

(clock in stamp)

(TIMESTAMP ALL 3 COPIES IN TOWN CLERK'S OFFICE –  
LEAVE ONE TO FILE FOR OUR RECORDS -ONE TO POST IN  
TOWN HALL - KEEP ONE COPY FOR YOUR RECORDS).

## 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: January 11, 2016**

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 meeting of the Barnstable Licensing Authority was held on Monday, January 11, 2016. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Ron Semprini, Clerk; Richard V. Scali, Director of Regulatory Services; Elizabeth G. Hartsgrove, Consumer Affairs Supervisor; Lt. John Murphy and Patrolman Stephen Estey, Liaison Officers from the Barnstable Police Department; and Maggie Flynn, Recording Secretary.

### **Vote to accept Minutes**

1. Vote to accept minutes of the 12/28/15 meeting.

**A motion was duly made by Mr. Burman, seconded by Mr. Decker and a unanimous vote taken to accept the minutes as written.**

### **New Business:**

1. **Request for Closure of Common Victualler All Alcohol License:** Request to close the Beechtree Cantina, 599 Main Street, Hyannis, Jared Pane, manager for the period of January 11 - February 7, 2016. This time is being requested for upgrades to the restaurant.

*Jared Pane appeared on behalf of this application. The request is to do maintenance of the restaurant. No changes that will require a hearing.*

**A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the request as written.**

2. **Application for a New One Day Entertainment License:** Application of Jacquie Newson on behalf of the Sandwich and Barnstable Realtors for a One Entertainment license for the Sandwich Barnstable Realtor Scholarship Mardi Gras Fundraiser. The event will be held at The Cape Codder Resort in Hyannis on Friday, February 26, 2016 from 7:00 Pm to 12:00 PM. The event will be a four table casino and entertainment will include music from the Moonlighters.

*Jacquie Newson appeared on behalf of this application. This is a Fundraiser for both the Barnstable and Sandwich high schools. The casino tables will have money. There are 2 black jack tables, a money wheel and a roulette wheel. The Police have reviewed and approved. There will be two realtors collecting the money.*

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

3. **Consent Agenda:**

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

## **Public Hearings:**

1. **Application for a Transfer of An All Alcohol Retail Package Goods Store and Change of Location:** Application has been filed to transfer the Annual All Alcohol Retail Package Store and change of location from Cotuit Grocery Co. Inc. d/b/a, Cotuit Grocery Co. Inc. Steven Gould, manager, 737 Main Street, Cotuit to Hyannis Wine & Spirits Inc., Brian Wheeler, manager, d/b/a Kappy's Fine Wine and Spirits, and to move location to 333 Iyannough Rd., Hyannis.

Description of Premise: Single floor building with 2 entrances and 2 exits, along with 3 roll-up overhead doors. Space consisting of 14,228 sq. ft. of retail floor space, 1944 sq. ft. of beer cooler, 7500 sq. ft. of storage, 459 sq. ft. of

redemption center, 212 sq. ft. of electrical room, 144 sq. ft. of sprinkler room, and 240 sq. ft. of office space. Total retail square footage is 16,172. Total square footage is 24,727.

Hours of Alcohol sales: Monday – Saturday 8:00 AM to 11:00 PM and Sunday 10:00 AM to 6:00 PM.

*Attorney is John Kenney representing the application. Attorney Kenney reviewed the history of the present Cotuit Grocery Store and the proposed move. Details of the new location were presented.*

*Attorney Kenney addressed the transfer in terms of public interest/need. Attorney Kenney reviewed the responsibilities of the Licensing Authority and corresponding case law. Competition is not a valid rationale for denying a request.*

*Is this in the public interest? Case law is cited; public need and appropriateness for a particular location. Currently the store has minimal sales in Cotuit; the numbers speak volumes to this. It does little to no business. The residents of Cotuit do have other stores in the area.*

*Public Interest: Hyannis has over 15,000 residents, 1/3 of the overall community. There is a petition in favor of 769 individuals. Traffic has been through the special permit process and site plan review. Curb cuts are significantly reduced along Route 28. They will be entrance only; 2. There is plenty of parking. Exit onto Spring Street. This building has been vacant for 5 years; it has been rehabilitated. This area needs some redevelopment. This was approved by the Building Commissioner; the special permit is allowed. A special engineer, Matthew Keely was hired to review the traffic concerns. The details of his report were reviewed by Attorney Kenney. Peak hour activity was reviewed and found to be within the allowed regulations of the special permit for retail use. Ample parking is available by the zoning ordinance; approved by Building Commissioner and Town Planner.*

*Lighting was also reviewed and will be designed to be maintained on the exiting site. Noise will be similar to any store. The location is on a busy street across from the Airport. There is ambient noise. To protect the abutting residents, fences need to be installed.*

*The store is appropriately sized for the location. The infrastructure is there to support it in the growth incentive zone.*

*Kappy's will adhere to all liquor license guidelines. Mr. Selby will work to uphold all regulations. The employees go through a vast amount of training. Attorney Kenney reviewed the expectations of the Hyannis store, what will be offered in terms of product, proposed jobs and impact on the Community. The employees are treated to substantial benefits with low turnover. Mr. Selby owns 3 other stores.*

*Mr. Selby is the sole owner of the store and a resident of Marblehead; family business. Each store is independently owned and operated; Brain Wheeler will be the manager and lives in Mashpee. There are no schools or churches within 500 feet.*

*Map of existing store/dispensaries in the location was shown. Attorney Kenney reviewed where all the package stores in the Town of Barnstable are located relative to the proposed location.*

*Kappy's will open a much larger store with a wider selection as compared to other stores. All the amenities are located in the village of Hyannis. Attorney Kenney summarized his presentation and states that the application meets the public need and want.*

*Mr. Hoxie asked about the changes to the building itself. That is presently being negotiated with the landlord, landscaping etc. The design will be high end shelving, lighting, flooring will be high end. The checkouts may be up to 6, daily there will be 2 registers. Mr. Semprini reviewed the entrance and exit process. You may only enter 2 ways off Route 28 and exit via the east end onto Spring Street. How will this affect the area, especially Honey Dew Donuts etc. All the traffic patterns will be changed in the future.*

*A sidewalk needs to be constructed along Spring Street prior to occupancy. A cash bond must be provided for all landscaping improvements.*

*Mr. Decker, reviewed the actual floor plan asked where the community room is located, part of the retail floor space.*

*Mr. Scali in relation to #28 in the special permit, it is 6 years old. The client will finish the interior. The Building Commissioner and the Principal Planner have been satisfied.*

*The parking study was done in 2009/2010; our studies were completed last week.*

*History in previous licenses, there were some violations. Many years ago there were some violations; we have taken steps to eliminate service to minors. This was not disclosed on your application. There have been 4 total violations.*

*Negotiations with regards to Cotuit Grocery; did you negotiate with any other licensees. The number was arrived through negotiation.*

*There have been Seasonal licenses that have now been rolled over into annual licenses that is why we.*

**Public Comment: In favor:**

*Mark Woods, Ideal Floor covering. This area is a shambles, a lot of loitering. This business will surely help. Erica Clark, VP of Eastern Bank, we are looking to have the area be improved. We can also partner with them. The landlord has been good at keeping the area clean. Dave Rosenberg, President of Hyannis Toyota. Giving back to the Community is important; Kappy's always steps up. Al Testa, stated he works in Hyannis, see a vacant building a no-brainer. Kevin Pepe, no relation to this application we would be doing ourselves a great favor. Stu Bornstein, landlord, idea was to upgrade the area, we are elated. We clean the area every day, this is a great organization. Grant Horton, works at Doubletree, Chris Connolly, runs the Double tree, Brian Scarpolini, Live in Falmouth work in Hyannis all expressed positive viewpoints on the application.*

**Opposition:**

*Paul Hebert, Town Councilor, main concern besides the fact that we have enough is when the existing owners have to market to a giant store their prices have to come down. We need to recognize the fact that we have a problem with both drugs and alcohol; speaking for youth and seniors. The traffic of that street is a nightmare. Traffic will be worse, smaller business will be closed as well as putting our youth at risk. Divert traffic down neighborhood road is very serious.*

*Attorney H. Glen Alberich is representing various stores that are against the application. Attorney Alberich reviewed the proximity of all existing stores to the proposed. This is grounded in the term of public need. There needs to be an adequate need. The Springfield case was overturned; the Court dealt with the area of public need. The Licensing Authority denied the application, the ABCC agreed and after all appeals it was upheld. The circumstances of removing the only license in Cotuit to an area of many licenses will oversaturate. This will further exacerbate the traffic problems in the area. This is a 2 way transaction. The Cotuit Liquors license was upgraded 10 years ago to service the residents. In 2011, the Hyannis Civic association issued a report, challenges that threaten Hyannis, too many liquor licenses in Hyannis. Solutions: look at the overall picture before handing out more licenses in the area.*

*The existing stores offer services that can already be found in Hyannis. Most concern is that it is a run-down neighborhood it does not have to be a package store.*

*Moonshine Liquors spoke against, she reviewed her current holdings and history. We do not need another liquor store. Traffic on Route 28 is a nightmare. The Cape Cod Commission describes the area is the worst in the area. Gridlock on a rainy summer day is horrific. The Town of Plymouth had a similar hearing in December, a seaside town. The Town rejected it. The Cotuit license is 792 sq. feet, there population is 3300 plus and multiplied in the*

*summer months. How can you say there is not a need for the people living in Cotuit. Mr. Bornstein stated that this will be uplifting to the area.*

*AJ Luke, from Luke's Super, we are home grown, same buying power as Kappy's. This area is in gridlock. This store does not spike as the other locations. There is nothing uplifting.*

*Andrea Pendergast, Dinette Atsalis. Third generation, here to speak about the saturation. We need to take a broader look at shopping locally. Summer residents are not here from Cotuit. Potentially reallocating monies from small business. You may have vacancies all over the Town of Barnstable. Steve Jamoulis- run a large store in Brockton. To have traffic leaving onto Spring Street it will be a mess.*

*Farook from Willow Package submitted a petition against.*

*John Doherty, Brookshire Road; an abutter to this property. There are enough liquor stores in the Town. The traffic data was in place to remodel the building not to rebuild. Been dealing with this property for 10 years. The traffic information is dated. The tractor trailers will be sitting on my property line. Stating to its oversize, should be no more than 15%. It will create more loitering, green space was reduced. Nothing has been done for the abutters. This proposal does not adhere to the goals, active positive role in the community.*

*Donald Corey, here to speak to the traffic. He needed to go to the Cape Cod Commission because of traffic to a property that I owned. Traffic has only gotten worse.*

*Attorney Kenney stated that all that spoke with the exception of 2 are direct competitors. You have a petition of names in favor. All discussed traffic. We will not have trucks baking up onto Spring Street. Competition is not a reason to deny.*

*Mr. Scali has a question regarding nips, this is an ongoing concern. Nips are behind the counter. What is your staffing in terms of cleaning up the area? We maintain the property, we patrol, high tech surveillance. We will do our best to help with the homeless population.*

*Closed for public discussion.*

*Mr. Hoxie stated we need to do what is best for the Community. Create business, more traffic and a business where people want to go.*

*Mr. Burman, where are the residents from Cotuit regarding the loss off this license. Mr. Semprini asked is Hyannis saturated. What will this do to the job market? Traffic is a huge problem, cannot justify the need.*

*Mr. Burman stated that he appreciated Mr. Heberts comments.*

**A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a 2-1 vote taken to accept the application as presented. Mr. Semprini was opposed.**

- 2. Application of a New Class II Auto Dealer License:** Application of Kamberi Family LLC, d/b/a/ World Tech Auto Sales for a new Class II Auto Dealer License at 20 Bearse's Road, Hyannis, for a maximum of 14 vehicles to be parked outside per approval of the Building Commissioner; 12 display, 1 handicap, 1 customer.

*Attorney Charles Sabbat and Bert Kamberi appeared on behalf of the application. This location has been an auto dealer for many years. Mr. Kamberi has an excellent reputation with over 10,000 individuals serviced. This location will continue as it has operated over the past several years. Mr. Kamberi will be the manager of the premise; he will have a general manager with much experience. Mr. Hoxie asked how the proposed construction in the future may affect the location, should not be any effect either way. Mr. Scali reviewed the plan and reiterated that the dealership must stay within lot lines.*

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

### **Show Cause Hearings:**

- 1. Show Cause Hearing for the Car Guys Credit Express:** The Barnstable Licensing Authority will hold a Show Cause Hearing for the CGC Express, Inc. d.b.a. Car Guys Credit Express, 202 Yarmouth Road, Hyannis, MA, Ryan DeVincent, Mgr., for violations of M.G.L. c.140 §58 and the Town of Barnstable's Class I&II Regulations:
  - expanding the operating business onto 210 Yarmouth Road in Hyannis without approval from the Licensing Authority by storing at least 11 vehicles on the premise; and
  - parking vehicles on the licensed premise not in accordance with the floor plan approved by the Building Commissioner and the Licensing Authority

*Attorney Stephen Pizutti and Ryan DeVincent appeared. Elizabeth Hartsgrove presented the facts of the Show Cause; 11 vehicles extension of premise. At this time, there is only 1 vehicle present and cannot verify that the vehicle is for sale or not. They have cleaned up the property significantly.*

*Attorney Pizutti asked Ms. Hartsgrove if she investigated the owner of the cars. No, I did not. It had a Car Guys plate on the back. The cars that were on that location were related to J&R Auto repair which leases space at the*

*location. Attorney Pizutti stated we are down to 3 vehicles, agreed; yes. One vehicle is on the licensed premises. Another vehicle was parked by an individual replacing a windshield, unaware to his client. According to the floor plan and site visit #9 vehicle was in violation. As of November 19 decision we are down to 1 vehicle, as of today there are no other problems. The Car Guys have no control over J&R vehicles.*

**After testimony from Consumer Affairs Supervisor Elizabeth Hartsgrove and Attorney Pizutti, the following motions were voted 3-0 by the Licensing Authority:**

**To move that the Licensing Authority determine violation of expanding the operating business onto 210 Yarmouth Road, Hyannis was found guilty and place a warning letter in the file indicating such.**

2. **Show Cause Hearing for Brito's:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Jeremy Brito, d/b/a Brito's Auto Sales, 657 Yarmouth Road, Hyannis for violating the Town of Barnstable Licensing Authority Rules and Regulations for Class II Auto Dealerships and MGL c.140 §59 for displaying and storing vehicles outside of the licensed premise without being properly licensed by the Local Licensing Authority.  
\*\*\*\*Continued from 12/14/15 Hearing\*\*\*\*

*Jeremy and Manny Brito appeared. Ms. Hartsgrove reviewed the show cause details from December 14. Continued to today based upon the Town of Barnstable preparing a survey. Some of the vehicles have been removed from the Airport property. Recommend to cleanup property, keep within the 8/8 floor plan. Submit a new floor plan that shows both businesses and have the Building Commissioner approved. Return March 21, 2016 hearing. Mr. Scali advised the Brito's to delineate their business and to not park on the Airport property, a fence would be installed if non-compliant. The Health department has stated that the cottages need to be registered as rentals.*

**After testimony from Consumer Affairs Supervisor Elizabeth Hartsgrove and Manny Brito, the following motions were voted 3-0 by the Licensing Authority:**

**The licensee submit a new floor plan within two (2) months, of the entire property; depicting any structures on the parcel, identifying licensee and any tenant in the main structure, and all parking spaces intended for both the licensee and any tenant, as well as spaces available to the public; and**

**Complete removal of personal property and business related items off the abutting Airport Property prior to March 7, 2016; and**



**Return to the Licensing Authority on March 7, 2016 for an update on the progress.**

**Licensing Division Updates**

1. **Licensing Department updates:** A) Update on Ferreira's Recycling, Inc.,  
B) Rules and Regulations

At the Board of Health meeting they are discussing International Inn. The Rules and Regulations document will be brought before the Licensing Authority for a work session according to Liz Hartsgrove.

In reference to Ferreira, the lot is clean. Attorney Houghton will update.

2. **Police Department updates: None**

Release of Executive Session Minutes, if any (0).And any other new business to come before the Licensing Authority.

- **Matters not reasonably anticipated by the Chair**

---

The list of matters, are those reasonably anticipated by the president/chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the sub-committee may go into executive session. 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. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours in

**The meeting was adjourned at 12:12**

**Respectfully submitted,**

---

**Margaret D. Flynn, Recorder  
Town of Barnstable Licensing Authority**

---

**Ron Semprini, Clerk  
Town of Barnstable Licensing Authority**

# **Town of Barnstable**

## **Consumer Affairs**

**Elizabeth G. Hartsgrove, Supervisor**

**Licensing Authority**

**200 Main Street**

**Hyannis, MA 02601**

**www.town.barnstable.ma.us**

Telephone: (508) 862-4674

Fax: (508) 778-2412

### **BARNSTABLE LICENSING AUTHORITY**

# **CONSENT AGENDA**

**January 11, 2016**

1. **New One Day Entertainment License:** Application of Thalia Haseotes on behalf of the Cold Noses Foundation for the Annual Paws at the Beach and Pet Festival Walk. Event is to be held on September 18, 2016 from 10:00 AM to 2:00 PM at the Craigville Beach parking lot and beach.

## **2. Renewals:**

### **Common Victualler:**

1. Green Lotus Cafe, 349 Main St., Hyannis

### **Auto Amusement:**

1. Interstate Theatres Corp., Cape Cod Mall Stadium 12, Hyannis

### **Class I Dealer:**

1. Balise Nissan, 322 Falmouth Rd., Hyannis
2. Balise Hyundai, 556 Yarmouth Rd., Hyannis
3. Balise Ford, 90 High School Rd. Ext., Hyannis

### **Class II Dealer:**

1. J&J Auto, 381 Camp St., Hyannis
2. Auto Wholesalers of Cape Cod, 92 Rosary Lane, Hyannis