

(clock in stamp)

(TIMESTAMP ALL 3 COPIES IN TOWN CLERK'S OFFICE –
LEAVE ONE TO FILE FOR OUR RECORDS -ONE TO POST IN
TOWN HALL - KEEP ONE COPY FOR YOUR RECORDS).

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: July 13, 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

Vote to accept Minutes

1. Vote to accept minutes of the 06/22/15 Meeting

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 06/22/2015 meeting.

Board Reorganization: Discussion and Vote.

Re-elect the officers every June.

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

Public Hearings

1. **Amendment to Annual Common Victualler License:** Application of James Turi & Brian Dixon, d/b/a Subway 51116, 793 Iyannough Rd, Hyannis, Clara Kling, Manager, for an amendment to an existing Annual Common Victualler License to a different food court location. All seating remains the same; food court. Hours of operation are 8:00 AM to 9:00 PM; daily.

Lori Turi appeared on behalf of the application. We have been asked by the Mall to move to a new location; still in the food court.

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

2. **Amendment to Existing Class I Auto Dealer License:** Application of 500 Colony Place, Inc., d/b/a Premier Mazda, Joseph Laham, Manager, for an amendment to the existing Class I Auto Dealer License. The existing Class I license is located at 141,145, 151, 161 Stevens Street and 91 Bassett Lane, Hyannis; currently licensed for 180 parking spaces with 44 customer/employee spaces and 136 display spaces. The amendment will add 157 Stevens Street for 24 additional spaces. The new total will be 204 spaces; 44 customer/employee spaces and 160 display spaces as approved by the Building Commissioner.

****Continued from December 29, 2014 Show Cause Hearing****

Attorney Jeff Ford appeared on behalf of this application. We have previously attended a show cause hearing regarding this location. Since then we have obtained the necessary zoning permits and approvals. Mr. Scali asked if this is the last of the sites to be added; no more additional cars in the future? At this point no other sites looking to be added.

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

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to place the show cause hearing in the file.

3. **Transfer of Corporate Stock and Change in Officer and Directors for an Annual All Alcohol License:** Application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyannough Road, Hyannis, Blair Wells, Manager, for a Transfer of Stock, and a change in Officers & Directors.

This is an expedited ABCC application.

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

4. **New Annual All Alcohol Club License and New Live and Non-Live Entertainment Licenses:** Application has been filed by Hyannis Angler's Club, Inc., Anthony J. Folino, Jr, mgr, d/b/a Hyannis Anglers Club located at 235B Ocean Street, Hyannis, for new Annual All Alcohol Club, Live and Non-Live Entertainment Licenses. Description of Premise: Second Floor dining room seating 54, bar seating 13 and outdoor dining seating 42; two bathrooms and two means of egress on second floor; all approved by the Building

Commissioner. Hours of alcohol sales: 8am – 12:45am M-Sat; 10am – 12:45am Sun. Live Entertainment to include: Dancing by Patrons and amplified music by up to 3 performers. Non-Live Entertainment to include: 2 televisions and radio. Hours of both Live and Non-Live Entertainment: 8am – 11:30pm

Attorney Steven Pizzuti and Anthony Folino appeared on behalf of this application. Mr. Folino has been involved with the club for 15 years. The Anglers Club has been operating the entire building, it has become a burden. They cannot keep purveyors, the goal has to be to separate. They cannot become a non-profit as originally proposed. The approval for the Anglers club is contingent upon the transfer of the current license to the Thirsty Tuna. The members of the club are supporting this effort. Board of Health has approved the separation of the two floors. The focus can be on raising money and sustaining the membership; beneficial for both floors. Mr. Hoxie is concerned with the amplified music. We have precedent here; same entertainment and no complaints. It is inside and consistent with other locations. This would also apply to the Thirsty Tuna. The next application will possibly increase the number of performers to seven at one time. Upstairs entertainment is only 1 person from 6-9 pm and then closed by 10 or 11 on weekends. We can reduce the upstairs entertainment to 2 people. This is a club not open to the public. Expect that there will not be a problem. We will encourage the hotel to give us a call. Officer Maher stated that you have a working relationship with Mr. Cohen; yes. This should continue. Mr. Folino spends quite a bit of time in the building. My cell number is located on the wall and I would be there quickly. The Anglers only have Entertainment once per month.

My name is Doug Chen, my brother and I own the Hyannis Harbor Hotel. We have an excellent relationship with Mr. Folino. One concern is the live entertainment, what is it going to be; not clear to me at this time. We have an addition that will be close to the Anglers club. In Newport RI we have a decibel limit. A limit of 10:30 to 11:00 PM will be beneficial. Mr. Cohen is more concerned with the first floor than the second floor entertainment. The certificate of organization is GSMD. Gary Scott has had some issues, please confirm that Mr. Scott is not involved.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented with a reduction of performers from 3 to 2 and no outside speakers and alcohol service will end at 9:30 PM.

An amended motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote to approve the service of alcohol to 11:30 PM from 9:30 PM.

5. Transfer of Annual All Alcohol Restaurant, Karaoke, New Live and Non-Live Entertainment Licenses and Alteration of Premises Description:

Application has been filed to transfer the Annual All Alcohol Restaurant, Live and Non-Live Entertainment Licenses from Ocean Harbor, LLC, Anthony J. Folino, Jr., mgr, d/b/a Oceans 235/Hyannis Anglers Club, 235 Ocean Street, Hyannis to GSMD, LLC., Marc J Donohue, mgr, d/b/a The Thirsty Tuna, 235 Ocean Street, Hyannis, and to Alter the Premise Description. Description of Premise: Wood structure located at 235A Ocean Street; first floor dining room with 30 seats; bar with 29 seats and outdoor patio with 40 seats. 2 Handicap accessible bathrooms and 2 exits on first floor with kitchen and service area. Seating 99, 9 standees, 14 employees for total occupancy of 122 on first floor, as approved by the Building Commissioner. Hours of alcohol sales: 11am – 12:45am M-Sun. Alteration of Premise eliminates the 2nd Floor of 235 Ocean Street from the licensed description; now known as 235B Ocean Street.

Live Entertainment to include: Dancing by Patrons, Karaoke and amplified music by up to 4 performers. Non-Live Entertainment to include: 6 televisions and jukebox. Hours of both Live and Non-Live Entertainment: 11am – 12:45 am.

Attorney David Lawler and Mark Donahue appeared on behalf of the application. This is a follow-up to the last application. Mr. Scott has nothing to do with this application. He has been removed from any and all public records. The downstairs will be a restaurant. The band has been increased from 3-4. For the past 3 plus months Mr. Donahue has been apprenticing with Mr. Folino. This training will continue until September. This business has been operated since 2004. We will coordinate this process and work with upstairs so there is not live entertainment at the same time. Historically, there has not been a problem at this location. Mr. Donahue is coming here in good faith. It is a congested area for 10-12 weeks. We will have jazz bands and local rock bands; pretty mellow.

Mr. Hoxie asked about the menu, basically American cuisine. Is this going to be a restaurant or a nightclub? What is the parking for this location, 40-50 spaces, parking in the back and on the side. The spaces are dedicated for both floors. The employees will park in the back. The location has very large foot traffic from the ferries and surrounding area. The spaces will still be available when the Hotel starts construction. Why EMT to restaurant owner, paramedic for 18 years ready to try something as a new business. Mr. Semprini stated that this is a tough business. Who will be running business when you are not there? There are experienced staff members. Lt. Murphy has concerns, sounds like a hybrid restaurant and nightclub. Mr. Donohue is aware that he must follow the rules and regulations of the Town. Mr. Semprini asked if there will be any adverse effects from starting with 2 performers instead of 4. Amend application to 3performers according to Attorney Lawler.

Mr. Cohen spoke again. Our hotel is directly next door to the building. He mentioned rock bands. He is a brand new operator. We are happy with a dining establishment but not a nightclub. It should be restricted. Plan on being an

annual license and you can only close for 5 weeks. Mr. Burman stated that Mr. Cohen knows sound and we should listen to him. Mr. Donohue is willing to bring the number of entertainers to 3 and down to 11:45. This restaurant has existed since 2004 without any complaints. The applicant should have the right to continue as expected. Penalize on anticipation of a problem is not correct. Lt. Murphy I do dispute attorney Lawler's statement that the license has been there since 2003 without complaints; The Thirsty Tuna has not been there.

Considering the lack of experience, starting off slowly is good according to Mr. Semprini. Attorney Pizzutti stated that they ended up selling the hotel a piece of land for expansion. Mr. Folino stated that we had 3 entertainers on Friday and Saturday evenings. Mr. Cohen stated we bought the property to give more parking.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented with a reduction of performers from 4 to 3, alcohol service will end at 12:45 AM, non-live entertainment until 12:45 AM and only one source of live entertainment to be allowed in the entire building at a time; live entertainment ending at 11:00 PM.

New Business:

1. **Amendment of Common Victualler License:** Application of BLMT Ventures LLC, d/b/a Five Guys Burgers and Fries, Cape Cod Mall, 769 Iyannough Rd., Hyannis, Mathew Baecker, Manager, for an amendment to add 10 additional seats to the Annual Common Victualler License. Interior seats total will now be 62 with 30 employees and 8 shift employees all approved by the Building Commissioner. No exterior seats. Hours of operation will be 11:00 am to 10:00 pm daily.

Elizabeth Hartsgrove stated that she was representing this application. This is to get the seats in line with the number approved by health and building after the common victualler license was issued.

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

2. **New One Day Entertainment License:** Application of Grace Spencer on behalf of the Waldorf School of Cape Cod for a Summerfest. The event is to be held at the Waldorf School of Cape Cod, 140 Old Oyster Road, Cotuit on August 2, 2015 from 11:00 AM to 6:00 PM. Entertainment will include up to 4 revolving performers, comedy show, magician and storyteller. Set-up will be at 9:00 AM.

Grace Spencer appeared on behalf of the application. One day Entertainment license, admission is \$10.00. Approved to go to 7:00 PM from 6:00 PM as originally requested.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented with an extension to 7:00 PM..

3. **New One Day all Alcohol and Entertainment Licenses:** Application of Stacie Hevener on behalf of the Marstons Mills Public Library for a Charity Casino Night fundraiser. The event is to be held at Liberty Hall, 2160 Main St., Marstons Mills on 8/28/15 from 7:30-10:30. Setup on 8/28/15 at 5:00PM. Boston Charity Casinos will be coordinating the event.

Stacey Hevener appeared on behalf on behalf of the application. This is really gambling with fake money. This is fund raiser for the library. There are prizes. The Chief of Police did approve the event.

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

4. **Ferreira's Recycling Inc., 85 Old Yarmouth Rd., Hyannis:** Update on pending Superior Court case.

Attorneys Houghton and Connors appeared. The original sanction was 30 days, 15 to serve and 15 days suspended. Attorney Houghton's recommendation is to suspend the remaining 15 days. This will be in effect unless an infraction takes place and then the 30 day suspension takes effect, no appeal. The wells application has been applied for at the building department. Recycling discussions are on-going with the state which was a six month milestone.

The Court was waiting to hear from the Licensing Authority. The case would be dismissed. Hold the thirty days until the end of the license May, 2016. If infraction occurs the 30 days will be imposed and will not be able to be appealed.

A motion was duly made by Mr. Semprini, seconded by Mr. Hoxie and a 2-1 vote taken to hold the thirty days until the end of the license May18, 2016. If an infraction occurs the 30 days will be imposed and will not be able to be appealed.

5. **Consent Agenda**

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

Show Cause Hearings:

1. **Show Cause hearing for The Villaggio Restaurant:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Danny Kay's Culinary Production, Inc., d.b.a. Villaggio at the Regatta, 4631 Falmouth Road, Cotuit, MA, John J. Bartolomei, Jr., Mgr., for: Zoning violations of the Code of the Town of Barnstable, Massachusetts: Chapter 240 – 14A(1) RF Residential District, Commercial Parking (restaurant) in RF Zone and Chapter 240-94B(2) Nonconforming Use, Expansion of n/c restaurant use – parking vehicles on abutting residential parcel. Licensing violation of the Code of the Town of Barnstable, MA: Section 501-14A (1), violation by the licensee of any provision relevant MGL or Town of Barnstable Ordinance.

Robin Anderson presented the zoning violations as evidence. This issue is in tandem with departmental code compliance. During property transfer we discussed the parking issues at the location. The letter in February was written to reinstall the barrier to the residential lot. No compliance, the violations were issued.

Attorney Pizzuti asked Ms. Anderson if she knows where the property line is. The Building Commissioner noted the initial violation and asked her to investigate. The first violator was broken down and they were not a patron. There has been a pattern at this lot. The Authority is reviewing photographs. Attorney Pizzuti asked yet again where the property line is located. Commercial parking in a residential zone and expansion of a non-conforming use are the violations.

Mr. Scali recalls that there was an initial discussion about that lot at the time of the restaurants initial application. Mr. Bartolomei could not use the lot all winter due to weather. This enforcement is indicative of the disconnection between the business owner and the zoning enforcement officer. This occurred on Memorial Day.

Mr. Bartolomei installed the fence himself. The last five to seven years has been zoning enforcement on steroids. The business owners are being trampled upon. There is valet parking and the fence has been erected. Are there any plans to go to the ZBA in reference to the lot? Mr. Bartollomei stated it was his first busy night, I was unaware until I received the violations in the mail.

Mr. Semprini asked who is really the individual to receive the violations; the owner or renter.

Mr. Scali stated to find out where the lot line begins and ends.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to move that the Licensing Authority determine violations of the Town of Barnstable Regulations were not found.

A second motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to move that the Licensing Authority find Villaggio at the Regatta is not guilty in violation Town of Barnstable Regulations.

- 2. Show Cause Hearing for Embargo Restaurant:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Davester, LLC., d.b.a. Embargo Restaurant, 435 Main Street, Hyannis, MA, David Noble, Mgr., for violations of the Code of the Town of Barnstable, Massachusetts: Section § 501-6. Business arrangements of licenses.

****Continued from 5-18-2015 Licensing Authority Hearing****

Attorney Bianchi, Dave and Marissa Noble appeared on behalf of this hearing. Mr. Scali reviewed the reasons for appearance. The lien has been repaid. Mr. Hoxie asked for a summation. The Pratt's were to buy the restaurant and become involved. A large promissory note was made to pay off taxes. A lien was placed on the assets. This did not come forward to the Board to show the Pratt's as beneficial owners. This is a violation of the license. Also, the issue of the Pratt's running the restaurant without Mr. Noble being present.

Officer Maher wanted to know the Board's opinion. There is an admitted violation through the March 12 paperwork. The vacation was planned in advance and all paperwork was prepared by lawyers. John Bush was also in the restaurant.

Police department position is that this does not affect public safety. Mr. Scali disagrees, this was intentional. Represent serious action, suspension and or revocation. The Police Department is not saying that this is not a serious violation; this is not an overt act. Mr. Scali stated that the issue was DOR and DUA and the transfer of the license would not be possible; the Pratt's had security in the license which is illegal.

Ann Coldwell, Cape Cod Child Development spoke on behalf of the Nobles. Both of their children have used our services. The Nobles serve the community well.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Burman and a unanimous vote taken to move that the Licensing Authority determine violations of the Town of Barnstable Regulations 501-6A, 501-6C and 501-61 were found.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Burman and a unanimous vote taken to move that the Licensing Authority determine violations of the Town of Barnstable Regulations 501-6A, 501-6C and 501-61 were found.

A third motion was duly made by Mr. Nunheimer, seconded by Mr. Burman and a unanimous vote taken to move that the Licensing Authority suspend the Annual All Alcohol and Entertainment licenses for one week(7days) to be held in abeyance for one year.

LICENSING DIVISION UPDATES:

1. **Licensing Department updates** – *Ms. Hartsgrove had none. Mr. Scali stated The Car Guys have requested a temporary trailer be installed for 3 months during renovations.*

A motion was duly made by Mr. Nunheimer, seconded by Mr. Semprini and a unanimous vote taken to accept the temporary trailer for 3 months at the Car Guys new locations as requested.

2. **Police Department updates** - Consumer affairs officer job has been posted.

Release of Executive Session Minutes, if any (0). 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 building in which the clerk's office is located the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal

The meeting was adjourned at 11:55

Respectfully submitted,

Margaret D. Flynn, Recorder

Ron Semprini, Clerk

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

July 13, 2015

Renewals

- 1. Application of Nicholas Oberlies on behalf of Hyannis Sound for a One Day Entertainment License:** Annual Hyannis Sound Alumni show to be held at the Barnstable High School Performing Arts Center, West Main Street, Hyannis. Event will be held from 7:00 to 9:00 PM on August 1, 2015; set-up from 5:00-7:00 PM.
- 2. Application of Suzanne Kelly on behalf of the Sturgis Library for (2) One One Day Entertainment Licenses:** Annual Antiques Show to be held at the BWB Elementary School, 2463 Main St., West Barnstable. Event to be held August 21st and 22nd from 10:00 AM to 5:00 PM and 10:00 to 4:00 PM respectively; set-up day is August 20th, 2015 from 4:00 PM to 6:00 PM .
- 3. Application of Stephen Hemberger on behalf of the Cotuit Historical Society for a One Day Wine and Entertainment License:** Annual Taste of Cotuit Fundraiser to be held at the Cotuit Historical Society, 1148 Main Street, Cotuit. Event to be held on July 25, 2015 from 6:00 PM to 8:00 PM with set-up on the 24th of July from 9:00 AM - 5:00 PM. Entertainment will consist of one acoustic guitar.
- 4. Application of Amanda Converse on behalf of Love Live Local for (3) One Day Entertainment Licenses:** Annual Love Local Fest to be held at Aselton Park in Hyannis. Events to be held on 7/27, 8/30 and 9/27/2015 from 11:00 am to Dusk. Entertainment will have 2 soloists and 2 band members. There will be 10 performers of yoga for each event.