



Town of Barnstable

Regulatory Services

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Licensing Authority

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BARNSTABLE LICENSING AUTHORITY LICENSING HEARING MINUTES

Town Hall Building, 367 Main Street, 2nd Floor Hearing Room, Hyannis, MA – 9:30 a.m.

July 18, 2011

A regular meeting of the Barnstable Licensing Authority was held on Monday, July 18, 2011. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Richard V. Scali, Consumer Affairs Supervisor, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary. Thomas Geiler, Director of Regulatory Services and Licensing Agent, was absent.

Hearings:

One Day Entertainment License: Application of Kevin Pidgeon for The Hyannis Sound, a 10 person a capella singing group for a One Day Entertainment License for its annual Alumni/Reunion Show held at the Barnstable High School auditorium, 744 West Main Street, Hyannis, on August 6, 2011 at 8:00 pm.

Kevin Pidgeon spoke on behalf of Hyannis Sound. This has been going on annually for a while. The members of Hyannis Sound appeared and sang for the benefit of the members and attendees at the Licensing Hearing.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Kevin Pidgeon for The Hyannis Sound, a 10 person a capella singing group for a One Day Entertainment License for its annual Alumni/Reunion Show held at the Barnstable High School auditorium, 744 West Main Street, Hyannis, on August 6, 2011 at 8:00 pm.

Sunday Entertainment License: Application of Heather Donnelly for the MSPCA, 1577 Falmouth Road, Hyannis for a Sunday Entertainment License for its annual Walk for Animals fundraiser with music, contests and awards with PIXY 103, to be held at Aselton Park, South Street, Hyannis on September 11, 2011 from 11 am to 2 pm.

Ms. Donnelly appeared for her application.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Heather Donnelly for the MSPCA, 1577 Falmouth Road, Hyannis for a Sunday Entertainment License for its annual Walk for Animals fundraiser with music, contests and awards with PIXY 103, to be held at Aselton Park, South Street, Hyannis on September 11, 2011 from 11 am to 2 pm.

Two One Day Wine & Malt Licenses and Two One Day Entertainment Licenses:

The Barnstable Licensing Authority will hold a public hearing on the application of Tony Zombas on behalf of St. George Greek Orthodox Church for its 2nd annual Surf & Turf event to be held on Friday, August 19, 2011 from 3 pm to 11 pm and Saturday, August 20, 2011 from 11:30 am to 11 pm. They are requesting a two One Day Entertainment licenses for a band (3 pcs.), a 2 piece jazz combo and a pianist, playing from 4 pm to 11 pm each day.

Mr. Zombas appeared for his application. He advised that the 29th Grecian Festival concluded yesterday and it was a huge success. This license is lobster rolls and gyros. They have invited vendors to show up. No entrance fee – just charging for the food and there will be entertainment.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Tony Zombas on behalf of St. George Greek Orthodox Church for its 2nd annual Surf & Turf event to be held on Friday, August 19, 2011 from 3 pm to 11 pm and Saturday, August 20, 2011 from 11:30 am to 11 pm. They are requesting a two One Day Entertainment licenses for a band (3 pieces), a 2 piece jazz combo and a pianist, playing from 4 pm to 11 pm each day.

One Day All Alcohol License: Application of Olive Chase, The Casual Gourmet, on behalf of the Hyannis Area Chamber of Commerce, Hyannis, MA to be held at TD Bank, 226 Falmouth Road, Hyannis MA for a Business After Hours Meeting on July 20, 2011 from 5:30 pm to 7:30 pm.

Mary Lyons, Operations Manger, appeared for the application. Is this a non-profit organization? Mary advised it is. Mr. Scali had conversations about this event with individuals from the Chamber and from TD Bank and talked to the Chamber people several times trying to get this application filed. He met with the Chamber people this week with Mr. Geiler about the process they need to follow in future – this was a late filing as the people overseeing it did not understand the process.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Olive Chase, The Casual Gourmet, on behalf of the Hyannis Area Chamber of Commerce, Hyannis, MA to be held at TD Bank, 226 Falmouth Road, Hyannis MA for a Business After Hours Meeting on July 20, 2011 from 5:30 pm to 7:30 pm.

One Day & Sunday Entertainment License: Application of Calvary Baptist Church for 4 one day and a Sunday entertainment license for a carnival on July 28, 29, 30th from 6 pm to 10 pm and July 31 (Sunday), from 1 pm to 6 pm, rides to be provided by Cushing Amusements, 196 Wildwood Street, Wilmington, MA.

Pastor Smith appeared for this; they are holding it as a nutrition mission fundraiser. They were approached by Cushing Amusements to use their entertainment. There will be 8 rides (for tots). Mr. Scali stated this is a new company we never dealt with before. They have a certificate for 18 rides but they are only using 8 of them at this event. We need a list of these 8 provided to us. Mr. Cushing advised that the State inspects them every location they go to. Mr. Scali asked if they ever had any incidents – Mr. Cushing said they have not; his parents had run it for 35-40 years. They go to Yarmouth and Martha's Vineyard also. They send their rides over to the Vineyard on the ferry. Lt. Jason stated the police department usually asks for lists of the employees, dates of birth, Social Security Numbers and a CORI check is done by BPD. Lt. Jason stated they do need a list of their employees (between 25-30 people). He stated they cannot give us the other information as they give it to the State. The people are cori'd by them for the State. Lt. Jason also asked about parking. Pastor Smith stated they have permission to park at the schools and at Shaws. She asked if they will stop them from parking on Lincoln Road? Pastor Smith stated they will have a police detail.

Mr. Scali wanted to confirm Mr. Cushing would provide a list of names to the police department. He stated they cannot give us information on these people. Lt. Jason wanted a letter from the State stating these people are already cori'd.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Calvary Baptist Church for 4 one day and a Sunday entertainment license for a carnival on July 28, 29, 30th from 6 pm to 10 pm and July 31 (Sunday), from 1 pm to 6 pm, rides to be provided by Cushing Amusements, 198 Wildwood Street, Wilmington, MA.

One Day Beer & Wine License: Application of Lee McGraw on behalf of the JFK Hyannis Museum Foundation, 397 Main Street, Hyannis, for a fundraiser for the museum on July 22, 2011 from 5:30 pm to 7:30 pm.

Lee McGraw appeared for this application. The server has been to training at Cape Cod Bartending School. She stated no-one will overdrink at this event. Mr. Scali advised her that in future they bring in their application well ahead of time, instead of last minute.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Lee McGraw on behalf of the

JFK Hyannis Museum Foundation, 397 Main Street, Hyannis, for a fundraiser for the museum on July 22, 2011 from 5:30 pm to 7:30 pm.

New Annual Common Victualler License: Application of Ambro Management Corp., d/b/a Tasty Wok, 793 Iyannough Road, Hyannis, Ji Chen, Manager, for a New Common Victualler License, the hours of operation to be Mall hours.

This is an ownership change – not change in menu. The vendor is the same.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Ambro Management Corp., d/b/a Tasty Wok, 793 Iyannough Road, Hyannis, Ji Chen, Manager, for a New Common Victualler License, the hours of operation to be Mall hours.

Change of Manager: Application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyannough Road, Hyannis, for a Change of Manager on its annual All Alcohol Common Victualler License from Josh Sylvester to Michael Rosa.

Mr. Rosa stated this has been the most entertaining meeting he has ever attended. The former manager is moving to Vermont. They have had a transition management team on board. Mr. Rosa will be the manager starting in September.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyannough Road, Hyannis, for a Change of Manager on its annual All Alcohol Common Victualler License from Josh Sylvester to Michael Rosa.

New Common Victualler All Alcohol, Daily Non-Live and Sunday Entertainment Licenses: Application of 401013 Ontario, Ltd., d/b/a da Grazia, 297 North Street, Bldg. 2, Hyannis, MA for a New All Alcohol Common Victualler License, Michael Carlevale, Manager, hours of operation to be 11:30 am to 11:30 pm M-F, Sat 4 pm to 12 am, Sun 4 pm to 10 pm, and a Daily Non-Live Entertainment License (recorded background music below conversation level and a t.v.) and Sunday Non-Live Entertainment, during hours of operation. Seating 146 indoors, 25 outdoors.

Attorney Ron Jansson appeared for the applicant. They are applying for three licenses, an all alcohol pouring license, formerly known as New Barolo. The site has been a restaurant site since the late 80's. He provided a site plan. They are seeking an entertainment license and a temporary common victualler non-alcohol license, to open as soon as possible while waiting for the ABCC to approve the alcohol license. They are a MA corporation. Attorney Jansson provided a booklet for each board member – the application, Articles of Incorporation (actual principal is Michael Carlevale). D/B/A Certificate filed. Business to be called da Grazia, to give thanks to in Latin. Lease provided. It is for 3600 sq ft interior and 400 sq ft exterior. Term is for 5 years with 3 options to extend. Attorney Jansson stated the Licensing

Office had picked up a percentage basis in the Lease – this EXCLUDES the sale of alcohol; so in checking with the Director of the ABCC (Ralph Sacramone) they were advised it is appropriate. The floor plan is provided, signed off by the Building Commissioner. Photos show the restaurant and the outdoor seating in front of the atrium & close to the planters on the right side. Seating indoors is shown. The parking lot is shown and photos of the inside. It will be casual dining with a quasi formal atmosphere. Mr. Carlevale was a restaurateur in Toronto for 30 years. He has a certificate in Public Health Administration. This will be a fairly upscale restaurant. Based on projections he feels this will be feasible. He will employ approx 10 people. M-F 11:30 – 11:30; Sat 4-12; Sun 4 pm to 10 pm. They will have casual pre-recorded music and a T.V. The menu is provided and he has Worker's Comp certificate. Has all necessary insurances and authority to apply for the licenses by corporate vote. Provided abutter affidavit and certification.

Mr. Hoxie asked how soon they would like the Common Victualler License – they need it by the 2nd week of August. Chef will arrive 1st of August.

Mr. Carlevale assured the Board he has researched this thoroughly; has set money aside for slow times; specializes on aged meat (knows a lot about aged beef), special poultry, huge gas and charcoal grill. He feels he will have his own niche here.

Officer Maher confirmed he will not be looking for byob or anything like that in the time open only with a common victualler license.

Mr. Burman asked about the outdoor seating permit – Attorney Jansson stated the 400 sq ft has been part of the restaurant for years; creation of an ambience for the restaurant. Mr. Burman stated the permit we issue must include the outdoor area. Mr. Burman asked about the lease provision in question about the exclusions from gross sales...Attorney Jansson stated he spoke to Mr. Sacramone at the ABCC about the benefit to the landlord from alcohol...if the excluded that in the lease it will be fine and the landlord would not have to be listed as a person with beneficial interest. Mr. Burman stated at a workshop that it was emphatically told to them that anyone with a beneficial interest in the property should be listed as a person with interest. Attorney Jansson discussed this in particular with Ralph Sacramone, who stated it was alright as stated in the Lease – they got the language from Mr. Sacramone. Mr. Scali stated we have gone round and round about this but he stated as long as the alcohol is excluded the landlord then would not need to be listed as a person with interest. Da Grazia is pronounced da Gratzia.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of 401013 Ontario, Ltd., d/b/a da Grazia, 297 North Street, Bldg. 2, Hyannis, MA for a New All Alcohol Common Victualler License, Michael Carlevale, Manager, hours of operation to be 11:30 am to 11:30 pm M-F, Sat 4 pm to 12 am, Sun 4 pm to 10 pm, and a Daily Non-Live Entertainment License (recorded background music below conversation level and a

t.v.) and Sunday Non-Live Entertainment, during hours of operation. Seating 146 indoors, 25 outdoors, and to grant a Common Victualler License without alcohol in the interim period prior to the ABCC approving the All Alcohol Common Victualler License and the entertainment as well during the interim period.

New Common Victualler License, Non-Live Entertainment, Automatic Amusement and Sunday Entertainment Licenses: Application of JJ Roast Beef, Inc., d/b/a JJ's Roast Beef, 770 Main Street, Osterville, MA, Jason Sanders, Manager, for a New Common Victualler License with 16 seats, hours of operation to be 10 am to 8 pm, and Daily Non-Live, Automatic Amusement (2 video games) and Sunday Entertainment Licenses.

Jason Sanders appeared for the application. They have taken over the burrito place – adding the video games and t.v. Everything is up to code with health and fire – can be operational as soon as Thursday. He has a lot of experience in Florida – manager of a bar and grill; partner in the business for 15 years.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of JJ Roast Beef, Inc., d/b/a JJ's Roast Beef, 770 Main Street, Osterville, MA, Jason Sanders, Manager, for a New Common Victualler License with 16 seats, hours of operation to be 10 am to 8 pm, and Daily Non-Live, Automatic Amusement (2 video games) and Sunday Entertainment Licenses.

Amendment to Class I Auto Dealer License: Application of R&J Nissan, Inc., d/b/a Balise Nissan of Cape Cod, to amend its Class I Auto Dealer License approved on 6/20/11 to change the street number to 322 instead of 332 Falmouth Road, and to add Lot 516 and 528 Bearse's Way to the license description.

Attorney Jeffrey Ford appeared for the changes to Balise Nissan of Cape Cod. All of these things were on the hearing in June; also, Mr. Geiler had questions about the Lot 70 which is NOT part of this application.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of R&J Nissan, Inc., d/b/a Balise Nissan of Cape Cod, to amend its Class I Auto Dealer License approved on 6/20/11 to change the street number to 322 instead of 332 Falmouth Road, and to add Lot 516 and 528 Bearse's Way to the license description.

Amendment to Common Victualler License: Application of SLM Enterprises, Inc., d/b/a Box Lunch, 357 Main Street, Hyannis, Holly Gagner, Manager, to add to the existing common Victualler license outside dining at 5 tables, a maximum of 15 seats, on its own property, not the Town sidewalk.

Ms. Moscicki appeared for the application.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of SLM Enterprises, Inc., d/b/a Box Lunch, 357 Main Street, Hyannis, Holly Gagner, Manager, to add to the existing common Victualler license outside dining at 5 tables, a maximum of 15 seats on its own property, not the Town sidewalk.

Show Cause Hearing: Show Cause Hearing to determine whether the annual All Alcohol Common Victualler License of Outback Steakhouse, 1070 Iyannough Road, Hyannis, MA, Thomas Ward, Manager should be modified, suspended or revoked as a result of a report made to the Licensing Authority by Deputy Chief Frank Pulsifer, Barnstable Fire Department, that Outback Steakhouse in Hyannis has failed for the past two years to file its annual fire alarm certification report with the Barnstable Fire Department.

Mr. Hoxie stated this has been satisfied and the hearing withdrawn.

Show Cause Hearing: Show Cause Hearing to determine whether the annual All Alcohol Common Victualler License of GMRI, Inc., d/b/a Olive Garden, 1095 Iyannough Road, Hyannis, MA, Tracy Kempaner, Manager should be modified, suspended or revoked for failure to respond to the Barnstable Licensing Authority to clarify the status of its disapproved application dated 5/25/10 for New Officers/Directors.

Mr. Hoxie stated this has been satisfied and the hearing withdrawn.

Business Meeting:

Nomination and election of Licensing Authority officers.

Motion duly made by Mr. Burman to re-elect Martin Hoxie as Chairman, Eugene Burman as Vice-Chairman, Paul Sullivan as Clerk of the Licensing Authority. The motion was seconded by Paul Sullivan and a unanimous vote taken to approve the re-election as proposed

Release of Executive Session Minutes, if any (1) – Ying's; continued to 8/15/11.

Mr. Burman stated it is a goal now to get all one day applicants in 60 days ahead; per a memo from the ABCC. This was provided to the board members by Mr. Scali. Mr. Burman stated he wonders about the one day alcohol applicants really obtaining their alcohol from licensed wholesalers.....and noted that there are only three on the Cape – Luke's in Hyannis, one in Sandwich, one in Orleans. This has not been taking place he believes. He thought maybe we should let other package store owners know they could apply for this. Mr. Scali suggested the Commissioners ask the applicants where their alcohol is coming from at their hearings.

The meeting was adjourned at 10:30 a.m.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority