

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, 2nd Floor Hearing Room, Hyannis, MA – 9:30 a.m.
November 19, 2007

A regular meeting of the Barnstable Licensing Authority was held on Monday, November 19, 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:

Two One Day Entertainment Licenses: Application of Tanya Vincent on behalf of Coastal Dance Co., 40 John Maki Road, W. Barnstable, MA for **two One Day Entertainment Licenses** for it's Annual Nutcracker Gala to be performed at the Barnstable High School auditorium, 744 West Main Street, Hyannis, MA on Saturday, December 8, 2007 at 4 pm and Sunday, December 9, 2007 at 2 pm.

Mr. Vincent appeared for the Coastal Dance Society's request. This is the annual Nutcracker Gala at the High School (22nd year).

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Tanya Vincent on behalf of Coastal Dance Co., 40 John Maki Road, W. Barnstable, MA for **two One Day Entertainment Licenses** for it's Annual Nutcracker Gala to be performed at the Barnstable High School auditorium, 744 West Main Street, Hyannis, MA on Saturday, December 8, 2007 at 4 pm and Sunday, December 9, 2007 at 2 pm.

One Day Entertainment License: Application of Lisa Sheehy on behalf of Cape Cod Symphony Orchestra, 712A Main Street, Yarmouthport, MA for a One Day Entertainment License for a November 30, 2007 concert rehearsal open to the public at the Barnstable High School Auditorium from 7:30 – 10 pm.

Lisa Sheehy appeared for Cape Cod Symphony. Their regular concerts were sold out so by request they want to open their last rehearsal to the public.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Lisa Sheehy on behalf of Cape Cod Symphony Orchestra, 712A Main Street, Yarmouthport, MA for a One Day Entertainment License for a November 30, 2007 concert rehearsal open to the public at the Barnstable High School Auditorium from 7:30 – 10 pm.

Hearings:

New Class II Auto Dealer License: Application of Augusto Netto and Claudio Netto, d/b/a Hi Line Auto Sales, 367 Yarmouth Road, Hyannis, Augusto Netto, Manager, for a New Class II Auto Dealer License.

Augusto Netto and his brother appeared for the application. There was a car license there before – they will buy and sell used cars and request a total of 32 vehicles on the property. Mr. Netto has experience with his other dealership – New Cape Cod Auto Sales and three years auto mechanic training. There will be no repairs or car washing at the location. Mr. Burman verified that there will be a maximum of 32 vehicles there. Mr. Sullivan verified the hours and Officer Maher verified the number of vehicles. Mr. Geiler asked the status of the current license – Christine Ade stated that Building inspected and granted 32 vehicles. Mr. Geiler questioned area 1 – property not owned by the landlord according to Town records. There was a right of way for the railroad next to the Carnu property. Officer Maher asked if the new people had conversations with the old licensee – they have; they were there when he went to rent the place. He asked if they were leaving – they said “yes.” The place is now vacant. Mr. Geiler suggested we try to get them to call the office to fax or bring us something saying that they surrender the license; as soon as possible.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above application of Augusto Netto and Claudio Netto, d/b/a Hi Line Auto Sales, 367 Yarmouth Road, Hyannis, Augusto Netto, Manager, for a New Class II Auto Dealer License with a total of 32 vehicles on premises and if determined the total number is not correct it will be amended, and provided that the current licensee surrenders their license.

New Class II Auto Dealer License: Application of Paulo L. Gualberto, d/b/a Route 66 Auto Sales, 362A Yarmouth Road, Hyannis, Paulo L. Gualberto, Manager, for a New Class II Auto Dealer License.

Mr. Gualberto appeared for this license. Scott Hardy came in to the office to advise he is no longer at the property; he ran Scott’s Cycle, which was the previous licensee at the property. Mr. Gualberto will surrender the prior license he was granted at the last meeting – he needed the larger space.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above application of Paulo L. Gualberto, d/b/a Route 66 Auto Sales, 362A Yarmouth Road, Hyannis, Paulo L. Gualberto, Manager, for a New Class II Auto Dealer License with a total of 18 vehicles on premises subject to the other license he holds being surrendered.

Renewals:

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

Common Victualler All Alcohol

Misaki
Not Your Average Joe's
Barnstable Restaurant and Tavern
Shanghai Chinese Restaurant
Sam Diego's
British Beer Co.
Barbyann's
Up the Creek Again
UNO Chicago Grill
Olive Garden
Pavilion
RooBar

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual All Alcohol Common Victualler Licenses.

Common Victualler Beer & Wine

Pizza Wave
Craigville Pizza & Mexican

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Wine & Malt Common Victualler Licenses.

Club All Alcohol

Oyster Harbors Club
Hyannis Anglers Club
Hyannis Yacht Club

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their All Alcohol Club Licenses.

Innholder All Alcohol

Courtyard by Marriott
Cape Cod Inn

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual All Alcohol Innholder Licenses.

Package Store All Alcohol

Craigville Package Store
Osterville Package Store
Luke's Super Liquors
Parker's Discount Liquors

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual All Alcohol Retail package Store Licenses.

Common Victualler

Osterville Cheese & Sandwich Shop
Subway – 2145 Iyannough Road
CC Hospital Nutrition & Food Services
Caffe e Dolci
Borders Books & Music
Sarku Japan
Katie's Homemade Ice Cream
Kobi House (Orient Xpress)

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Common Victualler License.

Class I Auto Dealers:

Hyannis Honda
Cape Cod Chrysler Dodge
JMR Honda Suzuki

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Class I Auto Dealer License.

Class II Auto Dealers:

Hyannis Honda Body Shop
Nantucket Auto Sales
Cape Cod Cars and Trucks
New Cape Cod Auto Sales
Cape Motors, Inc.
European Car Service
Cape Cod Auto Connection
Davis Auto Sales
AB Auto Sales
Jack Ellis Foreign Auto
All Cape Auto Sales
Brico Autoworks

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Class II Auto Dealer License.

Class III Auto Dealer

Blackburn's Auto Salvage

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of its Annual Class III Auto Dealer License.

Lodging Houses:

The Mains'l
Tidewater Inn
Acworth Inn
Memories by the Sea

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Lodging House Licenses.

Cinema/Theatre:

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 above applications for renewal of their Annual Cinema/Theatre License.

Daily Live Entertainment

Cotuit Center for the Arts
Borders Books & Music
Oyster Harbors Club
Barnstable Restaurant and Tavern
Hyannis Anglers Club
Hyannis Yacht Club
Courtyard by Marriott
British Beer Co.
Up the Creek Again
Cape Cod Inn
UNO Chicago Grill
RooBar

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Daily Live Entertainment Licenses.

Daily Non-Live Entertainment

Island Carousel
Not Your Average Joe's
Barnstable Restaurant and Tavern
Hyannis Anglers Club
British Beer Co.
Up the Creek Again
Craigville Pizza & Mexican

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Daily Non-Live Entertainment Licenses.

Video Games

Craigville Pizza & Mexican

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Video Games Licenses.

Carousel

Island Carousel

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Carousel License.

Pool Tables

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Pool Table Licenses.

Sunday Entertainment:

Cotuit Center for the Arts
Island Carousel
Borders Books & Music
Not Your Average Joe's
Oyster Harbors Club
Barnstable Restaurant and Tavern
Hyannis Anglers Club
Hyannis Yacht Club
Courtyard by Marriott
British Beer Co.
Up the Creek Again
UNO Chicago Grill
Cape Cod Inn
Craigville Pizza & Mexican
RooBar

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the above applications for renewal of their Annual Sunday Entertainment Licenses.

Other Business:

Mr. Hoxie asked if there was a consensus on how the vehicle numbers are assigned and appear on the licenses.

Proposed Amendment to Rules & Regulation of the Licensing Authority as of 1/1/09. Discussion took place on a town-wide reduction of the closing hours on entertainment for 1/1/09. Mr. Geiler stated that there is no way to have it before Council, etc. in time for '08. Otherwise it would have to be done individually by licensee. Mr. Geiler stated we got to this point by the motions that have been

made. The language varies license per license at present. From a town-wide standpoint history has shown that ending entertainment 15 – 30 minutes prior to closing makes a significant difference in the way the patrons exit the establishments. We have been restricting new licensees mostly to 12:30. It would be best to standardize it for all for 12:30. Mr. Hoxie stated there should be a public hearing so that all the licensees can have their say. The orderly exit is the purpose according to Mr. Geiler. The cooling down period before exit is a huge help. Lt. Jason would like to make a presentation about what they have observed over the past year and enforcement they have been doing. Mr. Hoxie thought that would be a good idea.

Barnstable Police Department Compliance at pouring establishments: Lt. Jason stated these statistics have been compiled showing their concerns. (Below).



**From the period of January 1, 2006.
through
the period of September 19, 2006.**

**The Police Department conducted 50
ordinance or compliance checks at
poring establishments.**

**From the period of January 1, 2007.
through
the period of September 19, 2007.**

**The Police Department conducted over
120 ordinance or compliance checks.**

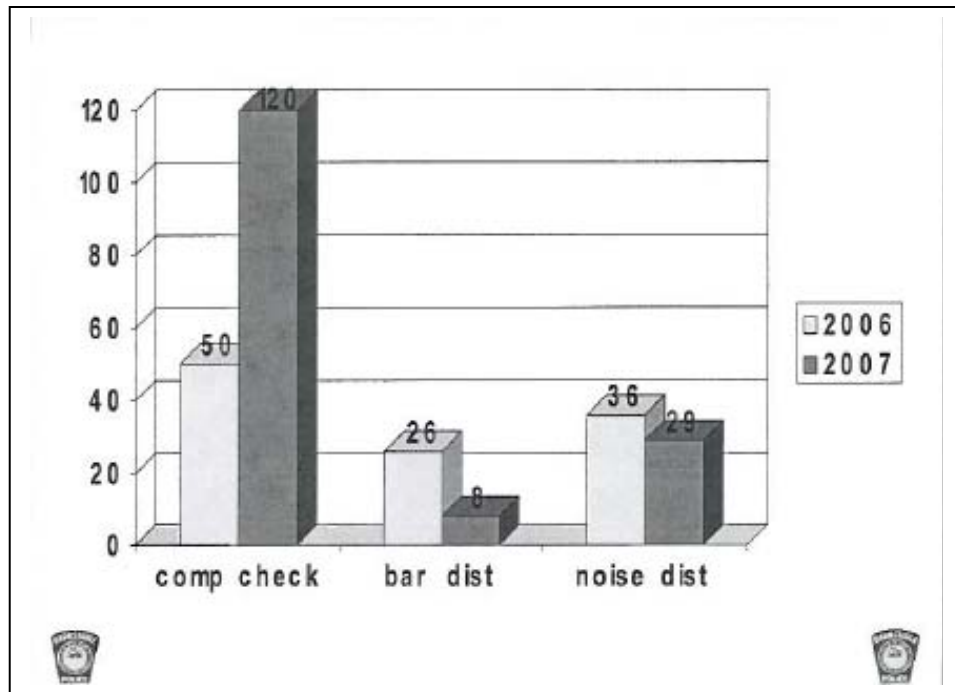
**During the compliance checks the most
often found violations at the
establishments were:**

- Not having a copy of the towns rules and regulations.**
- Not having employees familiar with the rules and regulations.**
- Not having current employee lists.**
- Not posting licenses and ABCC posters.**

In April of this year the Police Department held information sessions inviting all of the towns alcohol license holders to take part in a presentation of the rules and regulations of the town. Over 75 business members attended these sessions.

As a result of the compliance checks, and the information sessions, there was a marked drop in all areas of concern to the Police Department.





In May of 2007 the Mass Alcohol Beverage Control Commission along with the Barnstable Police Department conducted a sting operation of pouring establishments, resulting in no violations.

Areas of continued concern.

Entertainment licenses.

HYANNIS	type	weekdays	Saturday	Sunday
ARDEO ON MAN	jazz guitar & pianist	8p-1a	8p-mid	
BARBYANNS	no entertainment license	none	none	none
BAXTERS	pianist	8p-1a	8p-mid	
BLACK CAT	2-5 piece band;	8p-1a	8p-mid	
BOBBY BYRNES	no live entertainment	none	none	none
BRAZILIAN GRILL	maximum 4 entertainers; no dancing by patrons; no amplification	6p-11p	6p-11p	6p-11p
BRITISH BEER COMPANY	one entertainer	9p-mid	9p-mid	9p-mid
BUD'S PLACE	country bands; ; 3 video games, pool tables	8p-1a	8p-1a	8p-1a
BUMBALINIS	maximum 3 entertainers	noon-mid	noon-mid	1p-mid
Kien 'n Rylee's		none	none	none
CAPE COD INN (DUCK INN PUB)	guitar & vocalist	8p-1a	8p-1a	8p-1a
VFW	country western bands	8p-1a	8p-mid	



Suggested changes

❖ **All entertainment licenses end at 12:30 am, or sooner.**

❖ **Entertainment categories.**

1-3 entertainers

3-5 entertainers

5-7 entertainers

Over 7 by special permit

❖ **Live or non-live**

❖ **Amplified**

❖ **Inside/Outside or inside only**

❖ **Type of outside allowed**



Security staff

Require training and background check (no violent crime convictions) of all employees utilized as “door staff” or security.

Transportation and noise.

On Main St. alone there are over 18 pouring establishments with a potential of over 2100 people leaving at 1:00 am closing time.

Auto dealerships

In the spring of 2007 the police department conducted over 50 inspections of class II auto dealers.

Areas of concern

A number of dealerships:

- ❖ **Did not have up to date records.**
- ❖ **Did not have correct manager listed on license or at property.**
- ❖ **Over capacity on the number of vehicles allowed.**
- ❖ **Discrepancies as to vehicles for display or awaiting repair, owner issues, etc.**



Suggested changes

❖ **Clearly define who is the manager of each license, and if they will be on site for most of the hours of operation.**

❖ **Issue or reissue license based on total inventory or number of vehicles allowed.**

Comments and questions?

These checks were done from 11 pm to 1 am. Officer Maher stated they increased the ordinance checks to 120 this year. They noted many of the establishments did not have copies of the Rules and Regulations or a current employee list. This is important for the police to have for when they have closed and are cleaning up. He stated that the seminars they offered at the Police Department opened up lines of communication – the licensees have been cooperative and there is a drop in areas the police have had to look at. Disturbances and noise violations are way down. The ABCC sting held in April uncovered NO violations in 50 instances. (GOOD JOB!!) The Police Department is looking at trying to minimize the differences in the entertainment wording to closing at 12:30 or earlier; categories of licenses are proposed as 1-3, 3-5, 5-7, over 7 (number of entertainers allowed) by special permit; non-live or live, amplified, inside/outside or inside only, type of outside allowed and should that be supervised. They also would like security staff to require training and

background checks (no violent crime convictions) of all employees utilized as “door staff” or security. This is not legal yet but could be suggested. Mr. Geiler stated the backgrounds check cannot be “required.” Lt. Jason stated they have had problems with “bouncers” as far as how far they can go or what their liability is. She stated we can, however, suggest these checks. Officer Maher stated there are 18 entertainment establishments on Main Street. He stated the closing hour of 1:00 for food is helping to make the people go there earlier. Lt. Jason stated there are no cabs available at peak times and the pure numbers on Main Street are huge. They also spoke about auto dealership records – because no one has been inspecting them regularly, they are not keeping their written records, are slacking off on the number of vehicles...how are the vehicles counted? What about those on the property brought back for whatever reason? The licenses themselves at present are not consistent – the Police Department is requesting a total number of vehicles on the property. Also they suggested the manager be included on the license. Officer Maher suggested at one place he visited recently the manager was not even there (down in Florida) for months at a time – so it is not being run and supervised according to rules and regulations.

Officer Maher stated the alcohol establishments are now being checked twice a year; the auto dealerships once per year. Mr. Geiler stated there may be 20 pouring establishments that need more attention and others that may not need more than once per year. Officer Maher wants to be able to state they have gone at least once per year so no establishment can say they are being picked on. Mr. Burman asked why there could not be a hearing in December for the few on Main Street with after 12:30 entertainment licenses. Officer Maher stated it really helps crowd control to close the entertainment at 12:30. Mr. Sullivan stated he went out with Steve one time and also stated the Board has been making an effort to reduce the hours to 12:30. He believes the 1:00 people are unfair competition. Mr. Hoxie thinks all should be kept at 12:30 – on or off Main Street. Mr. Geiler stated it would take Council approval to change the rules and regulations ending all entertainment at 12:30. However, to do so at this time of year is sending the wrong message. Having it begin a year from now is logistically much more feasible and would not make it seem like we were treating anyone unfairly. This would be better served with public hearing and Council approval. Cynthia Cole then came forward to state that there would be an uprising if we just arbitrarily make this change – it would be awful. She offered to organize a meeting for the licensees to bring up this issue so all could be on the same page and not rush into this. Mr. Hoxie stated we should renew the licenses now and go forward with a plan to standardize the regulations for NEXT year’s renewal. He also agreed an informal session with the licensees and Police Department should be a good idea. Cynthia will work with Steve and Lt. Jason. Mr. Burman stated that we now know there is a problem – if we put this off for a year we could be found liable because we took no immediate action. Mr. Burman wants to have the suggested meeting soon. Mr. Sullivan said he wants to involve everybody and should not rush – it need not be done in a month or two. Everyone must be given the opportunity to discuss this. Mr. Boy stated they need a draft ordinance prior to review by the licensees. Officer Maher suggested a small

informal meeting to discuss the 12:30 and report back with the consensus. Then we could have a public hearing on it. Mr. Hoxie asked that Cynthia Cole receive a copy of the proposal to change the Rules and Regulations.

Proposed Licensing Authority Fees as of 1/1/09. Mr. Geiler stated it would be 4 years since the last change. Mr. Hoxie asked that this be put off until 12/3/07.

Up the Creek Again determination. Mr. Hoxie asked that a Show Cause Hearing be called for Up the Creek Again for the first meeting in January. Gene Burman asked that the Meece's be notified of the hearing date.

Complaint against licensee – noise, parking. A letter has been received alleging noise, illegal parking and dumpsters. Mr. Hoxie asked that we have a Show Cause Hearing on 12/17.

Review of handout regarding Auto Dealer regulations. Mr. Geiler asked that the members review these handouts as they are very helpful as to requirements and State regulations. He stated if any members have questions they should let us know.

Attorney David Houghton asked that we adjourn to move to Executive Session and not to return. A motion was duly made by Mr. Burman move to go to Executive Session to discuss pending Litigation, which motion was seconded by Paul Sullivan.. A roll call vote was taken in which Mr. Hoxie, Mr. Burman and Mr. Sullivan voted to adjourn and go into Executive Session. Adjourned at 10:53 a.m.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority