



# 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.

March 28, 2011

A regular meeting of the Barnstable Licensing Authority was held on Monday, March 28, 2011. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; 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. Paul Sullivan, Clerk, was absent for this hearing.

#### Hearings:

**One Day and Sunday Entertainment Licenses:** Application of Kim Greenlaw on behalf of Falmouth Dance Academy, 101 Spring Bars Road, Falmouth for a One Day Entertainment License and Sunday Entertainment License for its annual dance recital to be held at Barnstable High School on Saturday, June 25, 2011 from 9:30 am to 4 pm and on Sunday, June 26, 2011 from 10:30 am to 4:30 pm.

Kim Greenlaw came forward for this application. This is her first here in Barnstable – has been in business 20 years. They will be performing at a bigger school as their following has grown. They have never had any problems. She stated this is different than what they had to do in Falmouth – she never had the Fire Dept. etc. have to sign off.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Kim Greenlaw on behalf of Falmouth Dance Academy, 101 Spring Bars Road, Falmouth for a One Day Entertainment License and Sunday Entertainment License for its annual dance recital to be held at Barnstable High School on Saturday, June 25, 2011 from 9:30 am to 4 pm and on Sunday, June 26, 2011 from 10:30 am to 4:30 pm.

**One Day Beer & Wine License:** Application of Renee Voorhees on behalf of Marstons Mills Public Library, 2160 Main Street, Marstons Mills, MA for a one day wine and malt license for a fundraiser at the library with a catered meal and with beer from Cape Cod Brewery and a wine tasting to be supervised by Cotuit Liquors.

Ms. Vorhees appeared for this application. They limit ticket sales to 50 people – it is not a sit down affair. Cotuit Liquors and Cape Cod Beer will supervise the alcohol tastings. Mr. Burman asked about the transportation of alcohol to the affair – she assumes it is by licensed transporters. These parties have done this many times before. Ptl. Maher thinks both entities are familiar with what they have to do.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Renee Voorhees on behalf of Marstons Mills Public Library, 2160 Main Street, Marstons Mills, MA for a one day wine and malt license for a fundraiser at the library with a catered meal and with beer from Cape Cod Brewery and a wine tasting to be supervised by Cotuit Liquors.

**One Day Entertainment License:** Application of Kerry Cutler on behalf of Colum Cille Pipes & Drums, P.O. Box 1013, Sandwich for a One Day Entertainment License for a fundraiser concert for trip to perform in Scotland this summer to be held at Barnstable High School Auditorium on Saturday, May 14, 2011 from 6:00 pm to 10:00 pm.

Kerry Cutler advised that this is their major fundraiser – two top bands of the world are appearing. They will be charging admission of \$15.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Kerry Cutler on behalf of Colum Cille Pipes & Drums, P.O. Box 1013, Sandwich for a One Day Entertainment License for a fundraiser concert for trip to perform in Scotland this summer to be held at Barnstable High School Auditorium on Saturday, May 14, 2011 from 6:00 pm to 10:00 pm.

**One Day Wine and Malt License & One Day Entertainment License:** Application of Toni Saunders on behalf of The Associated Advocacy Center, 24 Widow Coombs Walk, Sandwich, for a One Day Wine & Malt License for April 1, 2011 from 6 pm to 11 pm and a One Day Entertainment License for a DJ – Robert Peters. The event will be held at Zion Union Heritage Museum, 296 North Street, Hyannis, MA.

Toni Saunders appeared for this application. The Associated Advocacy Center began in 2001. It is to help parents of children with special needs. They are a non-profit. The Zion Museum has offered their facility to them for this event.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Toni Saunders on behalf of The Associated Advocacy Center, 24 Widow Coombs Walk, Sandwich, for a One Day Wine & Malt License for April 1, 2011 from 6 pm to 11 pm and a One Day Entertainment License for a DJ – Robert Peters. The event will be held at Zion Union Heritage Museum, 296 North Street, Hyannis, MA.

**One Day Wine Only License:** Application of Elaine Good on behalf of Baybridge Clubhouse, 278 Main Street, Hyannis, for a One Day Wine License for an event to

be held at the JFK Museum, Main Street, Hyannis, on April 28, 2011 from 5:30 pm to 7:00 pm.

Elaine Good appeared for this application from Baybridge. They help people with mental illness get back to work, etc. The fee is \$15/person. They will have a champagne fountain. Their prior events have had no problems.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Elaine Good on behalf of Baybridge Clubhouse, 278 Main Street, Hyannis, for a One Day Wine License for an event to be held at the JFK Museum, Main Street, Hyannis, on April 28, 2011 from 5:30 pm to 7:00 pm.

**New Junk Dealer License:** Application of New To You, LLC, d/b/a Menagerie on Main, 366 Main Street, Hyannis, MA, John J. Duling, IV, Manager, for a new Junk Dealer License, hours of operation to be 10 am to 8 pm.

Mr. Dulina appeared for the application – many of the items they have will be consigned. His name is spelled Dulina, not Duling.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of New To You, LLC, d/b/a Menagerie on Main, 366 Main Street, Hyannis, MA, John J. Dulina, IV, Manager, for a new Junk Dealer License, hours of operation to be 10 am to 8 pm.

**Change of Manager:** Application of Pufferbellies, Inc., 183 Rear Iyannough Road, Hyannis, for a Change of Manager on its annual General on Premises All Alcohol License from Mike Travers to Sunny Aroustamian.

Sunny Aroustamian appeared for the application. He has been with Pufferbellies since 2004. He stated it is time for a change. They have had no problems since changing some things. Officer Maher stated the new manager has been working well with the Police Department since the prior manager left.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Pufferbellies, Inc., 183 Rear Iyannough Road, Hyannis, for a Change of Manager on its annual General on Premises All Alcohol License from Mike Travers to Sunny Aroustamian.

**New Annual All Alcohol Common Victualler License, Daily Live Entertainment, Non-Live Entertainment and Sunday Entertainment licenses:** Application of Salt & Sea, LLC, d/b/a Salt, 599 Main Street, Hyannis, MA, Matthew P. Conley, Manager, for a New Annual All Alcohol Common Victualler License, Daily Live Entertainment License (4 pm to 11:00 pm, 3 entertainers, non-amplified, Non-Live Entertainment License for recorded music, and Sunday entertainment License (4 pm to 11 pm) with

inside seating as well as a front and rear patio area. Final seating numbers to be determined by Building Commissioner prior to hearing.

Attorney Steve Pizzuti appeared with the proposed new manager, Matt Conley. First of all he gave an overview for a Common Vic license 11 am to 1 am at 599 Main Street. This property has been challenged in the past – they are seeking to revitalize this property. There is talk that they will have a lot of bars and a lot of night life – that is far from the truth. Matt and his associate, Heather Allen Miller. They ran the Regatta in Cotuit; prior to that worked and owned Heather in Mashpee. Both were fine dining restaurants. This new establishment will be fine dining, not young crowd nightclub. The draw for the property is the tree in back. They know the problems of the past – disrespect for neighbors, etc. They have met with the condo association which post-dated the restaurant. They bought their condos for a good urban location. That end of town kind of let them down. They will now have this upscale restaurant called Salt. The rear building will be a coffee shop – room named “Off the Hook Coffee” – modeled after the Chocolate Sparrow in Orleans. It will serve all types of coffees and a little alcohol. The entertainment will be in the coffee shop area. The area shown on the plan is overflow for the restaurant. They need to still prove to the Building Commissioner that there is sufficient access/egress to the rear to South Street to approve the numbers in the rear courtyard (107). They are willing to accept a condition in the license of deeded egress to the rear. He also compared this to Banister’s Wharf in Newport. Attorney Pizzuti stated that the Hyannis downtown area is really becoming vital; investing money in a good restaurant downtown is the key to creating more money downtown. Bill Pane is a co-owner in Colombo’s and this new restaurant. The construction at 540 has revitalized the whole area on that block. He thinks this revitalization will make the condos more valuable as well. He said he would be surprised if any condo owners would object to this new restaurant.

Mr. Hoxie asked for the seating capacity out back – Attorney Pizzuti stated it is 107 including tiki bar seating. There will be no live entertainment but nice, quiet, adult type music. Mr. Hoxie stated they are concerned about late type noise because of the residences. Attorney Pizzuti indicated it is duly noted. Mr. Burman stated he has great reluctance in seeing emergence of another hot spot. Attorney Pizzuti stated they are sympathetic to that position. He stated we should go with the bet that the new owners will succeed as a draw, a fine establishment, and a revitalized place for that part of Main Street. He said it is incumbent on us to give them the chance; we can always limit in the future if there is a need. There is great experience between the partners and Phil Miller, developer of fine homes in the area. Mr. Pane with tremendous oceanfront homes and Colombo’s, a national medical company, every one he had has been first class. The last thing in the world they want is a nightclub. They do not want the problems of that. They want to create an environment conducive to the neighborhood. The entertainment will stop at 11 pm. It will be an annual restaurant also, not seasonal. Mr. Conley stated they expect 40-60 employees, and hope to open in June. Mr. Burman asked how many restaurants are in the west end? Mr. Geiler answered quite a few – can get a

number but not does not know it offhand. Officer Maher stated about 15 nearby. Mr. Burman asked if we thought a need was already being served.

Elizabeth Wurfbein appeared for BID. They are very excited about this new project at the tree. People remember the tinkling of fine glassware; nice artists in the rear, a great atmosphere – and then it changed. What the new owners are proposing is a mixed use including artists, a little Fanueil Hall type place near that tree. Very Cape Cod and high quality. They are investing a lot of money into a historic building to showcase the look. They are honoring that space. With the history of Colombo's cleanup each day – even polishing the doorknob, this is what they also are going for. It is a mature, smart, well-thought out project.

Andi Carole also spoke as the abutter on the other side of the "Beechtree" property. She stated that every bar opening in downtown is a nightmare. She said the beech tree is dying because of the smoke, etc. under it – she begs them to save the tree; rope it off and keep seating out from under it. It is historic and we have so little still intact. Make it respected. Also asks that we (the Licensing Authority & Police Liaison) police the area – there are people drinking and parking in her lot, urinating on her property. The last bar there was awful and last summer a nightmare for her. She was quite upset.

Bill Pane, 50% owner in the property, spoke so that the Board could understand his vision and where they stand. He also wants to have Phil Miller speak about the tree. Right now he is going through a divorce, should not be doing this project, but has a great vision beyond just a business venture on this property. They are investing heavily. Have had many meetings with Elizabeth Wurfbein of Hyannis BID. It is their vision to do something for Main Street. He stated one of the negatives talked about is that their end is not "walked by." The draw is the tree, and they want to make their mark there. There are no anchor stores there at present – so there must be nice restaurants in the area to bring the people there. He believes in downtown and Main Street and believes this project will enhance the area greatly. They might have a little water fountain for kids to run through. The coffee shop will have smoothies, chocolates, penny candy, self-serve sundaes there. They also want to do something every day under the tree for kids. They want it to be THE place to go. He stated he will never be in the nightclub business and believes in this project.

Phil Miller, Miller Starbuck Construction, spoke next about this project as co-owner. He has spent his whole life doing this type of development. He wants to address Andi Carole's concerns. He has met with Forest Keepers and Bartlett Landscaping about that tree. They have boarded around it already. They have done a lot of research on it including the history, and it has an incredible amount of value. They respect the tree and potential problems, which they do not want to further. On the vision side, they have spent a lot of time with Allen White, owner to the rear, to get the egress in place so the property has two safe exits in case of emergency. They wish to have greater access for the public to this tree. He hopes this new restaurant will pick up that end of the town.

Officer Maher asked the principals about the 3 entertainers – non-amplified...Attorney Pizzuti stated it would be a jazz type thing with sometimes a piano amplified. The soft music would also have to be amplified to be heard. The band location would be in the coffee shop area. Officer Maher stated the real concern is the noise in the rear area. They are asking to double the capacity of the property. He said in his experience with a much smaller amount of people, it was too loud in back. He thinks the amount of people would be a problem. Mr. Geiler stated this goes back 35 years or so; it has been bigger and smaller; the problems have come when it was bigger. He asked the new manager who would be there at closing, etc. He then asked how it will be compatible with the neighborhood. He said he is not suggesting it can't be, but the doubling in size would maybe be a problem since it is surrounded by residential area. He asked the manager about his vision.

Mr. Conley stated he has been GM at the Regatta; it is a more reserved, genteel atmosphere. Was at the Coonamessett, which is also a reserved atmosphere and at Heather in Mashpee. They are looking for a mature clientele both with music, the level of service (which will police the element he thinks the board does not want to take over this place), and the policing of noise. He wants a relaxing atmosphere for diners. Mr. Geiler stated the places at this location traditionally did not stay open until 1 am. Even in the winter they did not have the late night component. That is what he sees as a potential problem as well as the sheer size. He is not sure what has been done to minimize noise altogether – hustle and bustle on the property, clanking of dishes, etc. Mr. Conley stated that is a better question for the contractors. Mr. Geiler said that the kitchen seems small for the number of people they are asking for. Mr. Conley stated it is bigger a little than the Regatta; the chef is Heather. Mr. Geiler asked if they have an idea when the documentation for the rear access will be ready...Attorney Pizzuti stated this next week that should be ready. The prior owner only had 48 in back because they did not have the deeded access for egress. Attorney Pizzuti stated they will have it in writing well ahead of when the ABCC inspector comes down. Attorney Pizzuti stated they are asking for the license to include the proposed larger rear number, but not be issued until after the deeded rights are in place. He stated that all the egresses and protections and ramps will be in place and part of what is approved today. If it is not provided, they cannot and would not open that area.

Mr. Geiler stated that doesn't work for something like this, not if the Building Commissioner is saying we cannot approve it until that egress is in place. Mr. Geiler also asked about the sprinkler plan.

Mr. Miller stated it is under 7,500 square feet and therefore is not required. Lt. Chase approved the plan. Mr. Geiler stated the capacity of the middle is over 100; Attorney Pizzuti stated it is under 100. Mr. Geiler stated he is pretty sure the Station RI Fire law would apply; if they are separating the buildings maybe they would not

need it? He then stated maybe it would make good sense to have the sprinkler system in place in any case.

Mr. Miller stated he had been to the Fire Department and believed he was in compliance; if he is told something else, then of course he would have to comply. Officer Maher asked how late they will serve food in the back area? They stated until midnight. Officer Maher stated that Main Street, Hyannis is not a Cotuit or Mashpee; late night downtown is a lot different than those areas. Even though they fully intend for fine dining and not nightclub, it might evolve as places tend to do.

Attorney Pizzuti stated they are willing to stipulate 12 midnight for dining to stop and 12:30 for the rear area to be closed, and entertainment would stop at 11:00 p.m.. Mr. Burman asked about parking. Attorney Pizzuti stated there is public parking across the street on the north side of Main. Mr. Geiler stated they do comply with the parking requirements.

Mr. Burman asked if they would be willing to take a license excluding the rear area altogether to start with? Attorney Pizzuti stated that would be extremely risky for them because of the investment in the construction. Mr. Geiler stated it would be extremely risky for the Town to approve it at this time because they do not have that permission. If approved and not able to get the access we are right back to saying look at all the money we've spent. Attorney Pizzuti stated in the event they cannot get the permission; they will come back to ask for the rear number to be reduced to 48 (level approved for prior owner) from what they request now (at the 11<sup>th</sup> hour) to get open for the "season." He said there should be a level of optimism; it is like not approving affordable housing someplace because it may turn into a project. He said it is an area needing to be revitalized. They do understand the concerns. Mr. Geiler stated that they had talked about the access issue in the office some time ago; and it was to be taken care of. Attorney Pizzuti said that came up afterwards; and that had they had a little more time before our hearing they might have had it before today. If they do not get it they will come to the Board to reduce their number. They are confident in going forward at this time.

Mr. Hoxie asked for input from Deputy Chief Melanson of Hyannis Fire. Deputy Chief Dean Melanson stated they have been working with the applicant since they started demolition. The sprinkler would be needed for a commercial building if the aggregate square footage is 7,500 sq. ft. IF it was a nightclub license, it would require a stricter censure – a sprinkler system would be required if over 100 occupants. The "nightclub" designation would be stricter than a restaurant. As Hyannis Fire understands, it would not be a nightclub but fine dining and not over 7,500 square feet. They would recommend sprinklers, but not required unless that changes. To qualify one issue, the applicant has to provide emergency and regular egress to a street, not just onto someone else's property. The issue reoccurring on the rear access is that they did not in the past have authorization on the south to maintain the egress to South Street. It has to be documented. They would like to

see that positively resolved so the Building Commissioner is happy with that egress path before a license is granted.

Phil Miller stated they have an agreement with Allen White – they have the P&S but are awaiting the final drawing from Down Cape Engineering which should be done by tomorrow. The gate from the beech tree will exit across the easement they have purchased to supply egress and which they will maintain. The engineered drawing will clearly show this easement which they are purchasing. It is an “L” shape behind the beechtree - Ojala has done the engineering but it was not at the “recordable level” on Friday; should be done today or tomorrow. Mr. Geiler stated that drawing did look good to him. Mr. Miller stated Registry standards requires a little more.

Mr. Geiler stated the issue of the two buildings also has to be addressed; Mr. Miller stated when he spoke to Mr. Perry he was told how he should be doing his permitting. Mr. Geiler stated that the Licensing application is for one structure. We do not have anything about two structures. Mr. Miller stated it is one license for multiple buildings – and that the interior is under the sprinkler requirement. The legend on the plan shows the 84 and 60. There are 38 seats outside lounge. Porch 26, restaurant 24 seats, 8 bar rail, 18 table and 8 hightop seats, coffee shop 6...which equals the 182 marked on the plan.

Mr. Geiler asked what the harm is in waiting to resolve these issues at the next meeting. It is his opinion that if we are to ask the Board to go forward, the unwillingness of the signoff from the Building Commissioner would make it impossible to grant the rear seating now. Attorney Pizzuti asked what is the harm in granting the license with the condition that the egress be approved instead? Mr. Geiler stated the problem is if the Building Commissioner doesn't sign off and someone appeals, it could be held up even further. He stated that it would be in everybody's interest to send a solid package to Boston for approval.

Attorney Pizzuti stated he does respect Mr. Geiler's opinion. He then requested a polling of the Board members; if they do satisfy the sprinkler system and egress would the Board vote favorably on this? Mr. Hoxie stated he sees no reason to continue the hearing but would like to approve it with the condition in place. Mr. Burman stated he knows Mr. Pane and Mr. Conley and both are very reputable and would operate in a way which would benefit the town. However, the alleyway is a very narrow space; he said he is still concerned without all the protection being in place now. He stated they have already started the construction without that permission. He feels the regulations are next to impossible. They have already taken on the risk of major renovations.

Attorney Pizzuti stated you CAN legally trespass over someone's property in case of a fire even without the deed for egress. Mr. Hoxie asked if it is JUST the egress holding up our decision? Mr. Geiler stated it is also the sprinkler problem. Mr. Hoxie stated it is NOT a problem if not a nightclub. Isn't that what the Deputy stated? Mr.



Geiler stated the two weeks possible delay is not our fault, they do not have the deeded rights yet.

Dean Melanson stated the complex is not qualified as a nightclub, is not over the square footage, so a sprinkler is NOT required. The problem is the egress. The manager of the property has to provide two designated egress paths that are under their control, be maintained and properly marked. They would like to see the plans for proper markings, signage, etc. to meet the requirements. That is what they are looking for to be satisfied in order to sign off on the numbers in back. Mr. Geiler stated the problem is that the applicant did not apply for TWO buildings on the property. They do not refer to two separate addresses, or identify them in any way. Is one kitchen supplying the food and drink in another building? Attorney Pizzuti stated they discussed in Mr. Geiler's office that there is a little alleyway between the two. Mr. Hoxie asked if it is part of the curtelage? Attorney Pizzuti stated it is. Mr. Hoxie stated if they believe it is under 7,500 sq ft. and not a nightclub, does not have to have a sprinkler, he would suggest we make a motion to approve the application for 48 out back until licensee provides confirmation that the seating out back can be increased and has been approved by the Fire Dept. and Building Commissioner (when the deeded egress is supplied). Mr. Geiler asked what they are using for the inside numbers...Mr. Hoxie stated whatever the description states and Attorney Pizzuti stated that is the new paragraph 7 which they painstakingly went over after the Building Commissioner gave them the numbers he would approve.

Attorney Pizzuti gave Mr. Geiler a copy of the new description to match the plan approved by Tom Perry, which was only finalized on Friday afternoon. Mr. Geiler read that description into record as follows: The project, located at 599 Main Street, Hyannis, includes a two-story wooden structure containing a restaurant and a wooden exterior bar unattached from the main structure. Front outside lounge, 38 total. Porch seating is 26. Restaurant consisting of 24 bar seats and 8 at bar rail, 18 table seats and 8 hightop seats. Coffee shop consists of 60 seats for a total of 144 interior seats. Rear courtyard Tiki bar with 15 seats and 92 courtyard seats for a total of 107 seats pending verification of second means of egress. There is one handicap accessible bathroom on the 1<sup>st</sup> floor, and men's and ladies' rooms located on the 2<sup>nd</sup> floor. The first floor will have five means of egress as shown with the second floor having one means of egress as shown on the floor plans submitted. Two handicap accessible bathrooms will be located in the coffee show will have five means of egress.

Mr. Hoxie asked if the client wanted to go forward with the inside numbers intact, and the outside as 48 until the deeded egress is granted, having to come back to get the larger number approved having satisfied the Board that it will not be disruptive and will satisfy the egress requirements. Mr. Pizzuti asked for a minute to confer with his clients. Mr. Hoxie granted a two minute recess.

Mr. Pane stated that they are willing to go along with that and will do whatever he can to make this process better for the Board.

A motion was duly made by Mr. Hoxie, seconded by Mr. Burman and a unanimous vote taken to approve the Annual All Alcohol Common Victualler License with numbers for the front as shown on the plan, and 48 in the rear at this time.

A second motion was made to approve the entertainment license to stop at 11:00 p.m. It was seconded by Mr. Burman and a unanimous vote to approve.

Mr. Hoxie suggested a further hearing on April 11, 2011 to finalize the back number to increase it as shown on the plan if the proper documentation is received.

**New Daily Live, Non-Live and Sunday Entertainment Licenses:** Application of Fazio's Trattoria, Inc., 294 Main Street, Hyannis, Thomas Fazio, Manager, for a Daily Live Entertainment License (max 3 entertainers), Daily Non-Live (adult contemporary piped in music) and Sunday Entertainment License, hours to be 10 am to 12:45 am Monday through Saturday and Sundays 11 am to midnight.

Attorney Joseph Maruca appeared with Mr. Fazio for this application. They are an established business, seeking to have entertainment as part of the restaurant for up to 3 performers, adult contemporary. This is to get dinner patrons to stay longer. One of the 4 seat tables from the front section would be removed when entertainment takes place. There are no residential abutters. It is a 90 seat restaurant, fully sprinkled. It has been on Main Street for many years. They had an entertainment license at their old location on Main Street. There will be no outside speakers.

Elizabeth Wurfbein, Hyannis BID, appeared to support Mr. Fazio. She stated he is planning to have the type of entertainment perfect for an Italian restaurant. There is no-one nearby who would be bothered by this entertainment. Island Merchant is nearby and poses no problems.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Fazio's Trattoria, Inc., 294 Main Street, Hyannis, Thomas Fazio, Manager, for a Daily Live Entertainment License (max 3 entertainers), Daily Non-Live (adult contemporary piped in music) and Sunday Entertainment License, hours to be 10 am to 12:45 am Monday through Saturday and Sundays 11 am to midnight.

**Request for Public Hearing:** Request of Andi Carole to be heard regarding Sea Street neighborhood issues with regard to the All Alcohol License of Seaside Pub on Main, 615 Main Street, Hyannis, Uy Phu, Manager, for the 2011 season.

Ms. Carole appeared for her request to address the Licensing Authority. Mr. Phu also appeared to speak for the restaurant. She alleges this is not a restaurant serving alcohol; it is a bar serving food. That is not what the Licensing Authority approved, she did not think. She stated she puts 60-80 hrs. per week into her shop.

Her plants are destroyed by urine and she cleans up vomit. She said the restaurant has destroyed her business. She said their music is also disturbing to her. She has also been to our State Representative about the problems; they came out and one night caught someone urinating there. She says all the bottles, glasses, etc. on her property are awful. She has watched cigarettes thrown around and saw Mr. Phu himself throw a lit butt into the road. She said she probably cleaned up 5,000 butts on her property. She is afraid of fire. She states this is a bar – people are drinking outside from red plastic cups. She stated many kids are around drinking (underage) and where are they coming from? She said she mentioned destruction of her rosebush to Mr. Phu and his response was you can't prove it was from Seaside; he did not offer to replace her bush. She stated retail cannot survive next to a bar.

Mr. Hoxie asked if anyone else was here today to speak with regard to this but no one else came forward. Ms. Carole stated there are others in her letter who are willing to speak out.

Mr. Hoxie stated the Board does have letters in support of Seaside Pub – a resident from 615 Main, Unit 1 and several businesses also. Mr. Hoxie asked Mr. Phu to speak; in his defense he stated all of the letters provided are from abutters – they have had no problems with the restaurant, and there have been no problems with the police department there. He stated that they ARE actually doing 70% food and 30% alcohol. Officer Maher said that he spent some time in the area late at night. The restaurant does not use plastic cups of any kind. They utilize their outside dining as everyone else does. There is a receptacle for cigarette butts. He said there is not a record of problems there. Elizabeth Wurfbein stated the restaurant has family friendly food, he takes part in a lot of neighborhood things. She also stated we have Naked Oyster and BBC on Main Street, they are surrounded from retail. She wonders how Ms. Carole can pinpoint the problem people as coming from this one establishment. Cleanup is what Main Street residents do. Colombo's is a good case in point. Ms. Carole stated she had called the police several times – Officer Maher stated when he ran his report nothing showed up. He also said that in speaking with Uy Phu he will do everything he can to ensure people leave and do not pass her establishment. He will do whatever he can to police this better. Mr. Hoxie told Ms. Carole she needs to call the police when problems occur and then the board can take action. Ms. Carole stated if there was not a problem she wouldn't be here. She was assured it was to be a restaurant and not a bar. And now the new place by the beechtree – there are cigarette butts everywhere. She said she has been through 2 fires. The cleanup is too much and there is too much alcohol on Main Street. Last summer was horrible. Mr. Hoxie told her to let us know if it continues and we will take further action.

### **Business Meeting:**

**Change of Manager of Spindle City Precious Metals**, Cape Cod Mall, Hyannis. Solomon Carreiro appeared to advise the Board he is the new manager at Spindle

City Precious Metals at the mall. He stated he had worked here for a while; formerly in Fall River at the main location for 4 years.

A motion was duly made by Mr. Burman to approve Solomon Carreiro as the new manager of Spindle City Precious Metals, Cape Cod Mall, Hyannis. Mr. Hoxie seconded the motion and it was unanimously approved.

Discussion regarding the ABCC Advisory re: Crowd Manager for Section 12 Licensees with amplified entertainment required. The Board was advised that not only did Licensing get the letter from the Fire Marshal, all licensees also received the letter.

Officer Maher said he had asked the Fire Department individuals to come today in case the board has questions about the new regulations to do with the Crowd Manager laws.

Dean Melanson came forward about this...they will work to see that enforcement is consistent across town. The establishments need to have alarm systems tested and inspected; need to do some checks according to the new law. The licensing agent could then go in on any day to see the checklist they have and that the crowd manager in fact has the training required (it is an on-line test). The larger establishments will have to have one crowd manager for every 250 people. Their goal as local FD's is to ensure compliance. All the Licensees have received this letter, as has Licensing and the Fire Departments. They would like to sit down with the Police Dept. to go over how this will work.

Officer Maher stated he has looked at 19 of them already – a few have already started doing this. He stated that he himself took the test on line and it took about an hour. They will work with Fire to make sure everyone is on the same page. It might be beneficial to set a meeting of FDS, Police and the Board to be set up by Chris. Mr. Burman said the letter from the ABCC and Fire Marshal is very subjective. Who will decide who falls under this? He was told that the Fire Marshal has a board to decide if the establishment and the Fire Dept. disagree. Each establishment will need to be looked at individually as to compliance. The 100 occupancy includes employees – not just patrons...if over 100 they need the crowd manager.

David Wood from Puff the Magic appeared today as a Hyannis business owner for 15 years. He stated he understands the seriousness of denying a liquor license or renewal. He said he is here today rather than the 11<sup>th</sup> so that we can invite Mr. Kurker and Mr. Shea of Trader Ed's to respond. He stated that depending on who you ask, Mr. Shea is an owner or GM of Trader Ed's. He goes to trial next month for violent acts which occurred in Mr. Wood's bar. Sixteen months ago a car came into his lot – almost drove into the building. Car was so close the person had to use the handicap ramp to get to the door. It was obvious he was very drunk. Mr. Wood asked him if it might be time to call it a night – he said the man was foaming at the

mouth. Later found out he had vomited. A fight ensued – Mr. Wood said he was pushed, furniture and a heater were thrown by the person. He was in back; the man had words with his wife and then threw his wife into the piano. She went to the hospital, had 3 broken ribs. He stated that these facts are not in dispute. He then said the hospital bills have not been paid for, the destroyed furniture not paid for, computer ruined not paid for. He said that he really thinks that Trader Ed's, with young girls, a swimming pool, a violent manager (the one of record on the liquor license is not the one in place) are just a problem waiting to happen. He said he hopes that at the 4/11 renewal hearing Mr. Kurker and Mr. Shea will be present.

Mr. Wood stated the trial date is April 6<sup>th</sup>. Mr. Hoxie asked that Mr. Kurker and Shea be asked to appear on 4/11 at their renewal hearing.

**Renewals:**

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

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Common Victualler renewals as submitted below:

**Common Victuallers:**

Ben & Jerry's, 352 Main, Hyannis  
Coffee Table Cafe, 230A Ocean Street, Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve Common Victualler All Alcohol License renewals listed below:

**Common Victualler All Alcohol:**

Harbor Point Restaurant, 156 Harbor Point Road, Cummaquid  
The Paddock, 20 Scudder Ave., Hyannis  
Gringo's, 577 Main St., Hyannis  
Spanky's Clam Shack & Seaside Saloon 138 Ocean St., Hyannis  
Eclectic Cafe, 606 Main St., Hyannis  
Kian n' Rylee's, 561 Main Street, Hyannis  
Blue Water Grille, 213 Ocean Street, Hyannis  
Raw Bar on Ocean Street, 230 Ocean Street, Hyannis  
The Dockside, 110 School Street, Hyannis  
Mattakeese Wharf, 271 Millway, Barnstable  
Fresh Ketch, 460 Main Street, Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Seasonal Common Victualler Wine & Malt License renewals listed below:

**Common Victualler Wine & Malt:**

Cooke's Seafood, 1120 Iyannough Road, Hyannis  
Cape Cod Melody Tent, 21 West Main Street, Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Seasonal Innholder All Alcohol License renewal listed below:

**Innholder All Alcohol:**

Hyannis Inn Motor Hotel, 473 Main St., Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Seasonal Club All Alcohol License renewals listed below:

**Club All Alcohol:**

Baxter's Boathouse Club, 177 Pleasant St., Hyannis  
Cotuit Highground Golf Club, 31 Crocker Neck Rd., Cotuit  
The Beach Club, 27 Long Beach Road, Centerville

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Daily Live Entertainment renewal listed below:

**Daily Live Entertainment:**

Baxter's Boathouse Club, 177 Pleasant Street, Hyannis  
Harbor Point Restaurant, 156 Harbor Point Road, Cummaquid  
The Paddock, 20 Scudder Ave., Hyannis  
Hyannis Inn Motor Hotel, 473 Main St., Hyannis  
Spanky's Clam Shack & Seaside Saloon, 138 Ocean St., Hyannis  
Eclectic Cafe, 606 Main St., Hyannis  
The Beach Club, 27 Long Beach Road, Centerville  
Raw Bar on Ocean Street, 230 Ocean Street, Hyannis  
Mattakeese Wharf, 271 Millway, Barnstable  
Fresh Ketch, 460 Main Street, Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Daily Non-Live Entertainment renewals listed below:

**Daily Non-Live Entertainment:**

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Video Games renewals listed below:

Baxter's Boathouse Club, 177 Pleasant Street, Hyannis  
The Paddock, 20 Scudder Ave., Hyannis  
Gringo's, 577 Main St., Hyannis  
Hyannis Inn Motor Hotel, 473 Main St., Hyannis  
Eclectic Cafe, 606 Main St., Hyannis  
Blue Water Grille, 213 Ocean Street, Hyannis  
The Dockside, 110 School Street, Hyannis  
Fresh Ketch, 460 Main Street, Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Video Games License renewals as submitted below:

**Video Games:**

Hyannis Inn Motor Hotel, 473 Main St., Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Sunday Entertainment renewals as submitted below:

**Sunday Entertainment:**

Baxter's Boathouse Club, 177 Pleasant Street, Hyannis  
Harbor Point Restaurant, 156 Harbor Point Road, Cummaquid  
The Paddock, 20 Scudder Ave., Hyannis  
Gringo's, 577 Main St., Hyannis  
Hyannis Inn Motor Hotel, 473 Main St., Hyannis  
Spanky's Clam Shack & Seaside Saloon, 138 Ocean St., Hyannis  
Eclectic Cafe, 606 Main St., Hyannis  
The Beach Club, 27 Long Beach Road, Centerville  
Blue Water Grille, 213 Ocean Street, Hyannis  
Raw Bar on Ocean Street, 230 Ocean Street, Hyannis  
The Dockside, 110 School Street, Hyannis  
Mattakeese Wharf, 271 Millway, Barnstable  
Fresh Ketch, 460 Main Street, Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Junk Dealer renewals as submitted below:

**Junk Dealers:**

More for Less, 640 Main Street, Hyannis  
Sweet Pea's Nest, 4083 Main Street, Cummaquid  
Historical Military Antiques, 1127 Rte 132 (Holiday Inn), Hyannis  
Diamond Perfections, 422 Main Street, Hyannis  
J. Craig Medeiros, 142 Corporation St., Hyannis  
Ferreira's, 85 Old Yarmouth Road, Hyannis

The meeting was adjourned at 11:55 am.

Respectfully submitted,

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Christine P. Ade, Recorder  
Town of Barnstable Licensing Authority

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Gene Burman, Vice-Chairman  
Town of Barnstable Licensing Authority