



# 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, 2<sup>nd</sup> Floor Hearing Room, Hyannis, MA – 9:30 a.m.

**September 22, 2008**

A regular meeting of the Barnstable Licensing Authority was held on Monday, September 22, 2008. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Thomas Geiler, Director of Regulatory Services and Licensing Agent, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

#### Hearings:

**One Day Beer & Wine License:** Application of Ronald Marcoux, 17 Windlass Lane, Centerville on behalf of the Cathy Fraser Scholarship Fund for a **One Day Wine & Malt License** for a dinner/fundraiser on September 26, 2008 from 6 pm to 11 pm at Our Lady of Victory Church, Centerville, MA.

Mr. Marcoux appeared for his application. The fundraiser will be a dinner for his daughter's scholarship fund for the Barnstable High School. It will actually run from 6 to 10 – 10:30. It is a donation for the dinner.

Christine Ade advised the Board that they have their State Safety Certificate.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Ronald Marcoux, 17 Windlass Lane, Centerville on behalf of the Cathy Fraser Scholarship Fund for a **One Day Wine & Malt License** for a dinner/fundraiser on September 26, 2008 from 6 pm to 11 pm at Our Lady of Victory Church, Centerville, MA.

**Extension of Junk Dealer's License granted 3/17/08:** Extension of Junk Dealer license granted 3/17/08 to Carl Marchetti, d/b/a Cape Cod Precious Gems & Coins, 48 Iyannough Road, Hyannis, MA, Carl Marchetti, Manager, for the rest of the license year (9/22/08 - 4/30/09).

Mr. Marchetti appeared for the extension of the license until 4/30/09. He stated nothing eventful has happened. There was no comment by the Police Department. There was

a question as to why the license was until 4/30/09. Mr. Geiler states the statute is for a license from 5/1/ to 4/30 each year.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to extend the Junk Dealer license granted 3/17/08 to Carl Marchetti, d/b/a Cape Cod Precious Gems & Coins, 48 Iyannough Road, Hyannis, MA, Carl Marchetti, Manager, for the rest of the license year (9/22/08 - 4/30/09).

**Transfer of All Alcohol Innholder License; New Daily Live and Sunday Entertainment Licenses:** Application of International Inn, Inc., d/b/a International Inn, 662 Main Street, Hyannis, MA, Arthur Rittel, Manager, for Transfer of its All Alcohol Innholder License to International Inn Bar & Grill d/b/a International Inn, Ravi Ahuja, Manager, and for New Daily Live and Sunday Live Entertainment Licenses, the hours to be 9 pm to 12:45 am weekdays and noon to 12:45 am Saturdays and Sundays.

Commissioner Burman recused himself from the hearing. Arthur Rittel appeared – advising his attorney is stuck in traffic on Route 132. Attorney Princi who represented the buyers will proceed first. He stated that the corporation to whom the transfer is requested is a newly formed corporation with a sole shareholder and Manager – Ravi Ahuja. He represented that the motel has a clean file – operated with great integrity and strong diligence in monitoring its operation. The restaurant itself is not a destination restaurant – the seating plan has been provided and the aerial view of parking which is existing has been provided. They are requesting transfer of the Innholder all alcohol license and new entertainment licenses as those were not renewed in 2008. The motel is 147 rooms; dining is 126 seats plus bar seating for 171 total. They cater particularly to tourists and repeat customers. Mr. Ahuja is an architect by trade – has overseen multi million dollar facility purchases. He is very familiar with requirements although not the alcohol phase. He is enrolled in a TIPS program – and will be closing in 15-20 days. He will keep the existing staff in place – Mr. McNulty the present bartender as well as the General Manager will stay on to assist them in the operation. Mr. Ahuja is from Connecticut and will reside on premises at least for the first 6 months. He has owned and operated successful retail businesses as well. The key restaurant people are all TIPS trained and experienced. The application does not seek any changes – it is a straight transfer of the license. The filing provided the P&S with an ownership entity leasing to the corporation to whom the transfer of the license is requested. The required documentation is provided. Mr. Ahuja is licensed in CT and MA as an architect. He is a US citizen. It is their intention today to have Mr. Ahuja take over the motel and kitchen operation for now until the ABCC approval; they would shut down the alcohol operation until such time the approval is received. The entertainment will be karaoke, groups for parties, etc. It has not been used on a 7 day basis – just as needed. That may be the reason he did not renew it this current year. They will be doing additional advertising and this is why they want to have the entertainment licenses. Martin Hoxie asked about entertainment hours – they want 7 days instead of what was advertised.

Attorney Blank appeared for the International Inn. He stated that Mr. Rittel supports the transfer pending the closing and approval by the ABCC.

Mr. Sullivan stated that with the proposed Manager's lack of experience with alcohol, he would like it reaffirmed that they produce TIPS training for the manager and bartender and schedule all staff to have it as well.

A motion was duly made by Paul Sullivan and seconded by Richard Boy and a unanimous vote taken to approve the application of International Inn, Inc., d/b/a International Inn, 662 Main Street, Hyannis, MA, Arthur Rittel, Manager, for Transfer of its All Alcohol Innholder License to International Inn Bar & Grill, d/b/a International Inn, 662 Main Street, Hyannis, and for New Daily Live and Sunday Live Entertainment Licenses, weekdays 9 pm to 12:45, Saturday and Sunday noon to 12:45 am, with Ravi Ahuja being the new Manager, and that the license is approved with the Manager going through TIPS training and that the bartenders and staff also attending same.

**Change of Manager:** Application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyanough Road, Hyannis, MA, Michael Sives, Manager for a **Change of Manger on the All Alcohol Common Victualler License** to Joshua D. Sylvester.

No-one appeared for the change.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to continue the hearing to October 6, 2008 with the Licensing Assistant to notify the applicant.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Big Daddy's Pizza, holding a Wine & Malt Package Store License, 4120 Falmouth Road, Cotuit, Vincent Holland, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the hearing notice that on July 18, 2008 Big Daddy's Pizza, holding a Wine & Malt Package Store License, 4120 Falmouth Road, Cotuit, Vincent Holland, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable. He then asked who was here from Big Daddy's and from the Police Department. Vincent Holland answered he was present and Lt. JoEllen Jason answered that she and Officer Steve Maher would testify for the Police Department. Mr. Hoxie asked them all to raise their right hands and swear to tell the truth at this administrative hearing. All raised their hands and answered yes. Mr. Hoxie advised Mr.

Holland we would hear from the Police Department first and that he would have a right to question the police and then testify on his behalf.

Lt. Jason stated that she and Officer Maher are here representing the Barnstable Police Department, and that Officer Maher would be making the case. She stated she wanted to make an overview statement of how they came to be here today. She said that the two of them have worked for 2 ½ yrs – 3 yrs. as liaison officers with the Board, and that it took some time to learn and be comfortable with all the workings of the Board and what they do all the time. During that time, she stated they feel they have opened the communication with the businesses on Main Street, advising that noise complaints and disturbances are down. They have had great communication with the licensees in the Town. They have facilitated some informational seminars for license holders – two in 2007 and two in 2008, covering all of the alcohol license requirements, ID's (fake and altered), overcrowding, noise complaints, over serving, under-age drinking and what stings are. Because there are only two of them, the rest being in enforcement and so busy, they have taken the philosophy that self-policing of the licensees is the best policy. They have tried to give them as much information as possible and have been open to any questions from licensees. They decided to test the philosophy to see how the licensees were doing. Recently on three separate nights stings were held – they are frankly a bit disappointed with the results. She stated there is more work to be done but took it as a learning experience. They want to bring before us the fact that although there are some businesses before us, there were 48 businesses in compliance on those nights and at some point would they like to recognize those as being diligent. She stated there are a number of elements that are common to all of these hearings and stated they will present to us how the sting was put together first and then individually conduct the hearings. She stated that Officer Maher would give an overview of what they did on each night, the first being July 18<sup>th</sup>.

Officer Maher stated that they sent out a letter to all of the Liquor Licensees in the Town to invite them to informational sessions this year (showing a copy of the letter sent in his power point presentation) in June. There was someone from the ABCC in attendance as well. They went over the sting guidelines (attached to these minutes and shown in his power point presentation). In the midst of the conversations they went over how they would accomplish a sting and what they would do once they went to their establishments. All who attended were informed and shown the specific guidelines and how they would be operated. As part of the sting procedure, there was an article in the Cape Cod Times on June 26<sup>th</sup>, a copy of which ad is attached to these minutes, advising that the police department was going to be going out using young people to test these establishments. During the June sessions they also suggested self testing of the establishments. On the nights of the stings, they brought in an underage officer, went over the guidelines with him, took a photo of him dressed as he was to go out on the sting, made sure he looked age appropriate, had no ID of any kind with him, he had no money except what was given him by the Police Department. He was asked to sign a release and a copy of the sting guidelines. He was told specifically to go into the establishment and ask to purchase one particular type of drink. In pouring establishments he was told to ask for a Bud Lite and to ask for a six pack of Bud Lite in

package stores. In each case it was the same – to cut down on any confusion. If a question was asked by an employee he was told to leave. He was told not to offer a fake ID; there was no ruse used. He was just told to ask for the Bud Lite.

Officer Maher stated that in regard to Big Daddy's Pizza, the sting was at 8:45. The special officer along with Lt. Jason and myself were in an unmarked car, the way it worked was so they could see that we parked in front of the establishment observe the entrance of the special officer into the establishment. In this case the special officer went inside and up to the counter after picking up a six pack of Bud Lite and purchased that six pack for \$6.79 from what he described as a white female clerk with blond hair. Officer Maher stated that after that time he came back outside to their vehicle and they moved on to the next establishment. In each case there was not a lot of time spent in each establishment; just the time spent purchasing the alcohol and that this was straightforward and consistent at each establishment. This is why the guidelines are important for them because with the ABCC, using them as a background guideline the format works; it does not put an undue burden on the license holder to try and weed through what might be a ruse and what might not be a ruse. A person goes in with no ID, looking under 21 and asking to buy alcohol.

Mr. Hoxie asked Officer Maher to describe the minor used and his age – Officer Maher stated he is 20 years old, born 3/14/88, 5'9". The power point presentation he used showed Officer Marshall in the clothing he wore on the first sting night. The guidelines and photo will be put into evidence. He further stated that each night they went out they took a photograph of him and will have these for each hearing.

Mr. Hoxie called Mr. Holland to speak. He stated he did attend one of the seminars. They are fully aware of the rules and regulations. He has now instructed his staff (once he received the Show Cause Hearing Notice) to card everyone, no matter how old they look. He stated he does not expect to have to be here again.

Lt. Jason added that there has been anywhere from a 5 day to a 3 day suspension in the past on this type of violation. Lt. Jason suggests a one day suspension with retraining of Managers and staff.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to findings on Big Daddy's Pizza: 1) I find that the Barnstable Police Department conducted a sting operation substantially in accordance with the "Sting" Policy adopted by the Licensing Authority, 2) I find this hearing was properly posted and advertised and the licensee properly notified of the hearing, 3) I find that the underage person used in the sting was a person under 21 years of age and an employee of the Barnstable Police Department and operating under the supervision of a Barnstable Police Officer during the sting activity, 4) I find that the Barnstable Police Department did announce, at an open and televised meeting of the Licensing Authority on July 7, 2008, their intention to conduct "sting" operations in the near future, 5) I find that the Barnstable Police Department did send a notice to each licensee of the town, using a Licensing Authority prepared list of licensees, to attend and participate in one of

two Licensing seminars in June, 2008 where rules and regulations would be discussed, questions answered, and procedures would be explained, and that a Cape Cod Article dated June 26, 2008 announced the intention of the Police Department to conduct the stings, 6) I find the Police Department did conduct the "Sting" activities less than two months following the seminars (this one being July 18, 2008), 7) I find the testimony of the Police Department to be credible in this matter, 8) I find that the licensee did sell or deliver an alcoholic beverage to a person less than 21 years of age, 9) I find that the record indicates there have been no prior violations in the 4 years it has had a liquor license.

Attorney Houghton stepped forward with two and suggested that on the 5<sup>th</sup> finding the record reflect in the findings the date of the Licensing meeting where the stings were discussed. He also wanted the date of the Cape Cod Times article where the sting was mentioned, it was 6/26/08 and in the record the date the sting occurred. Mr. Hoxie thanked him and said the record would reflect those dates and asked Lt. Jason to read into record the newspaper article.

Office Maher read into record the date was June 26, 2008 and it stated, "Police will also periodically send young people into bars and package stores to see whether employees are checking identification as required by law." Mr. Burman asked if that would satisfy the record? Attorney Houghton asked if anyone recollected at which meeting the police mentioned they would be having the stings...Lt. Jason asked for a moment to check and Officer Maher stated at the meeting in the "little" hearing room in July. That date was determined to be July 7, 2008.

He added for the record that Big Daddy's Pizza, holding a Wine & Malt Package Store License, 4120 Falmouth Road, Cotuit, Vincent Holland, Manager, did sell alcohol to a minor on 7/18/08. Mr. Sullivan asked where the newspaper ad appeared for the record; Officer Maher replied The Cape Cod Times.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to adopt the findings as amended.

A motion was duly made as to guilt by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken that on July 18, 2008 Big Daddy's Pizza, holding a Wine & Malt Package Store License, 4120 Falmouth Road, Cotuit, Vincent Holland, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to sanctions based on the findings: That a 2 day license suspension be imposed with one day to be served on July 18, 2009 and one day of the

suspension to be held in abeyance for a year (until 7/18/09) to be voided if there is no further Chapter 138 violation prior to that date.

Mr. Hoxie stated if there was nothing further he would close this hearing.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 The Raw Bar on Ocean Street, holding an all alcohol common Victualler license, 230 Ocean Street, Hyannis, Elizabeth Westwater, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the notice of hearing: The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 The Raw Bar on Ocean Street, holding an all alcohol common Victualler license, 230 Ocean Street, Hyannis, Elizabeth Westwater, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable, and stated that the Licensing Authority will continue this hearing to its 10/6/08 meeting at request of the attorney for the Licensee.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Hyannis Harbor Hotel, holding an all alcohol innholder license, 213 Ocean Street, Hyannis, Gary Scott, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the hearing notice of hearing stating: The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Hyannis Harbor Hotel, holding an all alcohol innholder license, 213 Ocean Street, Hyannis, Gary Scott, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable. He then stated that he would swear in the witnesses here to testify asking them to raise their right hands and swear to tell the truth. The individuals were Lt. JoEllen Jason, Officer Steve Maher and Gary Scott, Manager as well as Ms. Salata.

Officer Maher asked the Board to stipulate to the Police Department prior presentation with regard to the Sting Guidelines and procedure and the photo of the person used. Mr. Hoxie stated it was so stipulated.

Officer Maher went on to testify that on July 18, 2008 at 9:53 pm he and Lt. Jason and the undercover special officer went and parked on the side of the hotel where the Thirsty Tuna is a restaurant and part of the establishment. He stated he watched the undercover officer go up. He stated that the middle staircase had a security officer or whatever he might be called checking ID's, the other 2 did not. The undercover officer went up the 1<sup>st</sup> staircase up to the bar and made the purchase of a Bud Lite for \$3.50 from a tall white female in her 30's with blond hair without ever being asked for ID. I then watched him come back down the stairs to our vehicle.

Stephanie Salata appeared with Gary Scott, the Manager. She asked about which staircase they went up; she was told the brick one by the fireplace. For the record, she stated that night they had two security doormen checking ID's, not one. Mr. Geiler asked if the Manager was present; Mr. Scott identified himself as Manager and stated in his 4 years there have been no problems – they are trying to do the right thing. They have been to all the compliance meetings and all the bartenders are TIPS certified. He apologized for the mistake that happened. He did reiterate he hired two doormen every weekend and gave out bracelets to make sure. Somehow this slipped through the cracks and he stated he was very sorry about it.

Findings as follows were proposed for Hyannis Harbor Hotel by Mr. Burman and seconded by Paul Sullivan: 1) I find that the Barnstable Police Department conducted a sting operation substantially in accordance with the "Sting" Policy adopted by the Licensing Authority, 2) I find this hearing was properly posted and advertised and the licensee properly notified of the hearing, 3) I find that the underage person used in the sting was a person under 21 years of age and an employee of the Barnstable Police Department and operating under the supervision of a Barnstable Police Officer during the sting activity, 4) I find that the Barnstable Police Department did announce, at an open and televised meeting of the Licensing Authority on July 7, 2008, their intention to conduct "sting" operations in the near future, 5) I find that the Barnstable Police Department did send a notice to each licensee of the town, using a Licensing Authority prepared list of licensees, to attend and participate in one of two Licensing seminars in June, 2008 where rules and regulations would be discussed, questions answered, and procedures would be explained, and that a Cape Cod Article dated June 26, 2008 announced the intention of the Police Department to conduct the stings, 6) I find the Police Department did conduct the "Sting" activities less than two months following the seminars (this one being July 18, 2008), 7) I find the testimony of the Police Department to be credible in this matter, 8) I find that the licensee did sell or deliver an alcoholic beverage to a person less than 21 years of age, 9) I find that the record indicates there was one violation in the past which was for noise, but no alcoholic beverage violations.

Attorney Houghton came to the podium and stated he may have might have missed it but did not recollect of the rest of the report got into record, which was that the sting was conducted July 18, 2008, a plain clothes officer used, did it get in? Mr. Hoxie answered that he believes it did get in.

A motion was duly made by Paul Sullivan and seconded by Gene Burman and a unanimous vote taken to adopt the findings.

Based on the findings, a motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken that on July 18, 2008 Hyannis Harbor Hotel, holding an all alcohol innholder license, 213 Ocean Street, Hyannis, Gary Scott, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to sanctions: That a 2 day license suspension be imposed with one day to be served on July 18, 2009 and one day of the suspension to be held in abeyance for a year (until 7/18/09) to be voided if there is no further Chapter 138 violation prior to that date.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Blanchard Liquors, holding an all alcohol package store license, 226 Falmouth Road, Hyannis, Donald J. Corey, Jr., Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the notice of hearing as follows: The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Blanchard Liquors, holding an all alcohol package store license, 226 Falmouth Road, Hyannis, Donald J. Corey, Jr., Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable. He then asked the individuals who would testify to raise their right hands and swear to tell the truth at this administrative hearing. Lt. Jason, Officer Maher and Attorney David Lawler raised their hands along with Mr. Corey.

Mr. Hoxie asked the Police department to go first. He then asked if Attorney Lawler and Mr. Corey had heard Lt. Jason's presentation about the sting. Attorney Lawler said that they had.

Officer Maher advised that on July 18 at 10:48 pm they pulled up to establishment on the side of the building. The undercover officer went inside the building. Buyer went to the cooler and got the 6 pack of Bud Lite brought it to the counter and bought the beer for \$5.99 and described to Officer Maher advised that clerk was a short heavy set white female with blond hair and glasses. He came back to the police non-marked vehicle. They witnessed him go into the establishment. The six pack was bagged and tagged as evidence and is at the Police Department.

Mr. Hoxie asked Officer Maher if he would introduce as evidence the sting guidelines used and the person who participated in the sting? Officer Maher stated that was correct. Mr. Hoxie then addressed Attorney Lawler.

Attorney Lawler asked if they had signed copies of the guidelines; Officer Maher stated they do. Attorney Lawler stated he would not present evidence and obviously they understand the severity of underage people being served. He stated that Don Corey and Blanchard's consider themselves to be an ally of the police and obviously there was a mistake made; all employees are TIPS trained. The bottom of the 2<sup>nd</sup> page of a document entered into evidence and given to Chairman Hoxie explains about their policies for employees and alcohol service. He had a stack of confiscated licenses he showed the Board taken from underage individuals. The sophistication of the counterfeit licenses is unreal. Mr. Corey also has managers on the weekend periodically check the parking lot for young people trying to get people to buy for them. He has participated in the Cops and Shops program where police officers are invited into his store to sell and the minors attempting to purchase are arrested. He also has tried his own young people on attempting buys. They are all TIPS trained and has participated in Mass Package Store Association. He stated it is bad for business to sell to minors. Attorney Lawler did want to comment that the notification phase of the stings is not really fair. Mr. Corey did not find out about it until 3 or so weeks after the sting. He has several employees who may fit those descriptions. He thinks our guidelines, as opposed to the ABCC guidelines, are not fair. An underage officer going in after the stings would be great for the general standpoint of education. From a standpoint of identifying the problem immediately would be better. He mused that perhaps it was because the establishments could then call others to advise the sting was taking place. He finds it difficult to defend the licensee without knowing who and when it happened. He thinks Blanchard's 8-9 year license with no violation and the licenses they have confiscated show they take it seriously. He said in no way is questioning the integrity of the police. He also stated that Lt. Jason and Officer Maher have been very straightforward and reasonable in the time he has had dealings with them. Mr. Corey represented himself that he has small children and that this in no way is who he is – he apologized and stated he had no defense.

Mr. Hoxie asked Officer Maher about the rationale behind the non-notification of the licensee upon completion of the sting. Officer Maher stated that someone might call another licensee to warn them and because they only use ONE individual over three nights; if notified they don't want the individual being noticed, etc. and it would prohibit

them doing it on multiple nights. Officer Maher stated they will look into the timeliness of notification of the sales to minors.

Attorney Lawler stressed that the notice part is very important. Most caught are very reputable and mistakes are made – the ability to stop it sooner is more important. He offered to meet with the police department to help stop the problem by avoiding these mistakes in the future. As an attorney he finds the non-notification a problem for an attorney to defend a client a month later. He also thinks it is not so much a learning experience if notified so much later. He reiterated that Mr. Corey goes above and beyond in his diligence by sending Managers out to the parking lot and attending and educating his people. Mr. Hoxie thanked Attorney Lawler and stated the Authority will note his concerns.

Mr. Geiler stated that he does not want the record to remain this way; he believes there are other reasons as well that these guidelines have been put in place; clearly if the officer went in right after the sting they would have a greater obligation to look at the whole operation as well; that could lead to other violations which probably would be less severe or acute – which is not appropriate at that point. This is a one purpose activity - JUST to do a sting. Beyond that, any time a police officer goes anywhere they could be looking for one thing and uncover something else. If required to respond immediately, even though they have information of other violations, that would be inappropriate. Attorney Lawler suggested certainly at Blanchard's he cannot think of any other activity that could be going on that would not be appropriate; even if they went in the next morning to advise of the violation would be a help – then there is the ability to react to it. Mr. Hoxie stated he thinks Attorney Lawler's problem is with the 3-4 weeks and stated the Authority is taking note of that. Officer Maher stated that in speaking with the ABCC and in particular the agents that do the stings, one reason why they do not go right back in to an establishment is because it could cause a conflict in the establishment. The employee (clerk) has nothing really to do with the manager of the establishment. He stated to walk right back in would not be constructive to just tell a clerk – they need the Manager. He did admit it would be helpful to notify within a smaller timeframe. Attorney Lawler suggested they return the next morning and ask for the manager or turn around and mail something certified the next day. He stated that in this instance, the employee they think was the one is no longer employed with the company, but his is not positive so can't make that representation. He stated they are not trying to avoid punishment but to be an ally.

Lt. Jason suggested since they went under the guidelines presented as part of the record, the notification phase might be addressed at a different time, certainly with their input, as it is not really appropriate at this time. She said the problem is duly noted and will be looked into.

Attorney Lawler stated he knew these officers didn't draft the guidelines but are just following what they have in front of them.

Mr. Hoxie recognized Commissioner Sullivan who stated it was a very good point Attorney Lawler raised. He advised that Attorney Lawler made another comment about the ability to stop this drinking and brought forth the issue of all these very sophisticated ID's with computers. He stated there is also in the law provisions where people who have falsified these are subject to fines and maybe that is something that should be brought up. And discussed somewhere along the line but in our particular case in the stings nobody asked for ID.

Attorney Lawler stated he had brought the IDs to show that at Blanchard's an offense of this type is out of the ordinary.

A motion was duly made for findings with regard to Blanchard's Liquors by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to findings: 1) I find that the Barnstable Police Department conducted a sting operation substantially in accordance with the "Sting" Policy adopted by the Licensing Authority, 2) I find this hearing was properly posted and advertised and the licensee properly notified of the hearing, 3) I find that the underage person used in the sting was a person under 21 years of age and an employee of the Barnstable Police Department and operating under the supervision of a Barnstable Police Officer during the sting activity, 4) I find that the Barnstable Police Department did announce, at an open and televised meeting of the Licensing Authority on July 7, 2008, their intention to conduct "sting" operations in the near future, 5) I find that the Barnstable Police Department did send a notice to each licensee of the town, using a Licensing Authority prepared list of licensees, to attend and participate in one of two Licensing seminars in June, 2008 where rules and regulations would be discussed, questions answered, and procedures would be explained, and that a Cape Cod Article dated June 26, 2008 announced the intention of the Police Department to conduct the stings, 6) I find the Police Department did conduct the "Sting" activities less than two months following the seminars (this one being July 18, 2008), 7) I find the testimony of the Police Department to be credible in this matter, 8) I find that the licensee did sell or deliver an alcoholic beverage to a person less than 21 years of age, 9) I find that the record indicates there have been no prior violations.

A motion was duly made by Paul Sullivan and seconded by Gene Burman and a unanimous vote taken to adopt the findings as proposed.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to guilt with respect to the findings.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to sanctions for Blanchard Liquors, holding an all alcohol package store license, 226 Falmouth Road, Hyannis, Donald J. Corey, Jr., Manager, that there be a suspension for two days, one day of which is to be served and the other held in abeyance until that date provided there are no further Chapter 138 violations. Mr. Hoxie stated that the suspension date is one year from the date of the violation, July 18, 2009.

Attorney Lawler argues that the date is a Saturday in July, which is a severe sanction. If they could serve two days during the week ...it is just that the one year time is awful. It is hard enough for these businesses to survive in Cape Cod and asks that a midweek suspension be imposed. Mr. Hoxie stated that has been our policy to date and stated he did not think they were going to change their policy, although he understands his concerns. Mr. Hoxie closed this hearing.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Harry's, holding an all alcohol common Victualler license, 350 Stevens Street, Hyannis, Letitia Durham, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the notice of hearing as follows: The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Harry's, holding an all alcohol common Victualler license, 350 Stevens Street, Hyannis, Letitia Durham, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie asked that all witnesses raise their right hands and be sworn to tell the truth during this administrative hearing. Lt. Jason, Officer Maher and Fred Durham, husband of Letitia Durham, Manager, appeared as she was ill today, and were sworn in.

Officer Maher stipulates again to all of the testimony given at the beginning of today's meeting regarding the sting guidelines used, the advertising, the meetings held and the young officer used in the sting on 7/18/08. He then testified that on 7/18/08 at approximately 11:12 pm, they observed the officer go to the fro door where he was asked for the cover charge of \$5.00. We then watched him enter the premises and a short time later he came out saying he had purchased a Bud Light for \$6.00 from a white male in his mid forties and returned to the vehicle. Officer Maher made a point to bring up that in 2004 Harry's had a violation but in keeping with the idea that this operation is a learning tool, the police department has had no problems with Harry's and want that to be on record. Mr. Hoxie asked if he suggested the same sanctions as the others even though there was a previous violation and Officer Maher agreed.

Mr. Durham stated all the bartenders and doormen are now TIPS trained and they have instituted a new policy of stamping the hands at the door so they have a double check on the patrons. He said they get pretty busy on a Friday night and they rely on the doormen as it is hard for the bartenders to check ID's. The doorman at that time has

been with them for a while, is very diligent employee – he is surprised and embarrassed the officer got by him. He stated he himself is there on Friday's and immediately thought it might have been him who was not diligent enough. He repeated they now have a double system in place and believe that will be foolproof. He also stated he normally has an older crowd which he prefers.

Mr. Burman asked the question – saying they have 2 people on the front door; Mr. Durham said they do. And both officers paid the cover charge and were not asked for ID? Mr. Durham stated he did not understand it. He asked if the of age officer accompanying the special underage officer drinks around here? Officer Maher stated he does not. Mr. Durham replied he honestly does not know how he got in then.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to findings for Harry's that: 1) I find that the Barnstable Police Department conducted a sting operation substantially in accordance with the "Sting" Policy adopted by the Licensing Authority, 2) I find this hearing was properly posted and advertised and the licensee properly notified of the hearing, 3) I find that the underage person used in the sting was a person under 21 years of age and an employee of the Barnstable Police Department and operating under the supervision of a Barnstable Police Officer during the sting activity, 4) I find that the Barnstable Police Department did announce, at an open and televised meeting of the Licensing Authority on July 7, 2008, their intention to conduct "sting" operations in the near future, 5) I find that the Barnstable Police Department did send a notice to each licensee of the town, using a Licensing Authority prepared list of licensees, to attend and participate in one of two Licensing seminars in June, 2008 where rules and regulations would be discussed, questions answered, and procedures would be explained, and that a Cape Cod Article dated June 26, 2008 announced the intention of the Police Department to conduct the stings, 6) I find the Police Department did conduct the "Sting" activities less than two months following the seminars (this one being July 18, 2008), 7) I find the testimony of the Police Department to be credible in this matter, 8) I find that the licensee did sell or deliver an alcoholic beverage to a person less than 21 years of age, 9) I find that the record indicates there was a prior violation about 4 years ago but Officer Maher spoke on their behalf suggesting they receive the same sanctions as the other restaurants.

A motion was duly made by Paul Sullivan to adopt the findings with the modification for clarification that this happened at 11:12 pm, seconded by Gene Burman and a unanimous vote taken to adopt the findings as presented.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to guilt based on the findings.

A motion was duly made by Gene Burman based on the testimony and findings and seconded by Paul Sullivan and a unanimous vote taken as to sanctions for Harry's, holding an all alcohol common Victualler license, 350 Stevens Street, Hyannis, Letitia Durham, Manager,: that there be a suspension for two days, one day of which is to be served and the other held in abeyance until that date provided there are no further

Chapter 138 violations. Mr. Hoxie stated that the suspension date is one year from the date of the violation, July 18, 2009. Mr. Burman stated he would have made a different motion had not the police officer recommended the same sanctions.

Mr. Hoxie closed the hearing.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 La Paz Surf Cantina, holding an all alcohol common Victualler license, 573B Main Street, Hyannis, Sean Downes, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the hearing notice as follows: The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 La Paz Surf Cantina, holding an all alcohol common Victualler license, 573B Main Street, Hyannis, Sean Downes, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie asked the witnesses who will testify, Lt; Jason and Officer Maher and John Downes, Owner. Officer Maher again stipulated as to everything presented in the power point presentation and background information presented by the police department.

Officer Maher stated that on July 18<sup>th</sup> at 11:28 pm , myself, Lt. Jason and the plain clothes officer went to La Paz Surf Cantina. Officer Maher said in this case he stood down the street and observed the undercover walk into the establishment. After he came out he advised Officer Maher he had purchased a Bud Lite from a tall white female for \$4.00.

Mr. Downes had only one question – he said it rained a lot that night and he was wondering if the doorman was inside or out; Mr. Downes stated he had brought his doorman inside. Officer Maher stated the doorman was not outside. Mr. Downes also said that by the time he was served with the notice of hearing which he is still horrified about, he had fired 2 employees 2 weeks earlier for not checking ID's; he was shocked that this happened. He cannot determine who it was because of the time factor of notification as 95% of their seasonal employees were already gone by that time. He was unable to determine where the breakdown happened after the fact – if it was the doorman or bartender. He stated for the record that he takes full responsibility but unfortunately cannot determine where it happened. Mr. Hoxie stated that we will be

looking into this problem and working on it with the police. He then asked Mr. Burman for findings.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to findings on La Paz Surf Cantina: 1) I find that the Barnstable Police Department conducted a sting operation substantially in accordance with the "Sting" Policy adopted by the Licensing Authority, 2) I find this hearing was properly posted and advertised and the licensee properly notified of the hearing, 3) I find that the underage person used in the sting was a person under 21 years of age and an employee of the Barnstable Police Department and operating under the supervision of a Barnstable Police Officer during the sting activity, 4) I find that the Barnstable Police Department did announce, at an open and televised meeting of the Licensing Authority on July 7, 2008, their intention to conduct "sting" operations in the near future, 5) I find that the Barnstable Police Department did send a notice to each licensee of the town, using a Licensing Authority prepared list of licensees, to attend and participate in one of two Licensing seminars in June, 2008 where rules and regulations would be discussed, questions answered, and procedures would be explained, and that a Cape Cod Article dated June 26, 2008 announced the intention of the Police Department to conduct the stings, 6) I find the Police Department did conduct the "Sting" activities less than two months following the seminars (this one being July 18, 2008), 7) I find the testimony of the Police Department to be credible in this matter, 8) I find that the licensee did sell or deliver an alcoholic beverage to a person less than 21 years of age, 9) I find that the record indicates there were warnings in the past for overcrowding and passing a drink.

A motion was duly made by Paul Sullivan and seconded by Gene Burman and a unanimous vote taken to adopt the findings.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to guilt:

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to sanctions for La Paz Surf Cantina, holding an all alcohol common Victualler license, 573B Main Street, Hyannis, Sean Downes, Manager: that there be a suspension for two days, one day of which is to be served and the other held in abeyance until that date provided there are no further Chapter 138 violations for the year from the incident. He stated that the suspension date is one year from the date of the violation, July 18, 2009.

Mr. Hoxie closed the hearing.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, Asa Grill & Reputation, holding an all alcohol common Victualler license, 415 Main Street, Hyannis, Mollie Lehane, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7,

paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the hearing notice: The Barnstable Police Department has reported to the Licensing Authority that on July 18, Asa Grill & Reputation, holding an all alcohol common Victualler license, 415 Main Street, Hyannis, Mollie Lehane, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie swore in the witnesses including Attorney Lawler, Lt. Jason and Officer Maher as well as Shane Pacheco and Mollie Lehane. Officer Maher again stipulated to the presentation made by the police department at the commencement of the meeting. Officer Maher stated that on July 18<sup>th</sup> at 11:40 he, Lt. Jason and the undercover officer went up to the Asa Grill. Steve stood at the entrance to the library near the JFK Museum and watched him walk on the grassy area between the library and the Asa Grill into the patio area and then into the bar. Some time later he exited and told Officer Maher he had purchased a Bud Lite beer for \$3.00 from a tall white male bartender with short black hair.

Attorney Lawler asked Officer Maher if it was the main entrance. He answered there are two entrances but no it was not the main one. Officer Maher stated he also wanted to bring up that the previous weekend he had mentioned to security there the possibility of somebody could gain access that way without being carded. Attorney Lawler asked if that was an area where someone could sneak in? Officer Maher stated yes. Attorney Lawler asked if it was pouring rain at the time and Officer Maher stated no, it had stopped raining. Attorney Lawler asked if they went in the slider; Officer Maher stated they did not, they went in the main door as you look at the building. Attorney Lawler asked if it is behind where the doormen check ID's and Officer Maher stated yes but he saw several employees standing around that area and was quite surprised no-one stopped these people.

Attorney Lawler stated this is a special case; and again the month between the sting and the notice caused a substantial problem for his client in identifying how it happened and who was there. He said that this was a case where the underage person had to deliberately sneak in he side way through bushes unlike the prior hearing where the individual went to the doorman and was let in. He said that there were 9 or so security personnel on duty. He asked how long the sting takes – Officer Maher states just about 6 minutes. He advised the Board that he had notified the restaurant staff the week prior that this area was a place someone could sneak in and a potential problem. On this particular night as it had recently stopped raining, there weren't many people outside – there were more staff people than anything else. He said again that he was surprised no-one stopped the young officer.

Attorney Lawler stated they confiscate fake ID's; he has a few dozen. Everyone is TIPS trained. They worked with Jamie Binenda from the ABCC. Also they actually ran their own security sting which caught some people. He stated they must have not checked the back door. This was very close to midnight and reason to believe it went over midnight by completion of the sting so he is requesting suspension next year on the 19<sup>th</sup>. Mr. Hoxie stated, "Nice try!" Attorney Lawler again stated the applicant has a good record and is really trying to do the right thing. He stated it is a security problem, not a carding problem. Mr. Hoxie stated this points put the awesome responsibility of license holders because they have to be aware to check IDs at the door but also the ingenuity being used by underage drinkers to gain access to a place with entertainment.

Mr. Geiler asked for clarification, how is this a security issue and how is this not a carding issue as the individual did not come in the front or pay the cover charge.

Attorney Lawler stated they run hand in hand; someone came in from the side alleyway over the grass and through the bushes – there is a cover charge they want people to be paying and also want to make sure everyone is 21 or older. So what happened here apparently is that it was a rainy night, the patio is usually full, and the underage officer essentially doing his job tried to act as an underage person sneaking into an establishment and was successful in doing so. He says this is not a carding issue as no-one is carded at the patio, they would be told to leave.

Mr. Geiler stated he understood that but you heard the officer stated he entered through the front door after coming from the side. Officer Maher said it was not an alleyway – he clearly crossed the lawn in view of everyone outside and entered the front door. The issue is that if somebody has a doorman, it is the doorman's responsibility to check ID but ultimately it is the person pouring the drink who is responsible. It was the bartender who did not card him to make sure he was over 21. That doesn't take the responsibility away from the bartender.

Attorney Lawler stated again if someone is thought to be underage they are carded but the area where they card is in front of that. I am not questioning the police report – I believe everything in it is accurate. Again, the same argument – the issues we talked about before.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to findings with regard to the Asa Grill and Reputation on July 18, 2008: 1) I find that the Barnstable Police Department conducted a sting operation substantially in accordance with the "Sting" Policy adopted by the Licensing Authority, 2) I find this hearing was properly posted and advertised and the licensee properly notified of the hearing, 3) I find that the underage person used in the sting was a person under 21 years of age and an employee of the Barnstable Police Department and operating under the supervision of a Barnstable Police Officer during the sting activity, 4) I find that the Barnstable Police Department did announce, at an open and televised meeting of the Licensing Authority on July 7, 2008, their intention to conduct "sting" operations in

the near future, 5) I find that the Barnstable Police Department did send a notice to each licensee of the town, using a Licensing Authority prepared list of licensees, to attend and participate in one of two Licensing seminars in June, 2008 where rules and regulations would be discussed, questions answered, and procedures would be explained, and that a Cape Cod Article dated June 26, 2008 announced the intention of the Police Department to conduct the stings, 6) I find the Police Department did conduct the "Sting" activities less than two months following the seminars (this one being July 18, 2008), 7) I find the testimony of the Police Department to be credible in this matter, 8) I find that the licensee did sell or deliver an alcoholic beverage to a person less than 21 years of age, 9) I find that the record indicates there have been no prior violations.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to adopt the findings.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to guilt.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to sanctions for Asa Grill & Reputation, holding an all alcohol common Victualler license, 415 Main Street, Hyannis, Mollie Lehane, Manager: that a suspension of 2 days be imposed; one to serve on 7/18/09; one to be held in abeyance until 7/18/09.

Mr. Hoxie thanked Attorney Lawler.

**Show Cause Hearing:** The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Hannah's Fusion Bar & Bistro, holding an all alcohol common Victualler license, 615 Main Street, Hyannis, Binh Phu, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

Mr. Hoxie read the hearing notice: The Barnstable Police Department has reported to the Licensing Authority that on July 18, 2008 Hannah's Fusion Bar & Bistro, holding an all alcohol common Victualler license, 615 Main Street, Hyannis, Binh Phu, Manager, was in violation of the Code of the Town of Barnstable, Massachusetts, Part V, to wit: it did sell an alcoholic beverage to a person under 21 years of age in violation of Section 501-7, paragraph F and 501-7, paragraph I of the Town of Barnstable Rules and regulations of the Licensing Authority as adopted in the Code of Regulations of the Town of Barnstable.

He then asked the witnesses to arise their right hands asking if they promised to tell the truth at this administrative hearing. Binh Phu and Ptl. Maher and Lt. Jason were sworn in.

Ptl. Maher asked Mr. Phu to stipulate to the power point presentation as to the procedures and conducting of the sting and the individual used. Mr. Phu so stipulated. He then testified that on July 18<sup>th</sup> at 11:30 pm, he and Lt. Jason and the undercover special officer parked in the parking lot across from Hannah's. I observed him enter Hannah's. He went up to the bar and purchased a Bud Lite for \$4.00 from a short Asian male in his 30's. Again I observed him come out of the bar and he came back to our vehicle.

Mr. Hoxie asked Mr. Phu if he had any questions for the officer.

Mr. Phu asked Officer Maher if there were two gentlemen coming in and was told that yes, there were; he asked for the record it be noted the beer was not \$4.00. He then said he didn't mean that to be funny or disrespectful. He was very disappointed to hear of this violation. He has had previous violation; the employee on duty for the first violations was dismissed. He makes no excuse and does not try to justify this. There is no reason to serve underage people for the few dollars – they are trying to work with the [police to be the “police” of the establishment. It is his policy to ID all – he is very disappointed in himself. When he received our letter he was trying to recreate what happened on that date - opening up that day's work and it was a problem trying to remember the event exactly. According to his records it was very busy that night. He asked the time – Officer Maher stated 11:20. He stated they were trying to catch up on cleaning up, etc. He did recall a beer on the counter with no-one drinking it. That makes sense as to what the violation represents. He believes he remembers one of the 2 men who came in went to the bathroom, the other ordering. He said he makes it a point to card everyone. Perhaps it was after the 2<sup>nd</sup> man came out he neglected to card the 2<sup>nd</sup> one. He did not recognize the person in the power point presentation. Mr. Phu stated that a lot is going on in his life as well but stated there is no excuse, we are all humans and he made a mistake. He will take the consequences. He is very concerned as there is a past violation. The last sentencing was after 7/18 on those past violations.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to findings on Hannah's Fusion Bar & Bistro: 1) I find that the Barnstable Police Department conducted a sting operation substantially in accordance with the “Sting” Policy adopted by the Licensing Authority, 2) I find this hearing was properly posted and advertised and the licensee properly notified of the hearing, 3) I find that the underage person used in the sting was a person under 21 years of age and an employee of the Barnstable Police Department and operating under the supervision of a Barnstable Police Officer during the sting activity, 4) I find that the Barnstable Police Department did announce, at an open and televised meeting of the Licensing Authority on July 7, 2008, their intention to conduct “sting” operations in the near future, 5) I find that the Barnstable Police Department did send a notice to each licensee of the town, using a Licensing Authority prepared list of licensees, to attend

and participate in one of two Licensing seminars in June, 2008 where rules and regulations would be discussed, questions answered, and procedures would be explained, and that a Cape Cod Article dated June 26, 2008 announced the intention of the Police Department to conduct the stings, 6) I find the Police Department did conduct the "Sting" activities less than two months following the seminars (this one being July 18, 2008), 7) I find the testimony of the Police Department to be credible in this matter, 8) I find that the licensee did sell or deliver an alcoholic beverage to a person less than 21 years of age, 9) I find that the record indicates there were two violations recently including one for underage drinking.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to adopt the findings.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to guilt.

Mr. Hoxie asked Officer Maher for his recommendations and Officer Maher replied that unfortunately since there are other violations recently although he understands there is a lot going on in Mr. Phu's life right now, he is the Manager of record and served to an underage person so he can't support him as he did some others at this meeting.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken as to sanctions for Hannah's Fusion Bar & Bistro, holding an all alcohol common Victualler license, 615 Main Street, Hyannis, Binh Phu, Manager: that there be a 6 day suspension with 3 days to be served as of 7/18/09 and three days to be held in abeyance for a year, to be voided if there are no further Chapter 138 violations in the interim.

Mr. Sullivan stated at Mr. Hoxie's request if there was any discussion on the motion that he really feels the suspension is adequate even though a very short time prior to this there was another serving of a minor. He states he hopes the proprietor can manage to survive this but it is really something we should pay attention to.

Mr. Burman praised the Barnstable Police Department handled this very well; we have had some suggestions made by the Licensees that he thinks we should discuss in detail. Basically our job is to enforce the Regulations of the Town of Barnstable and the Licensee is to do the same. If they don't, it is the responsibility of the Police Department to get out there and enforce. He thanked Mr. Houghton and Mr. Geiler for their assistance. Mr. Sullivan commented as well, having gone on a ride along, praised the Barnstable Police as doing an admirable job. He stated to Mr. Phu that he has heard he runs a fine establishment and asked the Licensee to please not go away with a bad attitude, this needs to be done today but we would be glad to try to help him in any way.

Mr. Hoxie closed this hearing.

**Business Meeting:**

Mr. Hoxie brought brought up the subject of a discussion regarding the 38 establishments who did ask the individual for his identification and they did exercise due diligence. Mr. Burman has mixed emotions about sending out commendations for doing their jobs. Mr. Hoxie mentioned that Lt. Jason had requested letters be sent tot hem. Lt. Jason thinks it is responsible to do inasmuch as the attorney has pointed that out to us, it helps them in their learning experience to know they were tested and found in compliance; it is NOT a congratulations but a notice they did exercise due diligence . She went on to say that the ABCC does this. Mr. Sullivan asked if in lieu of letter – w could post on the Town website the names of those in compliance on each date.

Mr. Hoxie asked that Lt. Jason read the list of names and dates for these minutes. Lt. Jason announced that as to the sting conducted on 7/18/08, there were 10 establishments in compliance:

Cotuit Liquors  
The Mallory Dock  
The Quarterdeck  
Shanghai Chinese Restaurant  
Christy's (Package Store) on Ocean Street  
The Dockside  
The Dennis F. Thomas Post #2578 (V.F.W.)  
TGI Friday's  
Bobby Byrne's Restaurant & Pub  
Kian n Rylee's Pub & Patio.

On 7/26/08 there were 13 establishments in compliance:

The Barnstable Bottle Shoppe  
Jack's Pizza  
Bud's Place  
Parker's Liquors  
Mike's Pizza  
Sam Diego's  
Luke's Super Liquors  
Willow Tree Market  
Trader Ed's  
Pufferbellies  
The British Beer Company  
The 19<sup>th</sup> Hole Tavern  
Schooner's

Before reading the last group, Lt. Jason stated that they tried to do a cross section of about ½ all the licensed establishments of all types – common victuallers, innholders, clubs, general on premise and package stores – there are a total of around 130 licenses establishments and they visited about half of them

On 8/16/08 the following 15 establishments were in compliance:

Spanky's Clam Shack  
Tommy Doyle's  
Baxter's Boathouse  
The 99 Restaurant  
Kettle Ho  
Up the Creek Again  
The Elbow Room  
Tiki Port  
Fresh Ketch  
The Duck Inn Pub  
Colombo's Café & Pastries  
RooBar  
Gringo's  
Puff the Magic  
Ardeo on Main.

Mar. Hoxie asked if we are in agreement that a letter be sent by the Licensing Authority? Lt. Jason also requested it be posted on the website. More discussion took place and it was determined the "letter" is not needed.

Mr. Geiler brought up a that one day beer & wine license was approved at the last meeting to be held over at the airport. He mentioned that that particular applicant at the time did not have the State Fire Safety Certificate issued by the Building Department and signed by the Fire Chief. There was a discussion with the applicant and urged them to be sure they followed through on this as the license could not be issued until such time as that certificate was in the hand of the Licensing Authority; that's the law. He thought the Licensing Authority had done a good job of making that clear to the Licensee. However, come the day of the event, we did not have the certificate, no representation from the building department nor the fire department that they had even been contacted to inspect. We notified the airport that we were not able to issue that license but that the event that day which was a catered function could take place as it did not require a permit from the town but the alcohol license was NOT going to be issued. The day following the head of the event I had a conversation with a representative of the group who was quite upset they were notified so late. I advised him I didn't think they were notified late at all; they were notified right at the time of what they needed to do. I know that our office made several calls to try to get someone to move this along but the document we need we did not get. The alcohol did not go forward and people were very unhappy. Mr. Geiler stated he believes the advice of the Authority did more than they are required to do in this effort to get this issued and that the applicant certainly did less than they were required to do.

Mr. Hoxie asked that the Chicago UNO Grill hearing be continued at the request of until 10/6/08.

Mr. Hoxie wrapped the meeting up by praising the police department for conducting the sting and for very professional, credible testimony.

Meeting was adjourned at 11:30 a.m.

Respectfully submitted,

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Christine P. Ade, Recorder  
Town of Barnstable Licensing Authority

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Paul Sullivan, Clerk  
Town of Barnstable Licensing Authority