



# Town of Barnstable

## Regulatory Services

Thomas F. Geiler, Director

### Licensing Authority

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### BARNSTABLE LICENSING AUTHORITY LICENSING HEARING MINUTES

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

June 4, 2012

A regular meeting of the Barnstable Licensing Authority was held on Monday, June 4, 2012. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Richard Boy, Alternate Commissioner, Thomas Geiler, Director of Regulatory Services and Licensing Agent, Richard V. Scali, Consumer Affairs Supervisor, Lt. John Murphy and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary. Paul Sullivan, Clerk, was absent.

**Vote to accept Minutes:** Vote to accept minutes of the 5/21/12 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the minutes of the 5/21/12 Meeting.

#### **Hearings:**

**One Day Wine Only and One Day Entertainment License:** Application of Elizabeth Wurfbein on behalf of the Hyannis Main Street BID, 397 Main Street, Hyannis, for a One Day Wine License and a One Day Entertainment License for a jazz trio and violinist, for a culinary event to be held outside only at the Beech Tree Alley, 599 Main Street, Hyannis from 6 pm to 10 pm on June 28, 2012. Continued from 5/21/12 – and withdrawn in favor of an application from Beech Tree Cantina, LLC, 599 Main Street, Hyannis, Caitlyn Sweeney, Manager, to extend their premises for one day – June 28, 2012 to include the Beech Tree alley (walkway) from Main Street south to the end of the walkway for food and wine service and a one day Live Entertainment license for the same evening, from 6 pm to 10 pm for a jazz trio and violinist.

Elizabeth Wurfbein stated they had a meeting with Regulatory Services to make this happen. Jared Pane appeared as one of the managers at the Beech Tree Cantina. They will be applying for these licenses.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Beech Tree Cantina, LLC, 599 Main Street, Hyannis, Caitlyn Sweeney, Manager, to extend their premises for one day – June 28, 2012 to include the Beech Tree alley (walkway) from Main Street south to the end of the walkway for food and wine service and a one day Live Entertainment license for the same evening, from 6 pm to 10 pm for a jazz trio and violinist.

Mr. Geiler stated this is a special event – the BID has spent a lot of time getting this together. He stated any alcohol has to be invoiced to Beech Tree under this license. No other restaurants may bring their own alcohol – he advises caution and if any questions please call our offices or the Police Department. He wants what could be a very successful event to stay that way.

**One Day All Alcohol License:** Application of Kathy Pina, 49 Windmill Lane, Cotuit, on behalf of St. Anthony's Charity Club, for a One Day All Alcohol license for the feast day of St. Anthony, June 9, 2012 from noon to 6 pm, to be held outside at the corner of Old Mill Road and Swift Avenue, Osterville.

Kathy Pina did not appear. Mr. Hoxie stated it is the same event they have had for years and years and the Board could approve it in her absentia because of the length of time they have had it with no issues.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Kathy Pina, 49 Windmill Lane, Cotuit, on behalf of St. Anthony's Charity Club, for a One Day All Alcohol license for the feast day of St. Anthony, June 9, 2012 from noon to 6 pm, to be held outside at the corner of Old Mill Road and Swift Avenue, Osterville.

**One Day Entertainment License:** Application of Reverend Bernard Harris on behalf of Zion Union Church, 805 Attucks Lane, Hyannis for a One Day Entertainment License for an Ethnic Food Festival to be held on the church grounds on Saturday, July 28, 2012 with craft vendors, from 11:00 am to 7:00.

Reverend Harris appeared for the application and gave Mr. Hoxie a handout about the event. This will be their first annual food festival – rotisserie pig, Haitian, Cape Verdian, Brazilian, etc. ethnic food will be served. They only want entertainment not alcohol. The layout is crafts by the building and food with a dinner tent, in back the port a potties and pony rides way in the back as well as a bounce house for the kids. They have 4 craft vendors and three food vendors. The weather will be about 125. The food will be purchased but no admission. There will be a drawing for a 2 trips.

Mr. Hoxie wished them luck and good weather.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Reverend Bernard Harris on behalf of Zion Union Church, 805 Attucks Lane, Hyannis for a One Day Entertainment License for

an Ethnic Food Festival to be held on the church grounds on Saturday, July 28, 2012 with craft vendors, from 11:00 am to 7:00.

**One Day Beer & Wine License:** Application of Rebecca C. Richardson, for the Rotary Club of Osterville's 18<sup>th</sup> annual Bluefish/Striped Bass Fishing Tournament for a One Day Beer and Wine License for its annual event to be held at the Wianno Yacht Club, 101 Bridge Street, Osterville, outside in a tent on July 14, 2012 from 4 pm to 8 pm. There will be a barbeque, auction & small raffle.

Rebecca Richardson appeared for this event. She is a Rotary Club member. This event will be at the Wianno Yacht Club. Format the same as other years. They are requesting beer and wine and understands they have to purchase from an authorized source – will be going to A.J. Lukes Liquors.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Rebecca C. Richardson, for the Rotary Club of Osterville's 18<sup>th</sup> annual Bluefish/Striped Bass Fishing Tournament for a One Day Beer and Wine License for its annual event to be held at the Wianno Yacht Club, 101 Bridge Street, Osterville, outside in a tent on July 14, 2012 from 4 pm to 8 pm. There will be a barbeque, auction & small raffle.

Rebecca thanked Ms. Ade for her help as always, in assisting them to make sure they would be in compliance.

**One Day Beer & Wine, Two One Day Alcohol and a One Day Entertainment Licenses:** Application of Gail C. Nightingale, for the Osterville Village Library, 43 Wianno Avenue, Osterville for a One Day Beer and Wine License and a One Day Entertainment License for a steel drum for June 24, 2012 for a clambake outside in a tent on the lawn from 4:00 pm to 10:00 pm, an All Alcohol license for June 28, 2012 for their "Mutts & Martini's" program from 5:00 pm to 8:00 pm, and a 2<sup>nd</sup> All Alcohol license for June 29, 2012 for an auction from 5:00 pm to 10:00 pm.

Mrs. Nightingale stated it is their 18<sup>th</sup> year and will be a week long event – there is an addition to their format, the dog portion.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Gail C. Nightingale, for the Osterville Village Library, 43 Wianno Avenue, Osterville for a One Day Beer and Wine License and a One Day Entertainment License for a steel drum for June 24, 2012 for a clambake outside in a tent on the lawn from 4:00 pm to 10:00 pm, an All Alcohol license for June 28, 2012 for their "Mutts & Martini's" program from 5:00 pm to 8:00 pm, and a 2<sup>nd</sup> All Alcohol license for June 29, 2012 for an auction from 5:00 pm to 10:00 pm.

She did pass out invitations for the dedication of the library – everyone is welcome.

**One Day Entertainment Licenses:** Application of Jennifer Pitta on behalf of Cape Cod Symphony Orchestra, 712A Main Street, Yarmouth Port, for eighteen (18) One Day Entertainment Licenses for concerts to be held at Barnstable High School Performing Arts Center, 744 West Main Street, Hyannis for the following dates and times:

| <u>Friday</u>        | <u>Saturdays</u>    | <u>Sundays</u> |
|----------------------|---------------------|----------------|
| 11/30/12 4 pm & 8 pm | 9/22/12 8 pm        | 9/23/12 3 pm   |
|                      | 10/6/12 8 pm        | 10/7/12 3 pm   |
|                      | 11/3/12 8 pm        | 11/4/12 3 pm   |
|                      | 12/1/12 3 pm & 8 pm | 12/2/12 3 pm   |
|                      | 1/19/13 8 pm        | 1/1/13 3 pm    |
|                      | 2/9/13 8 pm         | 1/20/13 3 pm   |
|                      | 4/6/13 8 pm         | 2/10/13 3 pm   |
|                      | 5/4/13 8 pm         | 4/7/13 3 pm    |
|                      |                     | 5/5/13 3 pm    |

Jennifer Pitta appeared for her application. They are seeking these licenses for their season from September to May (51<sup>st</sup> year).

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Jennifer Pitta on behalf of Cape Cod Symphony Orchestra, 712A Main Street, Yarmouth Port, for eighteen (18) One Day Entertainment Licenses for concerts to be held at Barnstable High School Performing Arts Center, 744 West Main Street, Hyannis for the following dates and times:

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|                      | 11/3/12 8 pm        | 11/4/12 3 pm   |
|                      | 12/1/12 3 pm & 8 pm | 12/2/12 3 pm   |
|                      | 1/19/13 8 pm        | 1/1/13 3 pm    |
|                      | 2/9/13 8 pm         | 1/20/13 3 pm   |
|                      | 4/6/13 8 pm         | 2/10/13 3 pm   |
|                      | 5/4/13 8 pm         | 4/7/13 3 pm    |
|                      |                     | 5/5/13 3 pm    |

**Three One Day All Alcohol Licenses and Three Entertainment Licenses:** Application of Chronis Kalivas on behalf of St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, for three One Day All Alcohol and three One Day Entertainment Licenses for its 30<sup>th</sup> Anniversary Grecian Festival to be held at the church on July 20 (4 pm to 8 pm), 21 (11 am to midnight) and 22 (11 am to 6 pm),

2012. It will include pastries, food products, coffees, alcohol, and souvenirs and there will be folk dancing and live music as well as a raffle.

Mr. Zombas appeared stating it is their 31<sup>st</sup> year. It is the same as always.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Chronis Kalivas on behalf of St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, for three One Day All Alcohol and three One Day Entertainment Licenses for its 30<sup>th</sup> Anniversary Grecian Festival to be held at the church on July 20 (4 pm to 8 pm), 21 (11 am to midnight) and 22 (11 am to 6 pm), 2012. It will include pastries, food products, coffees, alcohol, and souvenirs and there will be folk dancing and live music as well as a raffle.

**One Day Wine & Malt and One Day Entertainment License:** Application of Kimberlee McHugh on behalf of the Steamship Authority, for a One Day Wine and Malt and a One Day Entertainment License for a Business After Hours event to be held all outdoors at the high-speed ferry dock under passenger shelter off Pleasant Street, Hyannis, on June 20, 2012 from 5:30 pm to 7:30 pm, with live musical entertainment.

Ms. McHugh appeared for this application. She is Director of Marketing for the Steamship Authority – they will host a Chamber of Commerce event. It was done 2 years ago and was a success.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Kimberlee McHugh on behalf of the Steamship Authority, for a One Day Wine and Malt and a One Day Entertainment License for a Business After Hours event to be held all outdoors at the high-speed ferry dock under passenger shelter off Pleasant Street, Hyannis, on June 20, 2012 from 5:30 pm to 7:30 pm, with live musical entertainment.

**New Junk Dealer License:** (Existing license – change from sole proprietor to corporation) Application of Tim Ferreira, d/b/a Ferreira's, 85 Old Yarmouth Road, Hyannis, for a new Annual Junk Dealer License, in the name of his newly formed corporation, Ferreira's Recycling, Inc., d/b/a Ferreira's, with no other changes to his current license. This hearing has been postponed from April 30, 2012.

Attorney James Connors appeared with Timothy Ferreira for the new license. He was granted his renewal at the last meeting and would now like to change the license to his corporation. There are no objections to the application from Town Attorney as the other matter was resolved in Court.

Mr. Scali stated Legal would like to add the following: Per the judgment in the Court case, "At no time can any materials containing any hazardous fluids be brought onto the site for recycling, repair or dismantling."

Attorney Connors stated they are familiar with and accept that.

Deb Krau, Chair of the Hyannis Water Board, appeared to state that this time the criteria of the license must be enforced. In 2009 she read that the “bins are to be stored inside” and read the portion of “at no time can any hazardous fluid containing materials be brought onto the site for recycling, repair or dismantling;” this wording was on the license issued in January 2010 and she assumes it is on the recent license. She then said that on 12/10 at a meeting of this Board, the license was suspended because of outside storage and all kinds of vehicles. That suspension was put in abeyance for a year. Just one month past the year there was an explosion as a result of fluids in a car being dismantled. This property is very near the water system – which provides 25% of the water for the Town. She is here requesting that the Board pay particular attention to enforcing the restrictions that we put into the license. Mr. Hoxie asked about routine inspections he believes will take place. Ms. Krau is concerned about who will conduct the inspections and when these inspections will take place. Mr. Hoxie said we will keep close watch on it. Ms. Krau asked that the Water Board be notified of those inspections.

Attorney Connors stated that the Agreement for Judgment contains all of these things and was crafted to protect the Town from these problems and that there will be routine inspections.

Attorney David Houghton concurred with the statement of Attorney Connors – stating it is enforceable by contempt proceedings in Superior Court. Mr. Hoxie asked if the police would be part of these inspections. Lt. Murphy said yes, and they will notify the Water Board.

Mr. Geiler asked under the corporate structure with the corporation as a tenant at will, will we be notified if the lease ends? Attorney Connors stated that the lease is a year lease starting January 1, 2012. Mr. Geiler stated he wants us to have notice if the lease is terminated or changed in any way.

Mr. Burman stated he does not think it should be the job of the Town to have to routinely inspect this business...we should be comfortable that they WILL comply with all our restrictions like every other licensee. He stated he is very uncomfortable. He would be willing to revoke this license. Mr. Hoxie stated we have no grounds for that.

Attorney Houghton stated it is our option to inspect, not a requirement. Mr. Burman stated that the business has a history of non-compliance, and that is what concerns him. Attorney Houghton stated this is a progression of discipline; now we have a process enforceable in Superior Court. If future violations occur it would be contempt, and the licensee could actually be sentenced. Mr. Burman is still concerned as Court proceedings can be so slow. Attorney Houghton stated we could proceed in Licensing too.

Mr. Hoxie asked when the Executive Session minutes can be released with regard to this matter. Attorney Houghton stated that those Minutes can now be released – which include our strategy in this case.

A motion was duly made by Mr. Boy, seconded by Mr. Hoxie and a unanimous vote taken to change from sole proprietor to corporation) Application of Tim Ferreira, d/b/a Ferreira's, 85 Old Yarmouth Road, Hyannis, for a new Annual Junk Dealer License, in the name of his newly formed corporation, Ferreira's Recycling, Inc., d/b/a Ferreira's with the additional wording "At no time can any materials containing any hazardous fluids be brought onto the site for recycling, repair or dismantling" be added to the license. Mr. Hoxie seconded. The motion carried by majority vote; Mr. Burman voted nay.

**New Common Victualler License:** Application of James Turi and Brian Dixon, Mall Subway, LLC, d/b/a Subway #51116, 793 Iyannough Road, Hyannis, Jodi Livermore, Manager, for a new annual Common Victualler License, hours of operation to be 7 am to 10 pm seven days per week.

James Turi appeared for this license. This is a new franchisee. They are taking over this as well as the other one, which is next on the agenda.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of James Turi and Brian Dixon, Mall Subway, LLC, d/b/a Subway #51116, 793 Iyannough Road, Hyannis, Jodi Livermore, Manager, for a new annual Common Victualler License, hours of operation to be 7 am to 10 pm seven days per week.

**New Common Victualler License:** Application of James Turi and Brian Dixon, West Barnstable Subway, LLC, d/b/a Subway #23787, 2145 Iyannough Road, West Barnstable, Jodi Livermore, Manager, for a new annual Common Victualler License, hours of operation to be 7 am to 10 pm seven days per week.

Mr. Turi appeared for this application as well.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of James Turi and Brian Dixon, West Barnstable Subway, LLC, d/b/a Subway #23787, 2145 Iyannough Road, West Barnstable, Jodi Livermore, Manager, for a new annual Common Victualler License, hours of operation to be 7 am to 10 pm seven days per week.

#### **Renewals:**

**The following renewals have been submitted without any changes from the previous year for Licensing Authority approval.**

A motion was duly made by Mr. Burman and seconded by Mr. Boy and a unanimous vote taken to approve the Common Victualler renewals as submitted below:

**Common Victualler**

CBA Snack Bar, Craigville Beach Road, Centerville

**Business Meeting:**

Release of Executive Session Minutes, if any (1). The minutes of the 2/13/12 Executive Session will be provided for vote at the next meeting on June 25, 2012.

Mr. Geiler stated the handouts provided to the Board are changes to the Open Meeting Law being voted on in future.

Lt. Murphy apologized for his tardiness – he was at Court on the case of Fresh Ketch – on an incident which took place on Memorial Day. He stated they have brought it forward for Show Cause Hearing with the Board.

The meeting was adjourned at 10:14 am.

Respectfully submitted,

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Christine P. Ade, Recorder  
Town of Barnstable Licensing Authority

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Gene Burman, Vice Chairman  
Town of Barnstable Licensing Authority