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TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENT AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009 which amends MGL Chapter 30 A

Licensing Authority Minutes

DATE OF MEETING: March 9, 2015

Check below which one applies

The Clerk's office has this meeting date already posted X

This is a special meeting which has not been posted _____

TIME: 9:30 a.m.

PLACE: 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA

A regular meeting of the Barnstable Licensing Authority was held on Monday, January 12, 2015. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Ron Semprini, Clerk; Richard Boy, Associate Commissioner, David Nunheimer, Associate Commissioner Richard V. Scali, Director of Regulatory Services, Elizabeth G. Hartsgrove, Consumer Affairs Supervisor, Lt. John Murphy and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Maggie Flynn, Recording Secretary.

Vote to accept Minutes:

1. Vote to accept minutes of the 02/09/15 Meeting

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 02/09/2015 meeting.

Public Hearings:

1. Transfer of Annual All Alcohol Retail Package Goods Store License:

Application has been filed by Swiss Vineyards, Inc. d/b/a Fancy's Market 699 Main Street, Osterville, Brian F Smith, Manager, for transfer of an Annual All Alcohol Retail Package Goods Store License to Osterville Market Partners, Inc., d/b/a/ Fancy's Market, 699 Main Street, Osterville, Frank J. Falcone, Manager. Wood frame building with no basement: First floor consists of five rooms (A) front room with associated halls of approx 1580 sq ft. (B) wine room of approx 216 sq ft. (C) Kitchen of approx 352 sq ft., (D) butchers room of approx 60 sq ft. (E) Dry goods room of approx 224 sq ft for a total of approx 2432 sq ft. Two front entrances/exits and one rear entrance/exit. Second floor consists of one room (break room) of approx 241 sq ft and one entrance/exit. Third floor consists of office space totaling approx 386 sq ft. Hours of alcohol sales 8 am – 11 pm M-Sat; 10 am – 11 pm Sun. ****Continued from 2/09/2015 Meeting****

Attorney Michael Schulz and Frank Falcone appeared on behalf of the application; seeking a transfer of the retail package store. Business itself will remain the same, same hours of operation. Jeffrey Lindsay is also here at the hearing. Mr. Falcone is very experienced.

Mr. Hoxie stated that this needed to be re-advertised. According to Mr. Scali, yes, a number of items needed to be corrected. Mr. Burman, received the agenda and application for transfer on Wednesday. Since that time the lease has been changed, the only change has been relative to the officers. Mr. Burman asked if we can actively vote on this. Attorney Schulz stated that this is a typo. The operation is identical to the existing operation. Mr. Scali stated that we do allow time to amend documents.

Mr. Scali stated that he received a number of phone calls regarding the intentions of the new owners. Will there be a transfer to another site, long or short term prospect. The market will remain as a village market. For the coming years it is going to stay exactly where it is. Will Fancy's move to A&P Marketplace? It is a possibility in the coming years.

Mr. Burman asked for a motion to postpone to have complete paperwork. Mr. Semprini does not see a need to continue.

Attorney Schulz the error was made on the legal ad by the Town; all of the application information has been submitted. Respectively reconsider the motion.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to postpone approval of this application until a complete package is approved; place on 3/23/2015 agenda.

- 2. Change of Corporate Name for a Class I Auto Dealer License:** Application of Marine Corporation d/b/a Hyannis Marina, Inc, 1 Willow Street, Hyannis, MA, Wayne Kurker, Manager, for a Change of Corporate Name to Hyannis Marina, Inc.

Glen Aiello appeared on behalf of the application. This Corporate name has been corrected for a number of years.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

- 3. New Officer/Directors for an All Annual Common Victual License:** Application of H&S Entertainment LLC., d/b/a Bistrot de Soleil, 350 Stevens Street, Hyannis, MA, Katarina Soldatov, Manager, for a change in corporate Officers/Directors.
**** Postponed until 3/23/2015****

- 4. New Class II Auto Dealer License:** Application of Jeremy Brito d/b/a Brito's Auto Sales, 657 Yarmouth Road, Hyannis, for a new Class II license for a maximum of 8 vehicles for sale and 8 customer vehicles to be parked outside per approval of the Building Commissioner.

Jeremy Brito appeared on behalf of the application. Jeremy stated that he has been working at the shop all of his life. Brito's Auto Body is presently at the location. My father gave up his Class II dealer license in 2008.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

- 5. New Officers/Directors and Change of Manager for an Annual Wine and Malt Retail Package Goods Store:** Application of Hess Mart of Massachusetts LLC., d/b/a Hess #21243, 50 Ocean Street, Hyannis, MA, for a change in corporate Officers/Directors and a change of Manager from Heather Curtain to Mark G. Barbi.
Continued from 2/09/2015 Hearing

Attorney Andrew Upton, Mark Barbi and Kyle Rose appeared on behalf of the application. Like to apply to no longer have alcohol service on Sunday due to lack of customers and personnel issues at the store. Mr. Scali stated that you would have to re-apply if you want Sunday service back at a later date. We understand that. We would lock up the coolers on Sunday's so no alcohol will be sold. . You need a corporate vote to take it off the license.

The new manager, Mark Barbi, has experience from another Hess location. Mr. Scali stated that Hess has been bought out by Speedway, will the names be changing? Attorney Upton stated that they are likely to change but not right now.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented with the restriction to no longer serve on Sundays.

New Business:

1. **Consent Agenda:** Vote to accept the Consent Agenda of the 03/09/2015 Meeting.
2.
A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the Consent Agenda as presented.
3. **Ferreira's Recycling Inc., 85 Old Yarmouth Rd, Hyannis : Junk Dealer's License:** Renewal of existing Junk dealer's license and update to pending Court case.

Attorney Houghton stated a joint recommendation to extend one more time to 4/27/2015. We have a firm hope that a recommendation can present a comprehensive license to continue thereafter. Hope to resolve once and for all. We have a report due to the court by 4/24/2015.

Lt. Murphy stated he does not want to stand in objection, but Mr. Ferreira's inability to follow the regulations that he presently holds, must pay mind to this fact. Not anti Ferreira's but sympathetic to the board for their good will.

The Barnstable Police Department is asking for another show cause hearing. This licensee does not understand his license is being scrutinized. Making comments on social media, he continues to go about his business as he pleases. Disagree with continuing license.

Attorney Connors stated that he has advised his client to refrain from social media. Tim Ferreira commented I am taken away, I am shaking about this. I know what I want to say. I use social media for marketing. A young lady posted something on social media and I shared. You are beginning to take my civil rights away from me. I live here, work here and I am working very hard.

Lt. Murphy stated that from his own perspective, you do work hard, the issue we have the second hand junk dealers license was passed it is arduous. It is utilized for the community and also a tool for the police department. You still cannot comply with the basic ordinances of the license for example: hold purchased inventory for 21 days.

Officer Maher asked do you have control of that Facebook page. You posted the comments: first woman to operate a licensed recycling center. Do you hold a license for recycling in the Town of Barnstable?

Mr. Scali stated that we are trying to work through these issues; we hoped Mr. Ferreira would use good common sense. It seems Mr. Ferreira is moving forward with a recycling center. In order to move forward, we all need to be on the same page.

Mr. Burman, asked do we have a business plan? We just received an engineering report today. We have asked for a business plan a year ago. Attorney Connors confirmed that on 12/30 the breakdown of his business was provided. We cannot submit a business plan until we received a reply. To date we have not received.

Mr. Scali stated that we have been working behind the scenes; he may not be able to do what he wants to do based upon many factors. We need to see some finality to this situation.

If the Authority did not renew, Mr. Ferreira would have to cease operations, expect a case in court. The issue is the bins going inside overnight. Would he be able to continue his business? What is a scrap metal recycling business specifically? This is primarily the business that has taken place there, less and less of junk dealer's license. Does a scrap metal facility need a license; yes.

Attorney Houghton said he has spoken to some communities that deal with this. This can be presented at the end of April and appropriately condition. To recap, if the license is not renewed we will be in Superior Court defending the appeal. We want to be at a place on 4/27/15 with no gray areas.

The Barnstable Police Department is requesting another show cause hearing for the 4/27 hearing. Mr. Scali stated that he must refrain from the Facebook postings. Mr. Semprini asked if there is enough room to build the building, there is enough space to add the building for 6500 sq ft. The building has been proposed but has to go through all of the permitting process.

4. The Compound Bar & Grille, 644 Main Street, Hyannis: to discuss pending ABCC appeal.

Joint recommendation from Attorney Lawler and Attorney Houghton to reduce the original sanctions. The Authority voted in July to suspend for 5 consecutive days. The request is to modify to 3 consecutive days to serve Sunday 4/26-4/28 and the balance of 2 days to be held in abeyance to the end of 2015. After the close of business on Saturday to begin the suspension; specifically 1:00am. .

Mr. Burman, stated he was so confused, to negotiate after the fact. There is always discussion for a compromise. According to attorney Lawler this penalty was substantially higher than previously given to other licensees. Mr. Semprini stated that the Compound has only been open a short period of time. The ABCC could come up with different sanctions. Attorney Lawler advised the Board that new applications will be filed for change of name and manager.

Officer Maher stated that the police dept is in agreement.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to reduce the penalty to serve 3 consecutive days and the remaining 2 days to be held in abeyance to the end of 2015. The appeal to the ABCC must be removed.

Licensing Division Updates:

1. Licensing Department updates: Ms. Hartsgrove updated the Authority to the following: 1. The Health Department held a show cause hearing for the International Inn. 2. The tablets are in and will be available for the next meeting. 3. A meeting was held with the BID for Cape Cod pedi-cabs. In 2012, Ms. Hartgrove wrote the regulations for the town of Provincetown for pedi-cabs. The Town Manger wants to have these licenses under the Licensing Authority. Taxi cabs may also be moved to the Licensing Authority.

2. Police Department updates- None at this time

Release of Executive Session Minutes, if any (0). ***Executive Session for 3/09/2015 was not required***

And any other new business to come before the Licensing Authority.

PERSONS INTERESTED ARE ADVISED THAT, IN THE EVENT ANY MATTER TAKEN UP AT THE MEETING REMAINS UNFINISHED AT THE CLOSE OF THE MEETING, IT MAY BE PUT OFF TO A CONTINUED SESSION OF THIS MEETING, WITH PROPER POSTING.

For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

The meeting was adjourned at 10:35

Respectfully submitted,

Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority

Ron Semprini, Clerk
Town of Barnstable Licensing Authority

Town of Barnstable

Consumer Affairs

Elizabeth G. Hartsgrove, Supervisor

Licensing Authority

200 Main Street

Hyannis, MA 02601

www.town.barnstable.ma.us

Telephone: (508) 862-4674

Fax: (508) 778-2412

BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

March 9, 2015

- 1. Approval of 2015 Goals**
- 2. Renewals:**

Special One Day Licenses:

- 1. Citizens Bank Pops by the Sea Concert:** 30th Annual cultural event on Cape Cod. Event is requesting a 1 day Entertainment license for August 9, 2014. Event to be held at the Village Green, Main Street, Hyannis. Set up for the event will begin on 8/5/2014 and clean-up will be completed on 8/10/15.
- 2. Annual Rotary Home and Garden Show:** Annual Hyannis Rotary event to benefit the various charities and scholarships. Event is requesting two One Day Entertainment Licenses to be held on 3/21/2015 – 3/22/2015 from 9:00 am to 5:00 pm both days. Event will take place at Barnstable High School, West Main Street, Hyannis.