



# Town of Barnstable

## Regulatory Services

Thomas F. Geiler, Director

### Licensing Authority

200 Main Street

Hyannis, MA 02601

[www.town.barnstable.ma.us](http://www.town.barnstable.ma.us)

Telephone: (508) 862-4674

Fax: (508) 778-2412

### 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.

March 30, 2009

A regular meeting of the Barnstable Licensing Authority was held on Monday, March 30, 2009. 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, Katie Donahue and Christine Ade, Recording Secretaries. Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, were absent.

#### Hearings:

**One Day Beer & Wine License & Entertainment Licenses:** Application of John F. Maher on behalf of The Holy Ghost Society of Santuit/Cotuit, 17 Constant Lane, Cotuit, MA for **two One Day Beer & Wine Licenses and a One Day & Sunday Entertainment License** (4-5 member Cross Country Band) for its annual Portuguese Feast on June 20, 2009 from 5 pm to midnight and June 21, 2009 from noon to 6 pm at the Holy Ghost Society, 53 Main Street, Cotuit.

Mr. Maher appeared for the application. This is the 118<sup>th</sup> feast in Cotuit.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of John F. Maher on behalf of The Holy Ghost Society of Santuit/Cotuit, 17 Constant Lane, Cotuit, MA for **two One Day Beer & Wine Licenses and a One Day & Sunday Entertainment License** (4-5 member Cross Country Band) for its annual Portuguese Feast on June 20, 2009 from 5 pm to 11 pm and June 21, 2009 from noon to 6 pm at the Holy Ghost Society, 53 Main Street, Cotuit.

Mr. Hoxie asked for a recess for 5 minutes for technical problems. Upon return, he announced that Mr. Sullivan would not be present at the remainder of the hearing.

**One Day Beer & Wine License:** Application of Heather Donnelly on behalf of the MSPCA, 41 North Street, Middleborough, MA for **a One Day Beer & Wine License** for a Silent and Live Auction to benefit the MSPCA's Guardian Angel Fund at Cotuit Center for the Arts, 1577 Falmouth Road, Cotuit, Ma on May 2, 2009 from 6 pm to 9 pm.

Heather Donnelly appeared for the application. MSPCA Centerville is holding this – the 3rd annual event. They expect about 150 people. The same people as always will serve the alcohol.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Heather Donnelly on behalf of the MSPCA, 41 North Street, Middleborough, MA for a **One Day Beer & Wine License** for a Silent and Live Auction to benefit the MSPCA's Guardian Angel Fund at Cotuit Center for the Arts, 1577 Falmouth Road, Cotuit, Ma on May 2, 2009 from 6 pm to 9 pm.

**One Day Beer & Wine License & Entertainment License:** Application of Amy Duquette on behalf of Cape Cod Life Publications, 60 North Street, Hyannis for a **One Day Beer & Wine License and One Day Entertainment License** for a second annual food and wine festival to be held on May 31, 2009 at Rectrix Aerodrome, 730 Barnstable Road, Hyannis from 3 pm to 6 pm.

Ms. Duquette appeared for the application. This is their 2<sup>nd</sup> annual event. It is from 3 – 6 pm. They expect several wineries and restaurants. The admission fee is \$75.00, proceeds to benefit the Arts Foundation of Cape Cod.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Amy Duquette on behalf of Cape Cod Life Publications, 60 North Street, Hyannis for a **One Day Beer & Wine License and One Day Entertainment License** for a second annual food and wine festival to be held on May 31, 2009 at Rectrix Aerodrome, 730 Barnstable Road, Hyannis from 3 pm to 6 pm.

**One Day Beer & Wine License:** Application of Amy Duquette on behalf of Cape Cod Life Publications, 60 North Street, Hyannis for a **One Day Beer & Wine License** for a two hour reception at Cotuit Center for the Arts, 4404 Falmouth Road, Cotuit on June 4, 2009 from 4 pm to 6 pm.

Amy Duquette appeared for the second application. This is at Cotuit Center. Tickets go to benefit the Arts Foundation. Mr. Geiler asked her to check with Health Dept. on both applications.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Amy Duquette on behalf of Cape Cod Life Publications, 60 North Street, Hyannis for a **One Day Beer & Wine License** for a two hour reception at Cotuit Center for the Arts, 4404 Falmouth Road, Cotuit on June 4, 2009 from 4 pm to 6 pm.

**One Day Wine Only License:** Application of Lucy Loomis on behalf of Sturgis Library, 3090 Main Street, Barnstable for a **One Day Wine Only License** for an open house to launch a new cookbook that the Library has put together. The event is being held on May 3, 2009 from 3 pm to 5 pm.

Ms. Fuller appeared for her wine license. It is going to be held as a fundraiser for the library. Food will be brought in by cookbook participants. The cookbook is \$15.00 – Simply Sturgis. The event is \$5.00. She had a question – she requested the permit fee be waived for the library permit. Mr. Hoxie agreed that it would be waived.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Lucy Loomis on behalf of Sturgis Library, 3090 Main Street, Barnstable for a **One Day Wine Only License** for an open house to launch a new cookbook that the Library has put together. The event is being held on May 3, 2009 from 3 pm to 5 pm.

**One Day Beer & Wine License:** Application of Vicky Nixon on behalf of Rockland Trust Company, 442 Main Street, Hyannis, for a **One Day Beer & Wine License** for a Business After Hours event to be held on April 15, 2009 from 5:30 pm to 7:30 pm in the bank front lobby.

Dee Petrella appeared for the application. It is a Business After Hours event, co-hosted by Palio Pizzeria who will provide the beer and wine. There will be no charge for the alcohol. Clients of the bank and Chamber members are invited.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Vicky Nixon on behalf of Rockland Trust Company, 442 Main Street, Hyannis, for a **One Day Beer & Wine License** for a Business After Hours event to be held on April 15, 2009 from 5:30 pm to 7:30 pm in the bank front lobby.

**New Annual Common Victualler Wine & Malt License:** Application of Louis Capolino and Gennaro Sferrazzo, d/b/a Caffè e Dolci, 430 Main Street, Hyannis, Louis Capolini, Manager, for a new Annual Common Victualler Wine & Malt License, with a total of 38 seats indoors and 24 seats on an outside patio.

Attorney Jane Davis appeared with Louis Capolino, long time manager with the café since the 80's and his partner, Genarro Sferazzo. The café has remodeled a bit with Town permission and inspections and would now like to serve a pasta night – cooking is spectacular. They have been urged through the years to offer an evening meal and would like to offer a glass of wine or beer with those meals. It is a small, quiet place. Mr. Hoxie asked if they plan to serve it outside? Attorney Davis was questioned about the abutter notification and green cards. Mr. Hoxie asked about experience in service – Mr. Sferrazzo was the chef at Barolo and manager for a liquor license in Boston. They intend to serve with lunch and dinner. Mr. Hoxie asked if any patrons had requested this. Ms. Davis said they had. Mr. Sullivan recused himself from the hearing. Mr. Burman asked about the change of manager in the paperwork – Mr. Capolino will remain Manager.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Louis Capolino and Gennaro Sferrazzo, d/b/a Caffe e Dolci, 430 Main Street, Hyannis, Louis Capolini, Manager, for a new Annual Common Victualler Wine & Malt License, with a total of 38 seats indoors and 24 seats on an outside patio; operation until 11 pm in the summer; 6-9 in the summer.

**Transfer of Wine & Malt Package Store License:** Application for **Transfer of its Annual Wine & Malt Package Goods Store License** has been made by Christy's of Cape Cod, LLC, Christy Mihos, Manager, 50 Ocean Street, Hyannis, MA to Hess Mart of Massachusetts, LLC, d/b/a Hess Express 21243, 50 Ocean Street, Hyannis, MA, Donald P. Viera, III, Manager.

Attorney Paul Tardif, Yarmouthport, MA represents Hess. They are seeking transfer of the wine and malt package store license. Renee Schrooland Andy Lautenbacker from Hess were present as well. Notice to abutters and green cards were submitted. The typical hours for Sunday and present hours are requested. They have surveillance cameras and are very conscious of photo ID for alcohol served to minors. Hess conducts its own liquor sales program. Mr. Viera and the assistant manager have taken their TIPS training. The beer and wine coolers are in the back. The beer and wine will be in the cooler except some wine displays which are small. Mr. Hoxie asked if the Kingston location has beer and wine? They do not. He asked if Mr. Viera has experience in sale of beer and wine – he has taken his training. Mr. Burman asked about the license being issued to Christy Mihos – he was the manager with an office right nearby. How many hours does Mr. Viera expect to be on premises? Mr. Viera stated 52 hours. The assistant manager would be on site other hours and is also TIPS trained.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Christy's of Cape Cod, LLC, Christy Mihos, Manager, 50 Ocean Street, Hyannis, MA to Hess Mart of Massachusetts, LLC, d/b/a Hess Express 21243, 50 Ocean Street, Hyannis, MA, Donald P. Viera, III, Manager for **Transfer of its Annual Wine & Malt Package Goods Store License.**

**Corporate Officer Change:** Application of GMRI, Inc., d/b/a **Olive Garden**, 1095 Iyannough Road, Hyannis, MA, Tracy Kempaner, Manager, for a **Corporate Officer Change.**

No one appeared for the application and Christine Ade indicated that was because it was filed directly with the ABCC for all the applicable towns and we just needed to vote to approve it.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of GMRI, Inc., d/b/a **Olive Garden**, 1095 Iyannough Road, Hyannis, MA, Tracy Kempaner, Manager, for a **Corporate Officer Change.**

**Change to Daily Live Entertainment License and addition of Automatic Amusement License for 2 video games:** Application of Tommy Doyle's of Hyannis, LLC d/b/a Tommy Doyle's Irish Pub & Restaurant, 334 Main Street, Hyannis, Matthew Vazquez, Manager, for a change to its Daily Live Entertainment License currently for 3 stages with up to 3 entertainers per stage to a total of not more than 9 entertainers split among the stages, and for a new Automatic Amusement License for two video games.

Alan O'Sullivan appeared for the application as the owner. He stated that when they originally applied they did not realize they would want more at the middle stage – up to 6. They have put in some special equipment to limit decibels from the entertainers who turn up the sound themselves. The sound is at the control of the restaurant. They now have 3 entertainers per stage – 9 total at the establishment. They do not want more entertainers – just a new configuration. They are filing this application to clarify the language on their license. Depending on the event – usually the number is a max of 6 on any one stage. They have also applied for 2 automatic amusement games – trivial pursuit and a safari game in the bar area. No gambling or payout from the machines.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Tommy Doyle's of Hyannis, LLC d/b/a Tommy Doyle's Irish Pub & Restaurant, 334 Main Street, Hyannis, Matthew Vazquez, Manager, for a change to its Daily Live Entertainment License currently for 3 stages with up to 3 entertainers per stage to a total of not more than 9 entertainers with up to 6 on any one stage, and for a new Automatic Amusement License for two video games with no gambling or gaming.

**Change in Description – Common Victualler License:** Application of Ralph Crossen on behalf of Kefalonites, Inc., d/b/a The Egg & I, 521 Main Street, Hyannis, Peter Kappatos, Manager, for change in the description on its Common Victualler License to include total seating 180; with a maximum of 124 outdoors. License is subject to Site Plan Review 042-08 conditions with seating plan approved by the Building Commissioner on 1/8/09, Historic District Commission conditions on application approved 1/7/09, and letter of conditions from the Public Health Division dated 1/29/09. Continued from 3/16/09.

Ralph Crossen appeared for the application. At his first appearance last October (a show cause hearing for violations of the outside dining because of a language barrier), Mr. Crossen came aboard to get it all approved so he could do what he needed. They have had 4 Historic hearings for a patio as poured, a bollard, a fence, an awning and several planters. Site Plan Review wanted a plan which was signed off by the Building Commissioner. The Board of Health got involved – their seating goes by the plumbing code – different than the building capacity code. The maximum they allow is 180. This then takes precedence unless they add more bathrooms. They are asking for outside of 124 and no more indoors than it takes to total 180 with a maximum of 120 indoors. Conditions were also imposed for air curtains, a hose bib and an outside sink, etc. They are o.k. with Mr. Crossen going forward now – last meeting the air curtain was not in yet. Mr. Hoxie asked if it is in conflict with the original SPR? Mr. Crossen stated it

modifies it – the original allowed more inside and less outside. We have the new plan showing that the trump card is the 180 Health code allowing 180 total inside and out. The Occupancy certificate is 156 inside. That has not changed. But the SPR states 120 inside maximum. Mr. Hoxie asked their hours – it is 6 am to 2 pm. Nothing at night, which was a concern to the police. They have not even started to serve lunches yet. No liquor, no dinners. Mr. Burman was concerned if it rains that too many people would go inside.

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the application of Ralph Crossen on behalf of Kefalonites, Inc., d/b/a The Egg & I, 521 Main Street, Hyannis, Peter Kappatos, Manager, for change in the description on its Common Victualler License to include total seating 180; with a maximum of 124 outdoors and maximum of 120 inside. License is subject to Site Plan Review 042-08 conditions with seating plan approved by the Building Commissioner on 1/8/09, Historic District Commission conditions on application approved 1/7/09, and a letter of conditions from the Public Health Division dated 1/29/09. The maximum seating in and out is 180.

**Show Cause Hearing:** Show Cause Hearing upon confirmation by the Barnstable Police Department that Rumpy's Beef & Reef, d/b/a The Dockside, 12 School Street, Hyannis, Paul Skudris, Manager, was in violation of the Rules and Regulations of the Licensing Authority and Town Code Chapter 501, section 1.14, a (3) for failure to operate the premises covered by the license during the period of February 1, 2009 through February 23, 2009 and for the month of January 2009, and for violation of Chapter 501, Section 1.16 a, reducing the hours of operation without prior approval of the local Licensing Authority.

Mr. Hoxie read the hearing notice. The licensee did not appear. The landlord's representative, Deirdre Kyle appeared to advise the Board that they closed 12/31/09. They are actively advertising for a new tenant. Ms. Ade represented they had never paid for the 2009 license or come to pick it up. They had advised her they would be in but never arrived. They also were considering filing for a seasonal license but did not do so. Mr. Geiler stated the Board could vote today to revoke the license for non-payment. He suggested that any time you have a failure to pay the fee that license is not in effect but remains out there until the Board votes to revoke it, because it was renewed in November of 2008. Ms. Kyle advised that they were in lease negotiations with them but those negotiations fell through.

Mr. Burman proposed a finding that the license holder was in violation of the Rules and Regulations of the Licensing Authority and Town Code Chapter 501, section 1.14, a (3) for failure to operate the premises covered by the license during the period of February 1, 2009 through February 23, 2009 and for the month of January 2009, and for violation of Chapter 501, Section 1.16A, reducing the hours of operation without prior approval of the local Licensing Authority, and that they never paid the requisite fee or picked up their license for 2009.

Mr. Hoxie seconded the motion and there was a unanimous vote of guilty on those findings.

A revocation of the Annual Common Victualler All Alcohol License was duly proposed by Mr. Burman and seconded by Mr. Hoxie. A unanimous vote was taken to revoke the license.

**Show Cause Hearing:** Show Cause Hearing upon confirmation by the Barnstable Police Department that Phu Bros., Inc., d/b/a Hannah's Fusion Bar & Bistro, 615 Main Street, Hyannis, MA, Binh Phu, Manager, was in violation of the Rules and Regulations of the Licensing Authority and Town Code Chapter 501, section 1.14, a (3) for failure to operate the premises covered by the license during the period of February 1, 2009 through February 23, 2009, and for violation of Chapter 501, Section 1.16A, reducing the hours of operation without prior approval of the local Licensing Authority.

Binh Phu appeared to advise that he has closed the restaurant (2/19/09) due to financial conditions. He verified that he was closed during the times alleged. He has filed personal bankruptcy. They are looking to sell. There is an applicant for a license transfer. Their fees are current. Mr. Phu stated he did come in to the town right away stating they are closed at present. And the new hearing will be on April 13, 2009. Mr. Phu asked us to continue this hearing until that next hearing. Mr. Burman asked if the applicant is aware of a sanction on this license. He said they are not aware of that but would make them aware.

Mr. Hoxie stated the hearing is continued to April 13, 2009.

**Show Cause Hearing:** Show Cause Hearing upon confirmation by the Barnstable Police Department that Ristorante Barolo, 297 North Street, Hyannis, MA, Ann Marie Wallace, Manager, was in violation of the Rules and Regulations of the Licensing Authority and Town Code Chapter 501, section 1.14, a (3) for failure to operate the premises covered by the license during the period of February 1, 2009 through February 23, 2009, and a significant portion of the month of January 2009 and for violation of Chapter 501, Section 1.16A, reducing the hours of operation without prior approval of the local Licensing Authority.

Deirdre Kyle again appeared for this hearing representing the owner of the property and Landlord. The licensee did not appear. She indicated that Barolo Corporation filed for bankruptcy and vacated in December. They are marketing the building at present – they have no signed lease as yet.

Mr. Burman proposed findings that Ristorante Barolo, 297 North Street, Hyannis, MA, Ann Marie Wallace, Manager, violation of the Rules and Regulations of the Licensing Authority and Town Code Chapter 501, section 1.14, a (3) for failure to operate the premises covered by the license during the period of February 1, 2009 through February 23, 2009, and a significant portion of the month of January 2009 and for violation of Chapter 501, Section 1.16A, reducing the hours of operation without prior

approval of the local Licensing Authority. The motion was seconded by Mr. Hoxie and it was unanimously voted to revoke the license

**Show Cause Hearing:** Show Cause Hearing upon confirmation by the Barnstable Police Department that RooBar, Inc., d/b/a RooBar, 586 Main Street, Hyannis, MA, was in violation of the Rules and Regulations of the Licensing Authority and Town Code Chapter 501, section 1.16 a, failure to operate the licensed premises for a substantial number of hours on all days authorized by the Licensing Authority during the period of January 1, 2009 through February 23, 2009.

Narinder Thind appeared for RooBar. He responded that they closed Monday, Tuesday and Wednesday as they did not have the business – nobody wanted to work either for no tips. They were open Thursday to Sunday. He apologized but stated the business was very slow. He now stated it will not happen again, and that they will now be open 7 days per week.

Mr. Geiler stated he has an annual all alcohol license for 7 days per week – he asked what they were currently doing, and Mr. Thind stated they were closed 3 days and will now be open 4 pm to 1 am. Mr. Geiler stated if they were going to substantially change the license hours they need to advise the Licensing Authority to request the new hours. He suggested Mr. Thind read the rules and regulations carefully - an annual license vs. a seasonal license. His license is granted from 8 am to 1 am. Mr. Thind stated he will go back to 8 – 1. Mr. Geiler asked why he did not notify the Licensing Authority. Mr. Thind stated he did not know he had to. Mr. Geiler stated he needed to follow the rules and regulations.

A motion was duly made by Mr. Burman to continue the hearing to April 13, 2009 to vote on the decision for this hearing. It was seconded by Mr. Hoxie and a unanimous vote taken to continue this hearing to 4/13/09.

**Renewals:**

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

**Seasonal Common Victualler All Alcohol:**

The Black Cat  
Fresh Ketch  
Gringo's  
Harbor Point Restaurant  
Hyannis Harbor Hotel  
Keeper's  
Kian n Rylee's Pub & Patio  
La Paz Surf Cantina  
Mattakeese Wharf Restaurant

The Paddock  
Raw Bar on Ocean Street  
Spanky's Clam Shack & Saloon  
Trader Ed's

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above applications for **Seasonal Common Victualler All Alcohol Licenses.**

**Seasonal Common Victualler Wine & Malt:**

Cooke's  
Cape Cod Melody Tent

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above renewal applications for **Seasonal Common Victualler Wine & Malt Licenses.**

**Seasonal Innholder All Alcohol:**

Hyannis Inn Motor Hotel

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above renewal applications for a **Seasonal Innholder All Alcohol License.**

**Seasonal Club All Alcohol:**

Baxter's Boathouse Club  
The Beach Club  
Cotuit Highground Golf Club

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above renewal applications for **Seasonal Club All Alcohol Licenses.**

**Seasonal Daily Live Entertainment:**

Baxter's Boathouse Club  
The Beach Club  
Fresh Ketch  
Harbor Point Restaurant  
Hyannis Harbor Hotel  
La Paz Surf Cantina  
Mattakeese Wharf  
The Paddock

Raw Bar on Ocean Street  
Spanky's Clam Shack & Saloon  
The Black Cat  
Trader Ed's

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above renewal applications for **Seasonal Daily Live Entertainment.**

**Seasonal Daily Non-Live Entertainment:**

Fresh Ketch  
Gringo's  
Hyannis Harbor Hotel  
Hyannis Inn Motor Hotel  
La Paz Surf Cantina  
Raw Bar on Ocean Street

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above renewal applications for **Seasonal Daily Non-Live Entertainment Licenses.**

**Seasonal Video Games/Coin-Op Machines:**

Hyannis Inn Motor Hotel

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above renewal application for a **Seasonal Video Games/Coin-Op Machines License.**

**Seasonal Sunday Entertainment:**

Baxter's Boathouse Club  
The Beach Club  
The Black Cat  
Cape Cod Melody Tent  
Fresh Ketch  
Gringo's  
Harbor Point Restaurant  
Hyannis Harbor Hotel  
Hyannis Inn Motor Hotel  
La Paz Surf Cantina  
Mattakeese Wharf  
The Paddock  
Raw Bar on Ocean Street  
Spanky's Clam Shack & Saloon

Trader Ed's

A motion was duly made by Gene Burman, seconded by Martin Hoxie and a unanimous vote taken to approve the above renewal applications for **Seasonal Sunday Entertainment Licenses.**

**Business Meeting:**

Discussion on sanction changes. This will be continued until Mr. Sullivan is present on 4/13/09.

Mr. Geiler stated the application on Philbrick's had come up – the Town Manager submitted a letter in agreement with the Recreation Director that they do not have possession of the golf course property and the application should not be granted. The applicant could fight this or withdraw. It is scheduled for the 13<sup>th</sup> of April.

Adjourned at 10:45 am.

Respectfully submitted,

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Christine P. Ade, Recorder  
Town of Barnstable Licensing Authority

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Martin Hoxie, Chairman  
Town of Barnstable Licensing Authority