meriam Street	(\$145.05)	(\$737.31)	(\$882.36)	764508	2014
0200439902	15	Parker Street	(\$510.57)		(\$510.57)	761858	2014
0300681400	70	Paul Revere Road	(\$260.80)	(\$847.40)	(\$1,108.20)	766560	2014
0300862500	12	Phinney Road	(\$51.46)	(\$137.33)	(\$188.79)	768767	2014
0300646900	54	School Street	(\$415.86)	(\$1,002.60)	(\$1,418.46)	766122	2014
0100106700	12	Wheeler Road	(\$19.36)	(\$1,598.96)	(\$1,618.32)	758104	2014
0100227902	503	Waltham Street	(\$458.50)		(\$458.50)	759665	2014
0300726700	421	Bedford Street	(\$281.50)	(\$622.90)	(\$904.40)	767122	2014
0900200100,1		Bedford VA	(\$29,564.40)		(\$29,564.40)		2014
0200526500	25	Brent Road	(\$130.42)	(\$423.72)	(\$554.14)	763921	2014
0300886102	76	Cary Avenue	(\$196.50)		(\$196.50)	769057	2014
0100130000	27	Charles Street	(\$389.38)	(\$946.60)	(\$1,335.98)	758414	2014
0300629100	28	Columbus Street	(\$145.66)	(\$454.33)	(\$599.99)	765901	2014
0100242200	113	Concord Avenue	(\$125.52)	(\$430.12)	(\$555.64)	736393	2013
0206908900	49	Courtyard Place	(\$131.08)	(\$418.84)	(\$549.92)	746637	2013
0300716700	14	Diana Lane		(\$690.46)	(\$690.46)	766988	2014
0200541800	157	East Street	(\$309.40)	(\$1,014.95)	(\$1,324.35)	764145	2014
0200540400	7	Fairfield Drive	(\$292.16)	(\$989.13)	(\$1,281.29)	764125	2014
0200526500	17	Fairfield Drive	(\$396.00)	(\$960.60)	(\$1,356.60)	764136	2014
0300785000	26	Fifer Lane	(\$305.01)	(\$1,029.16)	(\$1,334.17)	753645	2013
0200453900	48	Hancock Street	(\$1,071.68)	(\$2,679.81)	(\$3,751.49)	763005	2014
			(\$36,529.81)	(\$21,992.09)	(\$58,521.90)		

April 9, 2014



Department of Public Works
Town of Lexington
Water and Sewer Enterprise Funds
FISCAL YEAR 2014
January 2014 Cycle 9 Billing

CYCLE 9

GRAND TOTALS

WATER	\$160,771.28	\$160,771.28
SEWER	\$2,372.50	\$2,372.50
FEE FOR BEDFORD	\$4,927.40	\$4,927.40
TOTAL:	\$168,071.18	\$168,071.18

To the Collector of Revenue for the Town of Lexington:

You are hereby authorized and required to levy and collect of the persons named in the list of water/sewer charges herewith committed to you and each one of his/her respective portion herein set down of the sum total of such list. Said sum being:

One hundred sixty-eight thousand, seventy-one dollars and 18/00

And pay the same into the treasury of the Town of Lexington and to exercise the powers conferred by law in regard thereto.


DIRECTOR OF PUBLIC WORKS

BOARD OF SELECTMEN

April 9, 2014

Treasurer/Collector; Director Public Works, Water/Sewer Billing



Department of Public Works
Town of Lexington
Water and Sewer Enterprise Funds
FISCAL YEAR 2014

	FINALS	GRAND TOTALS
	JANUARY 2014	
WATER	\$574.54	\$574.54
SEWER	\$938.00	\$938.00
TOTAL:	\$1,512.54	\$1,512.54

To the Collector of Revenue for the Town of Lexington:

You are hereby authorized and required to levy and collect of the persons named in the list of water/sewer charges herewith committed to you and each one of his/her respective portion herein set down of the sum total of such list. Said sum being:

One thousand five hundred twelve dollars and 54/00

And pay the same into the treasury of the Town of Lexington and to exercise the powers conferred by law in regard thereto.


DIRECTOR OF PUBLIC WORKS

BOARD OF SELECTMEN April 9, 2014

Treasurer/Collector; Director Public Works, Water/Sewer Billing



Department of Public Works
Town of Lexington
Water and Sewer Enterprise Funds
FISCAL YEAR 2013
March 2014 Cycle 9 Billing

	CYCLE 9	GRAND TOTALS
	March 2014	
WATER	\$165,912.32	\$165,912.32
SEWER	\$2,917.60	\$2,917.60
FEE FOR BEDFORD	\$4,927.40	\$4,927.40
TOTAL:	\$173,757.32	\$173,757.32

To the Collector of Revenue for the Town of Lexington:

You are hereby authorized and required to levy and collect of the persons named in the list of water/sewer charges herewith committed to you and each one of his/her respective portion herein set down of the sum total of such list. Said sum being:

One hundred seventy-three thousand, seven hundred fifty-seven dollars and 32/100

And pay the same into the treasury of the Town of Lexington and to exercise the powers conferred by law in regard thereto.

William J. Dudley

 DIRECTOR OF PUBLIC WORKS

 BOARD OF SELECTMEN



Department of Public Works
Town of Lexington
Water and Sewer Enterprise Funds
FISCAL YEAR 2014
March 2014 Final Water Bills

	FINALS	GRAND TOTALS
WATER	\$1,490.91	\$1,490.91
SEWER	\$1,928.18	\$1,928.18
TOTAL:	<u>\$3,419.09</u>	<u>\$3,419.09</u>

To the Collector of Revenue for the Town of Lexington:

You are hereby authorized and required to levy and collect of the persons named in the list of water/sewer charges herewith committed to you and each one of his/her respective portion herein set down of the sum total of such list. Said sum being:

Three thousand four hundred nineteen dollars and 09/00

And pay the same into the treasury of the Town of Lexington and to exercise the powers conferred by law in regard thereto.



DIRECTOR OF PUBLIC WORKS

BOARD OF SELECTMEN

Treasurer/Collector; Director Public Works, Water/Sewer Billing

April 9, 2014

AGENDA ITEM SUMMARY

LEXINGTON BOARD OF SELECTMEN MEETING

DATE:

April 9, 2014

PRESENTER:

ITEM NUMBER:

Executive Session

SUBJECT: Exemptions 3 – Ongoing Litigation

Suggested motion for Executive Session: *Move to go into Executive Session to discuss litigation regarding Sellars v. the Town of Lexington; and to reconvene in Open Session only to adjourn. Further, as Chairman I declare that an open meeting discussion may have a detrimental effect on the litigating position of the Town.*

EXECUTIVE SUMMARY:

Update the Board on settlement discussions regarding the John Sellars litigation and discuss strategy going forward.

If you run out of time on Monday, 4/7 the item will be discussed tonight.

FINANCIAL IMPACT:

NA

RECOMMENDATION / SUGGESTED MOTION:

NA

STAFF FOLLOW-UP:

TMO