



**Town of Barnstable  
Regulatory Services Department**

**Thomas F. Geiler, Director**

**Consumer Affairs Division**

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**Barnstable Licensing Authority**

**Licensing Authority Minutes**

**Town Hall Building, 367 Main Street, 2<sup>nd</sup> Floor Hearing Room – 9:30 a.m.**

**June 24, 2013**

A regularly scheduled meeting of the Licensing Authority of the Town of Barnstable was held on June 24, 2013. Martin Hoxie, Chairman called the meeting to order and introduced the following: Gene Burman, Vice-Chairman; Paul Sullivan, Clerk; Tom Geiler, Director of Regulatory Services; Richard Scali, Consumer Affairs Supervisor; Dick Boy, Associate Commissioner; Ron Semprini, Associate Commissioner; David Nunheimer, Associate Commissioner, and Christine Ade, Recorder. He indicated that Lt. John Murphy and Ptl. Steve Maher, Liaison Officers from the Barnstable Police Department, were absent.

**Vote to accept Minutes:** Vote to accept minutes of the 6/10/13 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to accept the minutes of the 6/10/13 Meeting.

**Hearings:**

**Three One Day All Alcohol Licenses, Three One Day Entertainment Licenses:** Application of Chronis Kalivas on behalf of St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, for three One Day All Alcohol Licenses for a its 31<sup>st</sup> annual Grecian Festival to be held on July 19 (4 pm – 11 pm), 20 (11 am to midnight), 21<sup>st</sup> (11 am to 6 pm), 2013 in the Main Hall and outside on the grounds. There will be specialty foods, alcohol, coffees, a boutique, music and dancing and a raffle. Also requested are 3 One Day Entertainment licenses for the same hours as listed above.

Mr. Kalivas appeared for the application. Richard Boy sat for Paul Sullivan. Mr. Kalivas said they have been doing this for 31 years.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Chronis Kalivas on behalf of St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, for three One Day All

Alcohol Licenses for a its 31<sup>st</sup> annual Grecian Festival to be held on July 19 (4 pm – 11 pm), 20 (11 am to midnight), 21<sup>st</sup> (11 am to 6 pm), 2013 in the Main Hall and outside on the grounds. There will be specialty foods, alcohol, coffees, a boutique, music and dancing and a raffle. Also requested are 3 One Day Entertainment licenses for the same hours as listed above.

**Two One Day Entertainment Licenses:** Application of Pete Rohner on behalf of Cotuit Federated Church, 40 School Street, Cotuit, for two One Day Entertainment Licenses for a two day Craftfest with live singers & instruments to be held on Saturday, August 17 and Sunday, August 18, 2013 from 10 am to 4 pm each day.

Mr. Rohner appeared for his requests. They have been doing this for 43 years. There are no changes from last year. Mr. Burman asked about where the entertainment will be...it will be all outside. Mr. Rohner stated there have been no problems.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Pete Rohner on behalf of Cotuit Federated Church, 40 School Street, Cotuit, for two One Day Entertainment Licenses for a two day Craftfest with live singers & instruments to be held on Saturday, August 17 and Sunday, August 18, 2013 from 10 am to 4 pm each day.

**One Day Entertainment License:** Late filed application of Heather Arrascue on behalf of CORD, 106 Bassett Lane, Hyannis for a One Day Entertainment License for a Family Fun Day & Craft Fair on the Hyannis Village Green on June 23, 2013 from 10 am to 2 pm (event was yesterday).

Ms. Arrascue called this morning to advise she could not be at the hearing as she had to go off Cape.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to file this application as they did not attend.

**Alteration of Premises and Amend Daily Live Entertainment License:** Application of Savannah, LLC, d/b/a T. Murphy's Bar & Grill, 769 Iyannough Road, Hyannis, Gary Roy, Manager for an Alteration of Premises description: 769 Iyannough Road, Hyannis (Cape Cod Mall Unit N101C) with main entrance/exit into mall and to outside. Seating total 145 seats: 8 two person tables, 15 bar stools, 15 standees and 114 seated at tables or booths. Twelve employees. Mens/ladies lav off bar area and in kitchen. Office space, 2 utility closets for storage. Dance floor, alternate floor plan seating 109 at 8 two person tables, 15 bar stools, 51 standees and 78 seated at tables or booths. Plan on file dated 4/25/13. Also requested is to amend the Daily Live Entertainment License

for 3-5 entertainers, from 9 am to 12:45 am and relocate the dance floor according to plan SK-3S-1384 dated 4/25/13.

Andrew Glassman, General Manager for the restaurant, appeared for the application. Mr. Hoxie asked what the changes are. Mr. Glassman stated it is to add extra seating and to change it around a bit. The plan was approved by the Building Commissioner. Mr. Scali stated they are going to booth seating and to make room for entertainment in the front. Seats are rearranged to accomplish this. Mr. Burman seemed to remember this was not to become a nightclub; he thinks the new plan looks like it will be a nightclub.

Mr. Glassman stated they will have entertainment only occasionally and they will not be a nightclub.

Mr. Boy stated he had lunch there last week and it is really really nice. It is an upscale sports bar.

Mr. Glassman stated that the present entertainment license is 1-2; they are asking for ability to have a band. They are trying to increase their volume of customers, not to make it a nightclub.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Savannah, LLC, d/b/a T. Murphy's Bar & Grill, 769 Iyannough Road, Hyannis, Gary Roy, Manager for an Alteration of Premises description: 769 Iyannough Road, Hyannis (Cape Cod Mall Unit N101C) with main entrance/exit into mall and to outside. Seating total 145 seats: 8 two person tables, 15 bar stools, 15 standees and 114 seated at tables or booths. Twelve employees. Mens/ladies lav off bar area and in kitchen. Office space, 2 utility closets for storage. Dance floor, alternate floor plan seating 109 at 8 two person tables, 15 bar stools, 51 standees and 78 seated at tables or booths. Plan on file dated 4/25/13. Also requested is to amend the Daily Live Entertainment License for 3-5 entertainers, from 9 am to 12:45 am and relocate the dance floor according to plan SK-3S-1384 dated 4/25/13.

**New Seasonal Common Victualler License:** Application of Kathryn Gianno, d/b/a The Barnacle Snack Bar, 988 Craigville Beach Road, Centerville, Kathryn Gianno, Manager, for a New Seasonal Common Victualler License, to be operated 8 am to 8 pm. Seating at picnic tables as shown on plan dated 5/16/13.

Ms. Gianno has taken this on from now on. Mr. Hoxie asked if there would still be lobster salad rolls; she said there would be.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to Approve the application of Kathryn Gianno, d/b/a The Barnacle Snack Bar, 988 Craigville Beach Road, Centerville, Kathryn Gianno,

Manager, for a New Seasonal Common Victualler License, to be operated 8 am to 8 pm. Seating at picnic tables as shown on plan dated 5/16/13.

**Change of Manager:** Application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyannough Road, Hyannis, Brian Clay, Manager for a Change of Manager to Blair Wells.

Mr. Wells appeared for this change of manager request. Mr. Clay moved over to Panera. He stated this will be the last manager change for a long time. Has been in the business 43 years. Started as a chef. He supervised a large place in Quincy. He has been with UNO for 5 years – Attleboro, Dedham and then Newton, Westboro, Braintree and now here. He is willing to move around.

Mr. Hoxie stated he would determine he is well qualified to be a manager. Mr. Burman stated he did not see much alcohol experience. He himself does not drink; his employees have a limit. They ID everyone under 40. They are more about the food than the alcohol. He has been TIPS certified for over 10 years.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyannough Road, Hyannis, Brian Clay, Manager for a Change of Manager to Blair Wells.

**New Seasonal Common Victualler License:** Application of Warren Beach Enterprises, d/b/a CBA Snack Bar, 915 Craigville Beach Road, Centerville, Jayne Cedeno, Manager, for a New Seasonal Common Victualler License, to be operated 9 am to 4 pm and for some special events. Seating for 28 inside and 36 at picnic tables outside.

Jane Cedeno will be running this for Warren Beach Enterprises. This is their 1<sup>st</sup> year. It is connected to 4 Seas – she started working there in 1979. She stated they also carry lobster salad.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Warren Beach Enterprises, d/b/a CBA Snack Bar, 915 Craigville Beach Road, Centerville, Jayne Cedeno, Manager, for a New Seasonal Common Victualler License, to be operated 9 am to 4 pm and for some special events. Seating for 28 inside and 36 at picnic tables outside.

**New Annual Common Victualler License:** Application of James Turi and Brian Dixon, West Barnstable Subway, LLC, d/b/a Subway #23787, 2145 Iyannough Road, West Barnstable, MA, Jodi Livermore, Manager, for a New Common Victualler License, hours of operation to be 7 am to 10 pm, 7 days per week, with common seating at the Exit 6 Plaza, West Barnstable.

This application is for transfer of ownership of the current location – James Turi appeared for the application. Mr. Hoxie said he thought they were here for this already. Mr. Turi stated they were, but the transfer fell through the last time for this location.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of James Turi and Brian Dixon, West Barnstable Subway, LLC, d/b/a Subway #23787, 2145 Iyannough Road, West Barnstable, MA, Jodi Livermore, Manager, for a New Common Victualler License, hours of operation to be 7 am to 10 pm, 7 days per week, with common seating at the Exit 6 Plaza, West Barnstable.

**Alteration of Premises to add Floor Plan for Entertainment:** Application of Mill Street Tavern, Inc., d/b/a Cape Cod Inn/Duck Inn Pub, 447 Main Street, Hyannis, John Greene, Manager for an Alteration of Premises description to add an Alternate Floor Plan for Entertainment Hours: Indoor seating for 33, patio seating for 44, total seating 77 (17 at bar, 12 at tables, 4 in casual area, 44 on patio).

Attorney O’Keeffe appeared with Mr. Greene to present an additional floor plan for entertainment. It will only take effect when there is entertainment; the current seating plan will remain in effect. During regular seating there are tables and chairs in the entertainment area. This area has been moved at the request of the motel office. It was right next to the office. No additional entertainment is requested, just a change in location. Mr. Hoxie asked about complaints – Attorney O’Keeffe stated there have been no complaints; if more than acoustic they will face the entertainment away from the outdoors. Mr. Scali stated he could hear the music during the recent car show. Mr. Burman stated there HAVE been complaints there under the prior owner. The concern is to keep the volume down.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Mill Street Tavern, Inc., d/b/a Cape Cod Inn/Duck Inn Pub, 447 Main Street, Hyannis, John Greene, Manager for an Alteration of Premises description to add an Alternate Floor Plan for Entertainment Hours: Indoor seating for 33, patio seating for 44, total seating 77 (17 at bar, 12 at tables, 4 in casual area, 44 on patio). He stated the seating number should include employees [should be the occupancy number].

**One Day Entertainment License:** Late filed application of Rachel Sanders on behalf of Wicked Dance Academy, 316 Route 28, West Yarmouth, for a One Day Entertainment License for a dance recital to be held at Barnstable High School Performing Arts Center, 744 West Main, Hyannis on June 29, 2013 from 4 pm to 7 pm.

Rachel Sanders appeared for the application which has been successful in the past years at the high school.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Rachel Sanders on behalf of Wicked Dance Academy, 316 Route 28, West Yarmouth, for a One Day Entertainment License for a dance recital to be held at Barnstable High School Performing Arts Center, 744 West Main, Hyannis on June 29, 2013 from 4 pm to 7 pm.

**Show Cause Hearing:** Show Cause Hearing for Beech Tree Cantina, 599 Main Street, Hyannis, William Pane, Owner, called pursuant to the Town of Barnstable Rules and Regulations of the Licensing Authority, Chapter 501-6 (P): "Alcoholic beverages licensees shall not use any trade name, assumed name, or Abbreviated name in connection with the licensed business unless the same appears on the license certificate issued by the Licensing Authority or unless written permission is first obtained from the Licensing Authority, The use of any unauthorized name on the books, records, stationery or interior or exterior of the licensed premises or for advertising purposes or telephone listing is prohibited unless permission is first received from the Licensing Authority," alleging that even after being notified not to do so, the licensee advertised a new restaurant called "Off the Hook" on the radio on May 10, 2013.

Attorney Pizzuti appeared with Jared Pane for this hearing.

Mr. Geiler asked why William Pane was not present; Attorney Pizzuti stated he was unable to attend as he is not in town. Mr. Geiler stated he is the one who participated in the discussions with our office and when the signs were up. He stated it is hard for us to present our case without him being here.

Mr. Scali represented to the Board that he prepared a report dated June 19<sup>th</sup> which he read into record:

- 1) May 2, 2013- was informed by staff that an ad was running telling the public of a new restaurant called " Off the Hook" at this location. See table handout attached.
- 2) May 3, 2013- Checked Facebook for any advertisements on the" name or restaurant". See Facebook pages attached showing mention of the opening of their " sister restaurant opening next week-Off the Hook-Sushi and Raw Bar".
- 3) May 3, 2013- Had a phone conversation with Bill Pane advising him of what we learned, and that he may not advertise, in any form, Off the Hook as a separate restaurant. He advised me he would take care of it and pull the ads.
- 4) May 6, 2013- A letter was sent to Bill Pane confirming our conversation of May 3, 2013. Received a visit from Bill Pane later that day and again confirmed our conversation and that if they wanted to add a dba they could apply to be heard.
- 5) May 10, 2013- Advised by Mr. Geiler, that he again heard the advertisement on

- the radio mentioning the new restaurant, Off the Hook. Advised Bill Pane again.
- 6) May 13, 2013- Received a visit from Judy Crocker from Cape Cod Broadcasting with a copy of the proposed new ad for Off the Hook to try and remedy the problem. She advised me that it took about 48 hours to pull an ad but that in sometimes the ad goes out and can not be pulled from a set lineup. See ad attached to your original packet.
  - 7) Week of May 13, 2013- Had a conversation with Attorney Pizzuti on how to apply for a change or additional dba.
  - 8) Week of May 20, 2013- visited the site at 599 Main St.- Renovations were taking place in the old Bistro. No evidence of name change or addition of Off the Hook.
  - 9) June 6, 2013- Visited the site at 599 Main St, again at 12:30, and found two "A" frame chalk boards, with the name " Off the Hook - Sushi and Raw Bar at Beechtree Alley" Not Beechtree Cantina. One board located at entrance to alley and the other at the entrance to the old Bistro. See pictures attached of A frame boards. In the menu case outside the old Bistro, were two sheets listing " Off the Hook" as a separate menu. Jared Pane greeted me as I was inspecting and took the menu out of the case.
  - 10) June 6, 2013- Bill Pane visited our office around 3:00pm and filed a change of d/b/a application to be heard on July 8th.

Mr. Burman stated a number of hotels have the restaurant name separate from the licensed name. Mr. Scali stated the majority of restaurants in the hotels are not part of the premises. In this case it is a restaurant advertising another restaurant. Mr. Geiler stated if advertised individually they have to be separate premises, which this is not. He stated that it goes back to when prohibition ended. The State and Cities and Towns need to know who is operating the businesses located in their purview. The Licensing Authorities take great pains to review the applications, question the applicants, make sure they are proper persons to hold the licenses. This is the grey area when we see an ad for a business not licensed or approved by us. We then wonder who is running it. It took us 6 times talking to the owner to get this corrected. He stated he was disappointed the owner was not here to provide that explanation. Mr. Hoxie stated if they had advertised Off the Hook at Beech Tree Cantina it would have been fine. Mr. Geiler stated there is also is no Beech Tree Alley. Using a different name is not allowed. It is the responsibility of all owners to understand that – it is in our Rules and Regulations.

Mr. Hoxie asked if Attorney Pizzuti had any questions. Attorney Pizzuti stated there is a bit of objectivity on these names being used around town. He stated that his client did pull the ad and have the advertising agent go to the Licensing Office to speak with us. Mr. Scali is right; they did not remove all references to the Off the Hook name; Jared Pane did not remember that the menu was in the glass or on the sandwich board. He stated at the next hearing they would be here for the change of d/b/a. The ABCC considers this to be a routine approval by them – they just sign off on it. Attorney Pizzuti stated that Mr. Geiler knew who was operating the new Off the Hook, so why was he asking who was

operating it. He stated that William Pane is one of the members of the LLC; with Phil Miller; not the owner. In any case, he stated that the owner was not asked to appear at this meeting; normally the manager is the one who attends the meetings as his is the name on the license. Mr. Burman suggested that this is just one step too far in bringing people in for a dba. He would like to make a motion that this complaint be filed.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to place this matter on file.

Mr. Geiler asked where this would take us in the future, asking if it is Mr. Burman's opinion that the use of an unapproved d/b/a is not important.

Mr. Sullivan asked if the owner [LLC member, William Pane] could be here at the change of d/b/a hearing. Attorney Pizzuti stated if the Authority wants William Pane to be present that is fine and he will be here. Mr. Hoxie stated that Jared Pane has the authority to answer any questions the Board may have. Attorney Pizzuti stated that William Pane is stepping back a little bit and giving Jared more authority. Jared stated he was not aware that something like this was such a serious matter. They have had to pull the ads; change the menus and get rid of all the uniforms they purchased. He has done as much as he could to make sure the name is not used. He has informed his employees that Off the Hook is not to be used. He was a little confused, as the menus stated Off the Hook at Beech Tree Cantina, which he thought was o.k. He stated that he has grown up doing things by the book and will do so with this matter as well.

Mr. Sullivan stated there seemed to be a lot of confusion as to this name matter.

Mr. Hoxie asked for another motion.

A motion was again duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to place the matter on file.

### **Business Meeting:**

Release of Executive Session Minutes, if any (0).

**Discussion with regard to late filed Request to Close** until 9/1/13 or later from North Street Steak House & Sports Bar, Inc., d/b/a The Steak House Sports Bar, 72 North Street, Hyannis, Edmond Richardi, Manager. On for hearing 7/8/13.

Mr. Scali stated he did not know what action the Board wanted to take on this matter so asked it be put on for discussion. Mr. Hoxie asked if we have ever approved such a long closing before. Mr. Hoxie stated it could happen. Mr. Scali stated they have filed and paid for the 2<sup>nd</sup> ½ year payment for the license; they are just not ready to reopen. Barnstable and Berkshire County both do not have



limits on alcohol licenses for restaurants; the only thing they did not do was contact us ahead of just closing. Mr. Geiler has heard that the owner was in a Boston hospital but makes no judgment on that. Mr. Hoxie agreed that since there are no quotas it is not hurting anyone.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the request of North Street Steakhouse & Sports Bar, Inc., d/b/a The Steak House Sports Bar, 72 North Street, Hyannis, Edmond Richardi, Manager to close until on or about September 1, 2013.

Discussion on application of ecoATM, Inc, San Diego, CA, David Mersten, Manager, for a New Annual Junk Dealer License, for an un-manned ATM at the Cape Cod Mall Food Court area, to recycle used cell phones. Hours of operation to be 10 am to 9 pm, Mon – Sat and 10 am to 8 pm Sunday. Licensing was advised that no-one is available to attend a hearing in MA. They request to be approved without applicant attendance.

Mr. Geiler stated there are two issues: 1) The unwillingness of the applicant to appear...they have asked for approval without personal appearance; and 2) The ability of this device to detect and monitor all of the activities. It appears to be a failsafe system. Identification is checked carefully against what is submitted. However, who is to say someone is watching? There are several communities concerned about assaults and larcenies of cell phones because of the ability of someone to turn in a phone and get hundreds of dollars back. Boston has had some hearings on it but has not made a decision. When you put the phone in the machine it reads the Sim card and determines what type of phone it is, who owns it, etc. Mr. Geiler states the business has something to do with recycling of metals, not the phone itself. You would not get as much for the phone if turning it in to Verizon, for instance. Mr. Burman stated that because it is a brand new type of request, and we do not know much about it, can we ask the owner of the Mall what their opinion is? Mr. Geiler stated the packages they have sent us indicate that it is pretty much foolproof.

Attorney Nunheimer states that the fact that they will not appear at a hearing is indicative of what our answer should be. Mr. Scali stated that Lt. Murphy has indicated to us the same concern, someone not appearing for the meeting. Mr. Sullivan stated we need the opinion of the police department. Mr. Scali stated it is on our agenda for July 8<sup>th</sup>. Mr. Hoxie stated we will not approve unless someone is here for that application, which will be on the agenda for July 8, 2013.

Adjourned at approximately 10:40.

Respectfully submitted,

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Christine Ade, Recorder  
Barnstable Licensing Authority

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Paul Sullivan, Clerk  
Barnstable Licensing Authority