



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.

June 18, 2007

A regular meeting of the Barnstable Licensing Authority was held on Monday, June 18, 2007. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Dick Boy, Associate Commissioner, 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:

One Day Entertainment Licenses (2): Application of Margaret G. Van Sciver on behalf of Arts Foundation of Cape Cod, Hyannis, MA, for two **One Day Entertainment Licenses** for a VIP Reception on August 4, 2007 from 5 pm to 7 pm and their 22nd annual Pops by the Sea concert on August 6, 2007 from 2 pm to 7 pm on the Hyannis Village Green.

Margaret G. Van Sciver appeared for her application. The POPS will be on August 6th this year. There will be one pianist Friday and the large orchestra on Sunday. The guest conductor has not yet been announced.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Margaret G. Van Sciver on behalf of Arts Foundation of Cape Cod, Hyannis, MA, for two **One Day Entertainment Licenses** for a VIP Reception on August 4, 2007 from 5 pm to 7 pm and their 22nd annual Pops by the Sea concert on August 6, 2007 from 2 pm to 7 pm on the Hyannis Village Green.

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

Application of Marilyn Fuller on behalf of **Barnstable Historical Society**, 3074 Main Street, Barnstable for a **One Day Wine & Malt License** and a **One Day Entertainment License** for a family-oriented summer event in a tent on the premises on August 5, 2007 from 4 pm to 7 pm with the Rum Soaked Crooks sea chantey group and a **One Day Beer & Wine License** for a fundraising event on September 16, 2007 from 2:30 to 5:30 pm, on a tent at the premises.

Mrs. Fuller appeared for this event. She stated that the August 5th event does feature the band – they do not drink while performing. It is a family-oriented event. The 2nd event is their annual fundraiser event.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Marilyn Fuller on behalf of **Barnstable Historical Society**, 3074 Main Street, Barnstable for a **One Day Wine & Malt License and a One Day Entertainment License** for a family-oriented summer event in a tent on the premises on August 5, 2007 from 4 pm to 7 pm with the Rum Soaked Crooks sea chantey group and a **One Day Beer & Wine License** for a fundraising event on September 16, 2007 from 2:30 to 5:30 pm, on a tent at the premises.

One Day Wine Only License: Application of Amy Whiteside on behalf of **Cape Cod Technology Council**, P.O. Box 579, Barnstable for a **One Day Wine Only License** for a wine tasting Summer Social event at Cape Cod Community College, Lorusso Building 2nd floor lobby, 2240 Iyannough Road, W. Barnstable, MA on June 21, 2007 from 5:30 pm to 8:30 pm.

Amy Whiteside appeared for her application. They are a non-profit membership group. This is their annual summer solstice event at the college in a “green” building. A small admission fee is charged.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Amy Whiteside on behalf of **Cape Cod Technology Council**, P.O. Box 579, Barnstable for a **One Day Wine Only License** for a wine tasting Summer Social event at Cape Cod Community College, Lorusso Building 2nd floor lobby, 2240 Iyannough Road, W. Barnstable, MA on June 21, 2007 from 5:30 pm to 8:30 pm.

Hearings:

Transfer of its Annual All Alcohol Common Victualler License and Daily Live and Sunday Entertainment Licenses: Application of Tri-Nel Management, Inc., d/b/a **Wianno Grille**, 380 Barnstable Road, Hyannis, MA, Craig Darrah, Manager for **Transfer of its Annual All Alcohol Common Victualler License and Daily Live and Sunday Entertainment Licenses**, the hours of operation to be 11:30 am to 1 am, with live entertainment weekdays 8 pm to 1 am; Sundays 8 pm to midnight, to Wianno Grill, Inc., d/b/a Wianno Grill, Angela Angelini, Manager.

John Kenney, Esq. appeared with Mr. and Mrs. Angelini. They have submitted Mrs. Angelini’s resume – she has been working at the Wianno Grill for a while and also worked at the naked Oyster for some time. They would like approval to open at 11 am Sundays for brunch. They currently do not book entertainment but would like to

keep the license for future. They have an extensive menu. Both principals are very familiar to the Board as restaurateurs.

Mr. Hoxie asked if the applicants could live with a 12:30 closing to be consistent with other places in Town. Attorney Kenney said they could.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Tri-Nel Management, Inc., d/b/a **Wianno Grille**, 380 Barnstable Road, Hyannis, MA, Craig Darrah, Manager for **Transfer of its Annual All Alcohol Common Victualler License and Daily Live and Sunday Entertainment Licenses**, the hours of operation to be 11:30 am and Sunday opening 11 am to 1 am, with live entertainment weekdays 8 pm to 12:30 am; Sundays 8 pm to midnight, to Wianno Grill, Inc., d/b/a Wianno Grill, Angela Angelini, Manager.

Mr. Geiler asked about the outside patio; Mr. Angelini asked that the patio for 24 seats be also authorized and approved.

An amended motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve 24 seats on the patio.

New Lodging House License: Application of Frederick W. Riley, d/b/a **Honeysuckle Hill**, 591 Main Street, West Barnstable, MA, Frederick W. Riley, Manager, for a **New Annual Lodging House License** (continued from 6/4/07).

Frederick Riley came forward with existing premises; lodging house in the past. He took over the premises in May 2004 and was granted a variance for 10 lodgers. He has been operating as a B&B; has had fire department, building department inspections – but did not have anyone from Health come out to inspect. Mr. Burman asked about the health inspections – he said he has called 20-30 times per year; got answering machine and was told his calls would be returned. Finally got a call this January – they came out and gave him a good bill of health.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Frederick W. Riley, d/b/a **Honeysuckle Hill**, 591 Main Street, West Barnstable, MA, Frederick W. Riley, Manager, for a **New Annual Lodging House License** providing we have all the necessary approvals.

Change of Manager: Application of Preet Corporation., d/b/a Pavilion Indian Cuisine, 511 Main Street, Hyannis, Narinder Thind, Manager, holding an Annual Wine & Malt Common Victualler License, for a **Change of Manager** to Paramjit Thind.

Robert Mills, Esq. came forward to represent the Pavilion Indian restaurant. Mrs. Thind has been involved for 16 years with this restaurant and a previous restaurant in Boston. They have had no liquor violations or problems at the location.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Preet Corporation., d/b/a Pavilion Indian Cuisine, 511 Main Street, Hyannis, Narinder Thind, Manager, holding an Annual Wine & Malt Common Victualler License, for a **Change of Manager** to Paramjit Thind.

Transfer of its Annual All Alcohol Common Victualler License and Daily Live and Sunday Entertainment Licenses: Application of Roo, Inc., d/b/a **Roobar City Bistro**, 586 Main Street, Hyannis, MA, Scott Sousa, Manager for **Transfer of its Annual All Alcohol Common Victualler License and Daily Live and Sunday Entertainment Licenses**, the hours of operation to be 8:00 am to 1 am, Sundays noon to midnight, with live entertainment weekdays 9:30 pm to 12:30 am; Sundays 4 pm to 12:30 am, to Roobar LLC, d/b/a **Roobar City Bistro**, Narinder Thind, Manager.

Attorney Robert Mills also appeared for this application. The same employees will be kept. There was an issue on Mr. Thind's CORI – he closed his bank account in Boston in 1999 and moved to Hyannis...evidently there was one outstanding check. It was taken care of and dismissed in Court. There have been stanchions set up outside to control the traffic at the Roobar. Also the sliding windows now have permanently installed screens and there are new bathrooms as well as sprinklers which are up and running. Mr. Thind is scheduled for TIPS training. Mr. Thind and Mr. Sousa were both present to answer questions.

Mr. Burman asked how many hours Mr. Thind will be at the restaurant as it states 40 hours and he knows it will take more than that from experience. Mr. Thind stated full time.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Roo, Inc., d/b/a **Roobar City Bistro**, 586 Main Street, Hyannis, MA, Scott Sousa, Manager for **Transfer of its Annual All Alcohol Common Victualler License and Daily Live and Sunday Entertainment Licenses**, the hours of operation to be 8:00 am to 1 am, Sundays noon to midnight, with live entertainment weekdays 9:30 pm to 12:30 am; Sundays 4 pm to 12:30 am, to Roobar LLC, d/b/a **Roobar City Bistro**, Narinder Thind, Manager providing all inspections have been completed.

Daily Live and Sunday Entertainment Licenses: Application of UNO Chicago Grill, 574 Iyanough Road, Hyannis, MA, Donald J. Raymond, Manager, holding an Annual All Alcohol Common Victualler License for a Daily and Sunday Live Entertainment License for a maximum of 3 entertainers, Monday through Saturday 9 pm to 12:30 am and Sunday 9 pm to midnight.

Attorney Steve Pizzuti appeared with the principals. Mr. Raymond is no longer with UNO. Aaron Spencer, creator of the restaurants, was present. UNO has 200 + units and are now exploring entertainment "with our indulgence" as the first place to request the entertainment. Michael Sives was present as the GM and also the Regional Director was present. They are looking for 3 piece entertainment for the 30 and over crowd. Attorney Pizzuti asked if the Board has any questions. Mr. Hoxie stated that the 12:30 entertainment, all inside, pleases the Board.

A motion was duly made by Gene Burman, seconded by Paul Sullivan (for the older crowd), and a unanimous vote taken to approve the application of UNO Chicago Grill, 574 Iyanough Road, Hyannis, MA, Donald J. Raymond, Manager, holding an Annual All Alcohol Common Victualler License for a Daily and Sunday Live Entertainment License for a maximum of 3 entertainers, Monday through Saturday 9 pm to 12:30 am and Sunday 9 pm to midnight.

Show Cause Hearing – Class II Auto Dealer License: Show Cause Hearing for Barnstable Road Auto Repair, Inc., 91 Barnstable Road, Hyannis, Paul Demers, Manager, for the purpose of determining if its Annual Class II Auto Dealer license should be modified, suspended, or revoked for failure to maintain a Used Car Record Book (UCRB) in violation of MGL Chapter 140, Section 62 (2 counts); and failure to make the UCRB available for review by the Barnstable Police Department (2 counts) on May 21, 2007 and May 31, 2007.

Upon recommendation of the Barnstable Police Department, the Show Cause Hearing for Barnstable Road Auto Repair, Inc., was requested to be withdrawn.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to withdraw the Show Cause Hearing for Barnstable Road Auto Repair, Inc., 91 Barnstable Road, Hyannis, Paul Demers, Manager, for the purpose of determining if its Annual Class II Auto Dealer license should be modified, suspended, or revoked for failure to maintain a Used Car Record Book (UCRB) in violation of MGL Chapter 140, Section 62 (2 counts); and failure to make the UCRB available for review by the Barnstable Police Department (2 counts) on May 21, 2007 and May 31, 2007.

Other Business:

Discussion of M&M Tavern, Inc. d/b/a Kendrick's Casual Dining and Lounge re-appeal of renewal of its license to the ABCC. Mr. Geiler stated it is scheduled with the ABCC for the 27th. He has had several meetings with the Legal Department. He stated it is up to the ABCC but if they handle it the way they have previously handles the hearings he is not too hopeful. Mr. Hoxie stated he thinks there were some errors in the decision of the ABCC on the appeal. Mr. Geiler is not sure and will speak to Town Counsel about that.

A discussion took place on Gringo's request for keeping their 6" outside speakers which they have had for 27 years. Lt. JoEllen Jason stated it is very confusing – she requested on our licenses it be specified if they can have outside music and outside amplification. Where it doesn't say at all – there is a question. We need some uniformity. Officer Steve Maher stated there is also a question of how far it should be contained. Lt. Jason stated you can hear music from one place at the one next-door. Cynthia Cole came forward to join the discussion. She stated that they are working with the Town's Growth Management Department who formed a committee of merchants, residents and BID to try to come up with an ordinance to address this and all the sound issues. The problem is trying to get a sense of what ambient noise is. Nothing will be on the books until next summer. She stated she does understand it is not helping out the officers now. Cynthia stated that having music on the street is very NICE; even when things are quiet. She would like to see everyone allowed to have speakers and then what is going to work with the 150.' Lt. Jason stated they need a decision THIS summer. She would like some uniformity. Officer Maher stated there is another restaurant on Main Street with 2 speakers. It stays on the property and seems to be o.k. But if a neighbor plays different music it may conflict within the curtilage. Mr. Hoxie stated the easy way to deal with it is to say NO speakers in front. Otherwise we would have to be specific in amplification levels, etc. Mr. Burman stated he has been on the Board 6+ years – it is his perception that there are NO outside speakers allowed. He thinks this just slipped through the cracks. From his perspective, as we have turned down many applications for those speakers (outside in front) we should not approve these. Mr. Geiler stated there are speakers in a tent on Ocean Street so that is not true that there are none outside. The State Law states "on the licensing premises" – that is why we have not gotten into dialogue on some which have existed for years. Only the problem ones have come up (like on the water). We have also had more and more establishments apply for outside dining and he thinks it is logical that the entertainment would follow. Traffic and disruptions must be considered on an individual basis. If this is to be changed, he thinks we must change the existing rules – amend the Licensing Authority Rules and Regulations. He thinks there might be an issue where someone has operated for years with no problem and now they take it away from them. By law we have to consider every application we get. Paul Sullivan asked Cynthia Cole about the meetings they have and whether or not the Police Department is involved. Cynthia stated that Growth Management set the committee up – it is called Hyannis Sound. Mr. Hoxie suggested that the police be included. The idea is to address all these issues. It will not help, however, this summer. She also stated it would be a shame to stop all outdoor music. They are trying to revitalize the street – obviously being disrespectful will not be allowed. Mr. Hoxie asked that at the next meeting we should put on the agenda a regulation directed solely at outside speakers for music outside on licenses. He does not think we should be arbitrary. In the interim, if someone is disturbed it should be dealt with. He stated it would be nice to have some music with the outside dining. Cynthia Cole also stated rifts between neighbors complicate the issue further. Mr. Geiler stated sorting out complaints has never been easy. The anti-noise ordinance was put in for all types of noise problems; requiring police response, judgment and action. He assumes the

decisions made were the right ones because the problems went away. Mr. Hoxie stated many other areas off Cape have dealt with revitalization and the ensuing problems. It does beg to have a regulation so the police know where they stand. Lt. Jason suggests the officers use their judgment with regard to complaints and establishments violating. Mr. Hoxie asked what we do with Gringo's. Mr. Geiler stated their particular speakers are about the most ideal speakers in size and they are hooked to a tape player, not a huge amplification system. He stated it is HOW they present it, not whether or not they have it. Mr. Geiler stated there does have to be monitoring of the activity – to balance out the interests of many establishments. The Town has an obligation to make sure the businesses do not suffer from someone else's abuse. Mr. Hoxie asked what Mr. Geiler thought of as a regulation. He thinks a mechanical or electronic measurement base line plus ambient noise – anything below a certain amount would be acceptable. Sometimes it is nothing more than the BEAT of the music that can drive the neighbors crazy. He agrees to make the area lively and vibrant we will need this to take place. Complying has costs. Paul Sullivan stated that things have changed...there is now an opportunity to do something. The Licensing Board is looking for input NOW – he is asking for these departments to get moving to help the people who do the enforcing.

Mr. Hoxie again asked about Gringo's speakers again. Mr. Sullivan suggested we leave them alone – Gringo's needs an answer. Mr. Geiler stated we are taking each individual establishment on its own merit and approving or denying. He stated it would be a lot easier to do it the other way – approve all or not. Mr. Hoxie thinks we should allow everyone to have a speaker but once they disturb, they lose the privilege. Mr. Burman suggested we allow "background" music. Mr. Geiler stated TV's and radios have never been "licensed" per se. Mr. Hoxie asked to have this be put on the next agenda – invite Ruth from GMD and make a regulation for this summer. In the interim we approve the request from Gringo's. He thinks it would be unfair to deny them at this point. Mr. Burman suggested we CONTINUE the issue of Gringo's. Officer Maher stated he was the one requesting Gringo's ask for outside speakers. He asked Alberto's, Schooner's and Gringo's to cease until a decision could be made. Cynthia Cole asked if perhaps the businesses can have the speakers as long as we are not getting noise complaints. BID can also tell them it has to be background music, not disturbing to others, until we make a decision. Mr. Hoxie thinks we can approve them just through July 2nd.

Mr. Hoxie asked Hyannis Sound to be invited to our meeting on July 2. He asked that we do not authorize outside speakers but will be having a discussion on this at our next meeting. Mr. Geiler stated again that we should be hoeing where the weeds are, not where someone is doing something that is not annoying anyone. Still Mr. Hoxie stated the fact is that a neighbor has been prohibited and this might be construed as not fair. Mr. Hoxie stated we should ask Gringo's to apply for an entertainment license and their request will be discussed in detail at the next meeting. Mr. Geiler stated we need to look at Chapter 140. Cynthia Cole also suggested in the interim before the July 2nd meeting we should do some research as to who has licenses, who has been denied, etc. We will table the request of

Gringo's. Hopefully come up with something for this summer. Mr. Geiler stated he still does not understand...what exactly is Mr. Hoxie hoping to do? Mr. Hoxie stated "to allow establishments to have music outside to accommodate their diners outside. And if it is too loud, forget it." Mr. Hoxie stated everyone with an entertainment license should be restricted only if someone is blatantly abusing the privilege.

Meeting adjourned at 10:53.

Respectfully submitted,

Christine Ade, Recorder
Barnstable Licensing Authority

Paul Sullivan, Clerk
Barnstable Licensing Authority