



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.

April 23, 2007

A regular meeting of the Barnstable Licensing Authority was held on Monday, April 23, 2007. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Thomas Geiler, Director of Regulatory Services and Licensing Agent, Lt. JoEllen Jason and Patrolman Steven Maher, Liaison from the Barnstable Police Department, and Christine Ade, Recording Secretary.

Requests:

Two One Day Beer & Wine and Two Entertainment Licenses: Application of Lucy Loomis on behalf of **The Sturgis Library**, 3090 Main Street, Barnstable for **two One Day Beer & Wine Licenses and two One Day Entertainment Licenses** for events at the library on July 8, 2007 from 5 pm to 8 pm (140th anniversary celebration outdoors with a trio) and on November 4, 2007 from 3 pm to 6 pm (raffle and cocktail party with a trio).

Marilyn Fuller, Trustee, attended for this application. This is the 140th anniversary. Lt. Jason asked how many people they anticipate on the outdoor day (Ms. Fuller stated 75-100), and if they have enough parking. Ms. Fuller stated they use St. Mary's Church parking lot and it is large enough.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Lucy Loomis on behalf of **The Sturgis Library**, 3090 Main Street, Barnstable for **two One Day Beer & Wine Licenses and two One Day Entertainment Licenses** for events at the library on July 8, 2007 from 5 pm to 8 pm (140th anniversary celebration outdoors with a trio) and cocktail party with a trio).

One Day All Alcohol License: Application of Susan Griffin on behalf of MSPCA Cape Cod, 1577 Falmouth Road, Centerville, MA for a One Day All Alcohol License for an event to be held at Cotuit Center for the Arts, 4044 Main Street, Cotuit on May 5, 2007 from 5 pm to 9 pm to raise funds for the animal veterinarian care.

Susan Griffin appeared for her application as project coordinator for the event. It will take place from 5 pm to 9 pm for approximately for 75-100 people. They have a professional bartender at the event. It is the 6th event but just the 2nd held at Cotuit Center for the Arts.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Susan Griffin on behalf of MSPCA Cape Cod, 1577 Falmouth Road, Centerville, MA for a One Day All Alcohol License for an event to be held at Cotuit Center for the Arts, 4044 Main Street, Cotuit on May 5, 2007 from 5 pm to 9 pm to raise funds for the animal veterinarian care.

Two One Day Beer & Wine and Two Entertainment Licenses: Application of Karen Enos on behalf of **The Holy Ghost Society**, 53 Main Street, Cotuit for two **One Day Beer & Wine Licenses and two One Day Entertainment Licenses** for its annual Portuguese Feast to be held on June 16th (5 pm to 11 pm) and June 17th from noon to 6 pm at their premises. A band with 4-5 entertainers will perform.

Karen Enos appeared for the event. She is the treasurer of the society. This has been going on for 116 years. No questions from the commissioners were posed.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Karen Enos on behalf of **The Holy Ghost Society**, 53 Main Street, Cotuit for two **One Day Beer & Wine Licenses and two One Day Entertainment Licenses** for its annual Portuguese Feast to be held on June 16th (5 pm to 11 pm) and June 17th from noon to 6 pm at their premises with a band of 4-5 entertainers performing.

One Day Entertainment License: Application of Keith Caldwell on behalf of **Our Lady of Victory**, 53 Main Street, Centerville for a **One Day Entertainment License** for a special presentation by the Still Point Theatre Collective of Chicago at Barnstable High School Knight Auditorium on Sunday, April 22, 2007 at 2:00 pm.

No-one appeared for the application. It was held. At the end of the meeting, Mr. Geiler stated these type of situations happen when a new person taking over comes in – he stated we have the application, have the fees, asked the Board not to deny but to place it on file.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to place on file the request of Keith Caldwell on behalf of **Our Lady of Victory**, 53 Main Street, Cotuit for a **One Day Entertainment License** for a special presentation by the Still Point Theatre Collective of Chicago at Barnstable High School Knight Auditorium on Sunday, April 22, 2007 at 2:00 pm.

One Day Wine Only Licenses (4): Application of Charles Allen on behalf of Sepia, 619 Main Street, Unit 2, Centerville, MA for **One Day Wine Only Licenses** for the following dates: May 10th, June 15th, July 20th and August 31st, 2007 from 7 pm to 9

pm **for wine tastings with chocolate.** The alcohol will be provided, served and supervised by a representative from Cotuit Liquors.

Charles Allen appeared – they will do chocolates and wine pairings at the shop.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Charles Allen on behalf of Sepia, 619 Main Street, Unit 2, Centerville, MA for **One Day Wine Only Licenses** for the following dates: May 10th, June 15th, July 20th and August 31st, 2007 from 7 pm to 9 pm **for wine tastings with chocolate.** The alcohol will be provided, served and supervised by a representative from Cotuit Liquors.

One Day Wine & Malt & One Day Entertainment Licenses: Late-filed application of Cathrine Macort on behalf of the **Cape Cod Maritime Museum**, 135 South Street, Hyannis for two One Day Wine & Malt Licenses and two Entertainment Licenses for the following: **Rum Soaked Crooks** event, April 28, 2007 from 7:30 to 9:30 pm with live music and **Cape Cod Maritime Festival** event, Sunday, May 20, 2007 from 11 am to 4 pm with exhibits, demonstrations and live music.

Cathrine Macort apologized for the lateness of her application. She stated the Crooks have played at the museum before – they were enjoyed by all. This is a fundraising enterprise. The second event is on a Sunday. The Island Merchant will serve beer and wine in a food tent ONLY from 10-4. Lt. Jason asked about these events – the maritime festival is the 6th time; the other one has been held 3 times. She then asked about police detail – Cathrine stated she will be in touch to arrange that. Mr. Burman asked if there was a need to register the “crooks” with the police department.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Cathrine Macort on behalf of the **Cape Cod Maritime Museum**, 135 South Street, Hyannis for two One Day Wine & Malt Licenses and two Entertainment Licenses for the following: **Rum Soaked Crooks** event, April 28, 2007 from 7:30 to 9:30 pm with live music and **Cape Cod Maritime Festival** event, Sunday, May 20, 2007 from 11 am to 4 pm with exhibits, demonstrations and live music.

Hearings:

Transfer of Annual Wine & Malt Common Victualler License: Application of Srithai, Inc., d/b/a Thai House, 304 Main Street, Hyannis, Hanson Sung, Manager, for a **Transfer of its Annual Wine & Malt Common Victualler License** to Jomkwan, Inc., d/b/a Thai House Restaurant, 304 Main Street, Hyannis, Salath Khaosanga, Manager.

Attorney Douglas Murphy appeared for the petitioner. Jomkwan, Inc. is a new Mass. Corporation. Salath is the proposed new manager. They brought a translator to the

hearing in case there are questions. One of the applicants is a chef who has been there for a few years. There are no changes in what will be run in the future from the present restaurant. Mr. Hoxie questioned the manager's experience with liquor service. He has no experience. Attorney Murpky stated the new manager recognizes he is responsible and will be available on a regular basis. Mr. Sullivan asked about the forms filed with the Commonwealth – there are two different federal ID numbers appearing. Attorney Murphy stated it will be clarified after the meeting – they were assigned a number when applying on-line and a new number was assigned when they got it in writing (new "37" numbers). Lt. Jason asked if there is someone bilingual there at all times? She stated she finds enforcement difficult if no one speaks English. There will be a waiter and waitress there who do speak English; they are the same staff who have been working there for a few years. Mr. Burman asked how we will handle the language problem – even with waitresses there; the server must understand English and who will solve any problems with patrons? They stated that the manager is communicating with the waitstaff daily and has for years. Gene Burman asked Tom Geiler if there is a requirement – Mr. Geiler stated this establishment has operated for a number of years with no problems; this should be fine. He suggested they attend the police department seminar on Thursday at 10:00 am at the police station. Attorney Murphy will make sure they attend.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Srithai, Inc., d/b/a Thai House, 304 Main Street, Hyannis, Hanson Sung, Manager, for a **Transfer of its Annual Wine & Malt Common Victualler License** to Jomkwan, Inc., d/b/a Thai House Restaurant, 304 Main Street, Hyannis, Salath Khaosanga, Manager.

New Class I Auto Dealer: Application of Coastal Trailer Sales, LLC d/b/a Coastal Trailer Sales, 381 Old Falmouth Road, Unit #27, Marstons Mills, MA, Theodore S. Pomeroy, Manager, for a new Class I Auto Dealer License for custom trailer sales with no display area.

Mr. Pomeroy appeared for his application. They would like to sell custom trailers and will have no display area at the location. His "samples" are at his home. The location is a landscaper at present. Mr. Burman asked Mr. Boy about the area which was restricted in permits and use some time ago; behind the stump dump facing the road.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Coastal Trailer Sales, LLC d/b/a Coastal Trailer Sales, 381 Old Falmouth Road, Unit #27, Marstons Mills, MA, Theodore S. Pomeroy, Manager, for a new Class I Auto Dealer License for custom trailer sales with no display area.

New Junk Dealer's License: Application of WJS Sports, LLC d/b/a Play It Again Sports, 25 Iyannough Road, Hyannis, MA, John Wasierski, Manager, for a **New Junk Dealer's License**.

Jim Junkin, partner, appeared for this application. It is an existing business – it has been there since 1991. Used sporting goods are sold at the location.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of WJS Sports, LLC d/b/a Play It Again Sports, 25 Iyannough Road, Hyannis, MA, John Wasierski, Manager, for a **New Junk Dealer's License**.

New Annual Common Victualer License: Application of Amandine, LLC, d/b/a Amandine Patisserie & Café, 14 West Main Street, Hyannis, MA, Suzana Tesmanovic, Manager, for a **New Common Victualer License**, the hours of operation to be 7 am to 9 pm.

Suzana Tesmanovic appeared for her application. They will sell fine European desserts and pastries. Patisserie means pastry shop – the French pastries are the world famous ones – recipes to be used are French and Austrian. This type of shop is common in large cities – they use all fresh ingredients. She has not found places like this on Cape Cod. It will be old fashioned and nice style – no commercial stabilizers and additives. She will have a few tables – will be relying also on some takeout. She would like folks to meet here for cappuccino and cake or pastry. They will have simple salads and sandwiches at lunch time. It is the former Dairy Queen location. Mr. Hoxie asked when the dark chocolate mousse with raspberry sauce will be ready. She stated it is healthy – many cakes will be flourless – which is low carb. Mr. Sullivan stated he is looking forward to it. The commissioners asked when it will open – she is hoping 2-3 weeks.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Amandine, LLC, d/b/a Amandine Patisserie & Café, 14 West Main Street, Hyannis, MA, Suzana Tesmanovic, Manager, for a **New Common Victualer License**, the hours of operation to be 7 am to 9 pm.

Show Cause Hearing: Show Cause Hearing for Hyannis CARZ, Inc., d/b/a **CARZ**, 367 Yarmouth Road, Hyannis, Denise Williams, President, as it has been reported to the Licensing Authority by the Barnstable Police Department that on March 20, 2007 it did fail to maintain a UCRB in violation of MGL Chapter 140, Section 62 (28 counts) and that it did violate the terms of its Class II Auto Dealer License by exceeding the 16 vehicle limit imposed on the license.

Denise Williams appeared for the hearing with her fiancé, Antoine (“Tony”) Gordon. Mr. Hoxie stated the witnesses are not here (State Police) but the complete report is, and our liaison officers from the Barnstable Police Department are here – he asked

Ms. Williams if she would be willing to go forward without the other witnesses, advising her she would be giving up her right to question those individuals. She stated she is prepared to go forward. Mr. Hoxie told her they could stand or sit at the table – which might be more comfortable.

Mr. Hoxie identified Denise Williams and Antoine Gordon, her fiancé, who represented that he is the new manager of CARZ. He is not the manager of record as yet. Lt. Jason stated the Barnstable Police are liaison to the Licensing Authority, and it was reported to them that on March 9, 2007, there was an investigation initiated by Kevin Tynan. The investigation was about the activities of Salvatore John Possenti, alias Albert Schact. From that investigation there was a search warrant issued, and the used car report book for CARZ was obtained. Trooper Michael Wheaton from the Governor's Strike Task Force went there on 3/20/07 and there were 28 vehicles, none of which were recorded in the book. Steve Maher read the March 20th report into record as follows:

1. On 3-20-07, this officer and SS/A Richard Murphy, NICB, met with Sgt. Knott-Cape & Islands Detectives regarding an ongoing investigation involving Hyannis Carz, Inc., 367 Yarmouth Road, Hyannis, MA. Sgt. Knott and Barnstable PD had arrested the manager of the dealership on identity fraud charges and requested assistance from GATSF in determining if there were Chapter 140 violations or stolen vehicles.
2. The above officers, with assistance from Barnstable PD, conducted an administrative inspection of the business.
3. This officer spoke with the president, Denise Williams and explained the administrative inspection. Hyannis Carz, Inc. is a licensed Class 2 Dealer, with a limit of 16 vehicles to be displayed. They are also issued 3 repair plates by the Registry of Motor Vehicles.
4. This officer and SS/Murphy recorded the VINS if the 31 vehicles on the property. Two of the vehicles belonged to Williams and her fiancé. One vehicle had been dropped off for repair/service work. The remainder all appeared to be offered for sale. All VINS were checked via LEAPS/NCIC/NICB with negative results.

- This officer asked Williams if she had a current Used Car Record Book (UCRB) as required by MGL Ch. 140, Section 62. Williams stated she did not have a book for 2007 and the previous book had been seized by the Barnstable Police. Williams stated she had her inventory on the computer and provided this officer with a copy. The computer inventory did not contain any of the information required by MGL Ch. 40, Section 62, such as the VIN and where the vehicle was obtained.
5. This officer reviewed the UCRB which had been seized by the Barnstable Police. The UCRB had numerous omissions and the vehicles currently on the lot did not appear.
 6. Williams stated her partner/manager should have been entering the vehicle information, however he had not. Nonetheless, Williams provided this officer

with her business card, which lists her as the President/Office Manager. Her partner, John, is listed as Owner/Mechanic/Sales.

7. Based upon the administrative inspection, this officer recommends Denise V. Williams, d/b/a Hyannis CARZ, Inc., be charged at Barnstable District Court with the following violation of MGL Ch. 140, section 60 and section 62 for failure to maintain a used car record book and failure to comply with the rules and regulations of the Registrar of Motor Vehicles. Twenty-eight (28) vehicles inspected at the site and offered for sale were never entered into the UCRB or electronically recorded in the proper manner as prescribed by the Registrar of Motor Vehicles.
8. The town of Barnstable should hold a hearing relative to Williams' violation of the 16 vehicle limit imposed on her Class 2 license and violations of Ch. 140, Section 62. The Town should also notify the Registry of Motor Vehicles – Section 5 Division (617) 351-9272 of the violations, requesting a hearing be held relative to the issued repair plates.

From November of 2006 to March 22, 2007 there were no entries of vehicles made. Mr. Hoxie asked what the status of the criminal case is at present. Steve Maher stated Mr. "Possenti" is incarcerated at present, his case is open. Officer Maher also stated the books were seized and he has those books in his possession. Mr. Hoxie asked if that is the evidence. Lt. Jason stated it is. Mr. Schact was charged with identity theft and three counts of dealership violations with the Registry of Motor Vehicles. Ms. Williams is aware of the charges. She stated to the Board she did not know the circumstances of Mr. Possenti – she was away for most of the past year with a death in the family; came back the week of the arrest to find the books had not been kept; cars sold which weren't up to par; she has made every effort to fix those vehicles to date. She stated that John Possenti was a partner. She stated it was his idea to start the business; he wanted her as a partner to invest a lot of money into the business to make it successful. She stated the business fell apart when she had to leave. She is trying to bring it up to date – both the books and the cars sold, with her fiancé. She did not know those cars on the lot were not in her inventory. She stated all she can do now is try to make it right from here on. She stated they finance a lot of people who cannot go to dealerships. She stated she was living downstairs from Mr. Possenti – she was not living WITH him although the address is the same. She said she has no excuses. She and her fiancé have sunk a considerable amount of money into the business. She asked today what she should do to get Mr. Possenti off the record on the business and said she also has to pursue funds she says were taken by him from the business. Lt. Jason asked how long she was in business with him – she stated since 2004, but she was not there most of this past year. Mr. Hoxie stated that he sees no recourse but to revoke this license and let her reapply for the business on her own. Mr. Geiler stated the corporation is the license holder; the officers can apply to change the manager – the assumption she made is a possibility to deal with this. From the standpoint of protecting past and current customers – that is what we need to do at this point. Mr. Hoxie stated the statute refers to the "licensee," and the way he interprets it that after public hearing the license SHALL be revoked...not may be revoked. He believes we

believes we should revoke and she can then apply. Mr. Sullivan stated that as there are cars coming and going without any reports we can revoke the license; she can then go to Court and the Judge take equity into account, but that is how he sees the law as written. For a long period of time the sales were taking place and no record kept. Mr. Gordon stated all the records have now been updated through 2007; there are folders on each car – they have those – but the information has had to be entered into the computer and a record book. He stated it has cost him almost \$30,000 in repairs to fix vehicles formerly sold (by Possenti) which were not up to par. He would appreciate the consideration of the Licensing Authority as they have invested so much into making this all come out right. Mr. Sullivan asked if they have recorded name and address of persons from whom cars were purchased and VIN number and to whom the cars were sold...Mr. Gordon states they are doing this now. The officer who came there told him the best thing to do would be to get the books up to date as quickly as possible – he stated they are up to date up to 2007. Lt. Jason asked if all the infractions had in fact been admitted to. She recommended a better way of going about it in future is to start fresh. The search warrant on March 9 found a book from August through November, which has Ms. Williams' name throughout; and there was a book from May 2003 to 2004. Ms. Williams stated her signature was not in the book, although her name is, and that is a big distinction. Mr. Hoxie stated he thinks the only recourse is to start fresh with a new license with Mr. Gordon's name on it or hers and his or whatever they wish, and assurances to the Board that she would comply with the laws, etc.

Findings:

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken as to a guilty finding on the violation of Chapter 140, Section 62, "Failure of Used Car Dealer to Keep Register" on 3/20/07 (28 counts).

A second motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken as to a guilty finding and failure to comply with the terms of the Town of Barnstable Class II Auto Dealer License which restricts the number of display vehicles to 16.

A Motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to revoke the annual Class II Auto Dealer License of Hyannis CARZ, Inc. immediately.

Mr. Hoxie asked if there was a timetable for the investigation into Mr. Schact's activities – Officer Maher did not know that timetable but stated the case is open. Mr. Burman stated for the record that Ms. Williams was offered the chance to postpone the hearing today but she chose to go forward. Mr. Hoxie stated the cross examination of witnesses would not have helped her in any way. He suggested she seek legal counsel to proceed. The police department will pick up the license. Ms. Williams again asked what SHE has done wrong – she maybe has done nothing herself other than not managing her business, but that Mr. Possenti is a Director of

the corporation and cannot be on this license and that there are other infractions (cars on display are over the limit) and that the books are not correct. Mr. Gordon stated he has been in business for years – has been a general manager of a corporation. He did not know the whole situation – has now bought more and nicer cars with Ms. Williams. Lt. Jason asked how many cars are on the lot now – he stated 16 -17. Lt. Jason stated that there are 23. Mr. Gordon told the Board that the landlord had told them the area on the side of the business is not part of the LOT on the license. Lt. Jason stated this goes along with not being knowledgeable of the business. Mr. Gordon stated a few vehicles there are for repair, so not all are for sale and shouldn't be included in the count of 16. Officer Maher stated there are 23 cars on the lot with for sale signs on them – an officer JUST NOW checked and reported back to him.

Renewals:

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

Junk Dealer

Mid Cape Metal Recycling
Blockbuster Video
Cape Cod Jewelers
Spinnaker Records
J. Craig Medeiros
Diamond Perfections
Best for Less
West Barnstable Trading Co.
A.J. Marks Jewelers

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of the above referenced Junk Dealers for their annual Junk Dealer license.

Entertainment Licenses:

The following entertainment licenses have been submitted without any changes from the previous year for Licensing Authority approval:

Sunday Entertainment

Courtyard Marketplace

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Courtyard Marketplace for its annual Sunday entertainment license.

Carousel & Automatic Amusement

Courtyard Marketplace

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the request of Courtyard Marketplace for its annual carousel and automatic amusement licenses.

Other Business:

Discussion – Cape Cod Inn status. \$2,200 plus was paid to the ABCC in lieu of their 14 day ABCC suspension; Mr. Burman would like the public made aware of this.

Mr. Burman asked about Texas Hold Em. Mr. Geiler stated he spoke with the Town Clerk who stated they do issue raffle/bazaar permits which come with specific regulations – for Texas Hold Em, Bingo, etc. The ones we have seen so far have registered and been inspected by The State Lottery Commission. The Town has not inspected and they are not OUR rules. The Lottery Commission has good enforcement.

Mr. Burman asked about the Melody Tent entertainment – and was told they have not yet filed for it. Mr. Burman stated George Carlin is coming and it is advertised “adults only.” Mr. Geiler stated they wait to file until all the shows are booked so they can provide the full list to us. The management is aware of the requirements of the license.

Lt. Jason wanted to thank Mr. Geiler, Mr. Burman and Mr. Boy for attending the police seminar and asked for feedback. Mr. Hoxie stated he would attend Thursday if he could. Mr. Burman stated he has attended several and this was by far the best he has attended – informative and well received by all. Lt. Jason stated Steve did a lot of work on this. Forty came last time and 35 more are scheduled. Paul Sullivan will plan to attend as well.

Mr. Geiler stated even the ABCC at its last seminar is trying to educate the licensees – as our Police Department has now done - to protect themselves. These activities are beneficial to the licensees in understanding the rules. There was a great dialogue with the licensees and police department – he says it was great to do this because the cost on NOT being educated is very high.

Discussion as to Kendrick's status. Mr. Burman stated he wanted us to go on record in support of the letter written by Town Assistant Attorney Houghton that the Licensing Authority went by the same requirements used every year at renewal time for every licensee. There is nothing new here – nothing singling Kendrick's out from the others. Mr. Geiler stated that Kendrick's has participated in the renewal process

each year. Mr. Sullivan concurred with Mr. Burman with regard to the response of Town Counsel.

Adjourned at 11:02 AM.

Respectfully submitted,

Christine P. Ade, Recorder
Barnstable Licensing Authority

Paul Sullivan, Clerk
Barnstable Licensing Authority