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## TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENT AND ALL TOWN BOARDS  
As Required by Chapter 28 of the Acts of 2009 which amends MGL Chapter 30 A

### Licensing Authority Minutes

**DATE OF MEETING: June 22, 2015**

Check below which one applies

The Clerk's office has this meeting date already posted   X  

This is a special meeting which has not been posted \_\_\_\_\_

**TIME: 9:30 a.m.**

**PLACE: 2<sup>nd</sup> Floor Hearing Room, 367 Main Street, Hyannis, MA**

A regular meeting of the Barnstable Licensing Authority was held on Monday, June 22, 2015. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; David Nunheimer, Associate Commissioner; Richard V. Scali, Director of Regulatory Services, Elizabeth G. Hartsgrove, Consumer Affairs Supervisor; Lt. John Murphy and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department; and Maggie Flynn, Recording Secretary. Ron Semprini, Clerk, was absent.

### **Vote to accept Minutes**

1. Vote to accept minutes of the 06/08/15 Meeting

**A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to accept the minutes of the 06/08/2015 meeting**

### **Board Reorganization**

Did not address will be on the 7/13/2015 Licensing Authority Agenda.

## **Public Hearings**

1. **Amendment of Annual Common Victualler License:** Application of Boston Bread LLC, d/b/a Panera Bread, 790 Iyannough Rd, Hyannis, Molly Baur, Manager, for an amendment to an existing Annual Common Victualler License to correct seating. Seating to include 107 Interior, 18 Exterior seats and 10 employees for a total of 135 as approved by the Building Commissioner. Hours of operation are 5:00 AM to 11:00 PM Daily.

*Tim Knapp appeared on behalf of the application. To allow the exterior seating that was in effect without permission.*

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

2. **Change of Location for Existing Class II License:** application that has been filed by The Car Guys Inc., d/b/a The Car Guys, 741B Yarmouth Road, Hyannis, Ryan M DeVincent, Manager, for a Change in location to 551 Yarmouth Rd., Hyannis, MA from their existing location at 741B Yarmouth Rd. The new location will have 93 total spaces, 2 employee, 5 customer inclusive of 1 handicap, and 86 display all approved by the Building Commissioner and Deputy Fire Chief.

*Attorney Pizzuti spoke for Ryan and Casey DeVicent. They will be able to double the number of cars they previously had at their old location. Their business is rated very high in customer satisfaction on the internet. Gene Burman recused himself from the hearing. Plans are to renovate the existing building into office space. What will happen at the old location, not known at this time. Deed restriction cannot be utilized as a car wash; they can wash their own cars. Lt. Murphy stated that they cooperated with law enforcement on another matter; very helpful and committed to the community. Total cars are 43 at old location the new location will have 93 cars. There is a need for a good quality company with integrity. The Town should promote a good business.*

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

3. **New Annual Common Victualler License:** application of C'est La Vie French Patisserie LLC., d/b/a C'est La Vie French Patisserie, 592 Main Street, Hyannis, Nathalie Tournier, Manager, for a New Annual Common Victualler License, to be operated 10:30 am to 9:30 pm, daily. Interior seating of 24 patrons and exterior seating of 20 patrons; totaling 44 with 3 employees as approved by the Building Commissioner.

*Jim Griffiths appeared for the application. The location is being renovated; it was a retail use previously. Hope to be operational within 30 days. Mr. Scali wanted to thank you for your patience. Are all of your other inspections all set; specifically Health and Building departments; working on them now.*

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

### **New Business:**

1. **New One Day Entertainment License:** Application of Janet Cincotta on behalf of the Osterville Garden Club for a One Day Entertainment license for their Garden Happening Event of touring five beautifully landscaped gardens to be held on Thursday July 16, 2015 from 10:00 AM to 3:00 PM at the Osterville Historical Museum, 115 W Bay Rd., Osterville, MA 02655. Event also includes gift boutique and auction.

*Janet Cincotta appeared on behalf of the application. We have this type of event every 4 years.*

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

2. **New Pedicab Business and Pedicab Operators**

Ms. Hartsgrove stated this is the final push for a pilot program. The authority to grant the licenses is at the Licensing Authority. Four drivers and Four pedi-cabs to begin the program.

Mr. Scali would like the owners to speak. Dan Scandurra, excited to have this program. We will be operating the pedicabs in greater downtown area in Hyannis. No set rate. Our boundaries have been set. Mr. Hoxie asked if they are familiar with the problems in NYC? We are, decided to let the passengers set the rate. Mr. Burman is disturbed that there is not set fee, could lead to intensive negotiation. David Anthony did review these rules and regulations and also reviewed by Legal. The fees are not under review. How do you resolve the fee issues; we address all this in the training programs. NYC is the only location that goes by rates. All other locations are tip based. Provincetown was a huge success. The Rules and Regulations are being used as a template. The drivers rent the bikes, the drivers keep their money. Two subcontractors have been hired. We need to fill 56 shifts per week. Hope to begin sometime this week.

**A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to accept the Rules and Regulations as presented.**

**A second motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to accept the following drivers: Dan Scandurra, David Scandurra, Todd Pickering and Ross Couture.**

**A third motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to accept the four pedicab licenses 101-104 as presented.**

- 3. Consent Agenda:** Vote to accept the Consent Agenda of the 06/22/2015 Meeting.

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

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

*Attorney David Houghton provided an update requested to place on the Agenda for the 13<sup>th</sup> of July. Attorney Connors will need to be appear at that hearing.*

## **SHOW CAUSE HEARING**

- 1. Show Cause hearing for The Island Merchant:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Ocean Partners, Inc., d.b.a. The Island Merchant, 302 Main Street, Hyannis, MA, Joseph P. Dunn, II, Mgr., for violations of the Code of the Town of Barnstable, Massachusetts: Section § 501-3 Admissions to the Premise, over capacity and Section § 501-10 Entertainment at premise which serve food or beverages to be consumed on the premises, noise heard outside premise.

\*\*\*Postponed from 06/08/2015 Hearing\*\*\*

*Officer Maher was dispatched to the Island Merchant for a report of overcrowding. Verified the loud music was coming from the establishment. Door person, Robert Sylvester was asked how many people were inside he stated 52, asked how many allowed he said 49. Mechanical counter was approx 70. The band member said it was crap that they were being shut down.*

*Attorney David Lawler, the facts are correct. Mr. Dunn did fire the band for disrespect to Officer Maher. Mr. Dunn was not there. A mistake was made. Mr. Scali asked if there have been any other issues. Several months ago it appeared there was overcrowding. Lt. Murphy stated that the PD was notified immediately when an employee felt a patron was carrying a gun. Mr. Scali how will you be able to correct, the noise was the band. As for the doorman we hired an additional doorman.*

*Officer Maher issued a violation to the band member. Officer Maher suggests a guilty letter be placed in file for noise.*

*On being overcrowded, this building is not sprinkled. If they are found guilty again the entire building will need to be sprinkled, this is severe. Officer Maher suggests a 3 day suspension be imposed, 1 day to serve, 2 held in abeyance for 6 months. Attorney Lawler asked all days be held in abeyance, if it needs to be served, close on a Monday.*

**A motion was duly made by Mr. Nunheimer, seconded by Mr. Hoxie and a unanimous vote taken for findings on 501-10, violation of noise and 501-3, violation of overcrowding.**

**A second motion was duly made by Mr. Nunheimer, seconded by Mr. Hoxie and a unanimous vote taken for guilty findings on 501-10 and 501-3.**

**A third motion was duly made by Mr. Nunheimer, seconded by Mr. Hoxie and a unanimous vote taken for the following sanctions: On violation of noise 501-10, a letter to be placed in the file. On violation of overcrowding 501-3, suspension of 3 days with 1 to serve and the remaining 2 days to be held in abeyance for six months from the date of the hearing. Suspension to be served on July 13, 2015.**

## **LICENSING DIVISION UPDATES:**

- 1. Licensing Department updates** – Private parking lots. Rules and Regulations have been drafted. The authority of licensing these lots under the Licensing Authority may be coming in the future. Street performers will be coming to the Licensing Division. Municipal Licensing Meeting new section 12 licenses, community care licenses. New home delivery - Drizly. Nips, yes they can be banned must go through public hearing process. A home rule petition must be written and sponsored to increase quotas. We are working on advertising the Consumer Affairs officer. Embargo update. Deadline passed for application. They did submit a partial application, there are a number of negotiations in place. The Compound application was denied due to DUA issues.
- 2. Police Department updates** – Lt. Murphy stated that there was a tragic death of a young person in Hyannis. A large investigation at Pearl and Main Street, ongoing. Disturbance in the 7- Eleven. Trying to determine the root cause. By July 13th meeting will have a better determination. The Police Department may request 7- Eleven roll their hours to midnight. Restaurants that act as nightclubs are also an issue. Mr. Hoxie stated that this is reminiscent of earlier times. Mr. Hoxie stated we can reduce hours if there are incidents inside or outside, no appeal to ABCC or to Superior Court. There is a taunting/confrontational tone to the police department it seems as crowds are trying to escalate violence. Mr. Burman recommends hearings immediately after an incident. These licensees need to realize they are responsible.

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

And any other new business to come before the Licensing Authority.

**PERSONS INTERESTED ARE ADVISED THAT, IN THE EVENT ANY MATTER TAKEN UP AT THE MEETING REMAINS UNFINISHED AT THE CLOSE OF THE MEETING, IT MAY BE PUT OFF TO A CONTINUED SESSION OF THIS MEETING, WITH PROPER POSTING.**

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For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. For meetings of a local public body, notice shall be filed with building in which the clerk's office is located the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal

The meeting was adjourned at 10:45

Respectfully submitted,

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Margaret D. Flynn, Recorder  
Town of Barnstable Licensing Authority

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Martin Hoxie, Chairman  
Town of Barnstable Licensing Authority

# Town of Barnstable

## Consumer Affairs

Elizabeth G. Hartsgrove, Supervisor

Licensing Authority

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### BARNSTABLE LICENSING AUTHORITY

# CONSENT AGENDA

June 22, 2015

## Renewals

- 1. Application of Susan Carey on behalf of Gallery Artrio for (4) One Day Wine Licenses:** Annual Artist Receptions to be held on 7/9/15, 8/8/15, 9/5/15 and 10/10/15. All events will be held at the Gallery located at 50 Pearl Street, Hyannis from 5:00 to 7:00 PM.
- 2. Application of Catherine DiMauro on behalf of the St. George Greek Orthodox Church for (3) One Day All Alcohol and (3) One Day Entertainment Licenses:** 32<sup>nd</sup> Annual Grecian Festival to be held at the St. George Greek Orthodox Church, 1130 Falmouth Rd., Centerville. Dates of the event are July 17-19, 2015. Live entertainment will be Greek music by Ta Pethia in addition to patron dancing.
- 3. Application of Jennifer Williams on behalf of the Osterville Historical Museum for a One Day Beer and Wine and One Day Entertainment Licenses:** Annual Pigs and Pearls event to be held at the Osterville Historical Museum, 155 West Bay Rd. Osterville on July 12, 2015 from 5:00 to 7:00 PM. Entertainment to include a 5 piece jazz band.
- 4. Application of Jennifer Williams on behalf of the Osterville Historical Museum for a One Day Entertainment License:** 24<sup>th</sup> Annual Antiques show to be held on August 13, 2015 from 9:00 AM to 4:00 PM. at the Museum located at 155 West Bay Rd. Osterville. Rain date to be on August 14, 2015 same hours and location.