



Town of Barnstable

Regulatory Services

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Licensing Authority

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BARNSTABLE LICENSING AUTHORITY LICENSING HEARING MINUTES

Town Hall Building, 367 Main Street, 2nd Floor Hearing Room, Hyannis, MA – 9:30 a.m.

October 24, 2011

A regular meeting of the Barnstable Licensing Authority was held on Monday, October 24, 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, Richard V. Scali, Consumer Affairs Supervisor, Dick Boy, Associate Commissioner, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Chris Ade, Recording Secretary. Paul Sullivan, Clerk, was absent.

Hearings:

One Day Wine & Malt License: Application of Sarah Biggs on behalf of Casual Gourmet, 31 Richardson Road, Centerville for a Hyannis Chamber of Commerce Business After Hours event to be held at Balise Ford, 90 High School Road, Hyannis for a One Day Beer & Wine License for an event on November 9, 2011, from 5:30 pm to 7:30 pm.

Mary Lyons appeared for Casual Gourmet. This is a standard Business After Hours event. This is the 1st time at Balise Ford. There will be qualified servers. Mr. Hoxie asked why they call it After Hours – she advised it is after business hours for networking.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of Sarah Biggs on behalf of Casual Gourmet, 31 Richardson Road, Centerville for a Hyannis Chamber of Commerce Business After Hours event to be held at Balise Ford, 90 High School Road, Hyannis for a One Day Beer & Wine License for an event on November 9, 2011, from 5:30 pm to 7:30 pm.

New Junk Dealer License: Application of Best Buy Stores, LP #2700, d/b/a Best Buy Mobile, 769 Iyannough Road (Cape Cod Mall), Hyannis, MA, Matthew Dyer, Manager, for a new Junk Dealer License, hours of operation to be Mon – Sat 10 am – 9 pm, Sun 11 am – 6 pm.

Mr. Dyer appeared for this license. They have launched a trade-in program; they take in used equipment (electronics) primarily phones; the customer is given a gift card. The big box store has this license as well. They are separate.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of Best Buy Stores, LP #2700, d/b/a Best Buy Mobile, 769 Iyannough Road (Cape Cod Mall), Hyannis, MA, Matthew Dyer, Manager, for a new Junk Dealer License, hours of operation to be Mon – Sat 10 am – 9 pm, Sun 11 am – 6 pm.

New Common Victualler License: Application of Paul McGowan, d/b/a 7-Eleven 34380-A, 426 Main Street, Hyannis for a new annual Common Victualler License, hours of operation to be 3 am to 1 am, with seating at 6 tables of 3 and 2 tables of 2 (22).

Paul McGowan appeared for this license. 7-Eleven has replaced White Hen. There are no changes.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of Paul McGowan, d/b/a 7-Eleven 34380-A, 426 Main Street, Hyannis for a new annual Common Victualler License, hours of operation to be 3 am to 1 am, with seating at 6 tables of 3 and 2 tables of 2 (22).

Alteration of Premises: Application of International Inn Bar & Grill, Inc., d/b/a International Inn, 662 Main Street, Hyannis, Ravi K. Ahuja, Manager, for an alteration in the premises description on it's liquor license, to add 3 alternate seating plans for the restaurant when there is entertainment: #1 scenario – full restaurant capacity; #2 scenario – dance floor in NW corner of atrium, #3 scenario – dance floor in back bar, and an administrative correction of the premises description to reflect the number of hotel rooms which have actually existed since 1999 and number of seats allowed in restaurant, outdoor patio and lounge: 662 Main Street, Hyannis, MA. First floor 41 rooms, second floor 42 rooms, building at the rear 58 rooms. Six storage rooms, basement storage, lobby, coffee shop, conference rooms, restaurant with capacity of 126 seats and lounge (45 seats) with live entertainment. 48 seats on outdoor patio and pool area, also with music.

Savi Borah appeared for this request. She is requesting the administrative change to correct the number of rooms in the hotel to what they have been since the '90's, and to add the seating plans for entertainment. Mr. Hoxie asked her to verify the three different seating plans for entertainment. Officer Maher stated there is a problem first of all because they are already holding the entertainment, and there is not a principal in place when it occurs. Scenario #2 is very loud and the police have had to ask them to close the doors. Savi stated David Groves is now a manager who works there 6 days a week, including the entertainment hours. He is on payroll as the restaurant manager. Mr. Hoxie asked Officer Maher again if these managers

are effective – Officer Maher stated it is similar to the British Beer Company, but the problem here is the operation thereof. Officer Maher stated he might go with no entertainment or with Scenario #3 which would stop a lot of the noise. He said it is a young hip hop crowd.

Mr. Geiler stated the rules and regulations are clear. It is the Licensee's responsibility to contain the noise on the premises. We have frequently run into problems when nighttime entertainment is overseen by someone with lesser responsibility than the Manager on the liquor license. If this person is unwilling to adhere to the rules, or unaware of the rules, he needs to be brought in line. He stated that this hotel has changed from one format to a more aggressive multi-service type of facility. That is not wrong, but means they have to adhere to the rules and regulations for these new services. If the police department reports they are not doing that, there will be changes made by the Licensing Authority.

Savi stated the entertainment is held Friday, Saturday and Sundays only now, and said she will speak to Peter Barboza who is in charge of that. Mr. Geiler stated we are worried about when doors and windows are open – it is getting colder now so it may not be such a problem for a while. He also said that the employees may need further training and stressed that it is not our responsibility to train them. Savi stated she will be happy to send the entertainment person and both managers for training so there will be no more complaints. Mr. Hoxie asked if she was aware the police officer has visited and found problems; she stated that nobody had told her that. Mr. Geiler stated that was a problem with her staff. She stated she will have a talk with all of her staff. Mr. Geiler stated the responsible party should pop in once in a while to see that they are in compliance (Manager on the liquor license). Mr. Burman asked her what her title is for the record, she said she is the General Manager there.

Mr. Burman thinks that three alternate seating plans would be hard to monitor for the police department. Officer Maher stated that in itself is not a problem, but they pile the chairs and tables in a corner, which might be a safety issue. He also stated they should approve only the 3rd scenario, not #2 which makes it too loud because of its location.

Mr. Geiler stated the difference here is that this entertainment is open to the public in an area where the noise could be more of a problem. Officer Maher stated on entertainment nights there is little or no food service, and a very young crowd. Mr. Burman asked how it was at closing; Officer Maher stated the security does an o.k. job; it is more the noise problem with proposed scenario #2 which they have been using. Mr. Burman stated he thinks the Board needs more input, and he is concerned that Savi had not been informed of the police department's discomfort with what has been going on. He thinks this needs more time before a decision is reached. Mr. Geiler stated the Board will be reviewing this in 5-6 weeks anyways for renewal; he thinks that the problem here is the turnover to these different "managers." He stated he is aware the family has spent a lot of money for upgrades, etc. He advised Savi to let everyone know if this doesn't go well, there

will be sanctions. Mr. Hoxie asked Officer Maher for his recommendation; Officer Maher stated he would recommend they approve #1 and #3 only. Savi stated that would not be a problem for them. Mr. Hoxie asked her to meet with Officer Maher to straighten things out in the interim.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of International Inn Bar & Grill, Inc., d/b/a International Inn, 662 Main Street, Hyannis, Ravi K. Ahuja, Manager, for an alteration in the premises description on it's liquor license, to add an alternate seating plan for the restaurant when there is entertainment: #1 scenario – full restaurant capacity; #3 scenario – dance floor in back bar. Scenario #2 was not recommended for approval. Also unanimously approved was an administrative correction of the premises description to reflect the number of hotel rooms which have actually existed since 1999 and number of seats allowed in restaurant, outdoor patio and lounge as follows: 662 Main Street, Hyannis, MA. First floor 41 rooms, second floor 42 rooms, building at the rear 58 rooms. Six storage rooms, basement storage, lobby, coffee shop, conference rooms, restaurant with capacity of 126 seats and lounge (45 seats) with live entertainment. 48 seats on outdoor patio and pool area, also with music.

Richard Scali advised that they should stop using Scenario #2 immediately. Savi stated that they would.

New Junk Dealer License: Application of Catherine Dupuy, d/b/a Simply Vintage, 5 Main Street, Cotuit, MA, Catherine Dupuy, Manager, for a new Junk Dealer License, hours of operation to 10 am – 5 pm.

Ms. Dupuy appeared for this license. It will be a retail store selling antique furniture and decorative items, clothing and accessories; about 50% consignment. It is on Route 28 before Route 130. They will eventually be open 7 days but for now only 4. Mr. Burman asked about the regulations for holding merchandise – she understands that. She said she does not buy from people coming in off the street.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of Catherine Dupuy, d/b/a Simply Vintage, 5 Main Street, Cotuit, MA, Catherine Dupuy, Manager, for a new Junk Dealer License, hours of operation to 10 am – 5 pm, 7 days per week.

Amend Entertainment Hours: Application of Shiv Sai, LLC, d/b/a Cape Cod Inn/Duck Inn Pub, 447 Main Street, Hyannis, Sandeep Patel, Manager, has requested to amend the closing hour of their Non-Live entertainment license from 11 pm to 12:45 am.

Mr. Patel, Owner/Manager, appeared for this request to ask for karaoke. Right now Mr. Scali found that karaoke falls under non-live entertainment, but in 2012 he has proposed a new category for this license. Mr. Patel stated he has had this all

summer, and had no complaints on. He asked for later hours to end the entertainment. Officer Maher stated the doors and windows in front must be closed during this entertainment to keep the noise level down. Mr. Burman asked about the big speaker placed towards the doorway by the previous owner – Mr. Patel said they have their speaker in the back.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of Shiv Sai, LLC, d/b/a Cape Cod Inn/Duck Inn Pub, 447 Main Street, Hyannis, S. Patel, Manager, has requested to amend the closing hour of their Non-Live entertainment license from 11 pm to 12:45 am.

Change of Manager: Application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyannough Road, Hyannis, for a Change of Manager on its annual All Alcohol Common Victualler License from Josh Sylvester to Brian S. Clay.

Mr. Clay appeared for this request; Mr. Sylvester moved to Vermont. Mr. Clay has worked for BBC for 13 years – many of those as the General Manager.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of SL Uno Hyannis, Inc., d/b/a Uno Chicago Grill, 574 Iyannough Road, Hyannis, for a Change of Manager on its annual All Alcohol Common Victualler License from Josh Sylvester to Brian S. Clay.

Change Corporate Name and Alteration of Premises: Application of Salt & Sea, LLC, d/b/a Salt, 599 Main Street, Hyannis, MA, to change the name of the LLC to Beech Tree Cantina, LLC and to change the premises description on its Annual All Alcohol Common Victualler License as follows: 599 Main Street, Hyannis, with one two-story wooden structure containing a restaurant with bar area and coffee shop with two secure exterior patios. The front exterior patio has 38 seats. Interior restaurant has a total of 113 seats which includes a bar having 27 seats and two couches with seating for 8 persons. The interior coffee shop consists of 60 seats for a total of 173 interior seats. The rear courtyard consists of a bar with 13 seats and 35 table seats for a total of 48 rear courtyard seats. There are three handicap accessible bathrooms on the 1st floor and one men's and one ladies' bathroom on the 2nd floor. The first floor has 11 means of egress and the 2nd floor has one means of egress.

Attorney Steven Pizzuti appeared for this request. The proposed change is for change of corporate name to Beech Tree Cantina and change in seating layout, a synopsis of which Attorney Pizzuti handed out to the Board at the meeting besides the plan included in the package. They are not yet open; this has evolved as they progressed in the reconstruction. They added an exit and changed the seating on the front porch which is enclosed – made banquet seating instead of tables. There is also a change in 6 seats; bar rail removed and booths added, as well as two couches for 8 people. The outside patio did not change. The rear bar has 2 seats deleted and they added 2 seats to tables on the rear patio. He asked for questions.

Mr. Geiler asked the capacity prior to construction - Ms. Ade stated she did not have that information with her. Mr. Scali stated we all went over this in great detail; and Commissioner Perry approved it. He stated he thinks the issue is when this is all going to happen. Attorney Pizzuti stated that there is also a menu change to a Mexican authentic menu; it is rather upscale Mexican food. They have had 10-12 tastings. The chef and Manager are the same. There have been so many issues there with reconstruction that when it opens it will be in the best possible order that it can be. They plan to open between Thanksgiving and the end of the year. Mr. Boy said he has a concern about it being such a large place with one manager; Attorney Pizzuti stated from the main room it could be easily managed with assistance. Mr. Payne stated they have hired Paul Crosby, manager from Sam Diego's for 14 years as general manager with Matt Conley still as restaurant & liquor license manager. Mr. Payne stated that he police on bikes will check in every ½ hour. That issue has been addressed. Mr. Geiler stated the concern is the two buildings and a walk across the courtyard to the other part. Management will be hard with the 3 locations. He said he doesn't see other places like this on the Cape. Mr. Geiler asked if we had a copy of the new menu – which has been provided. Mr. Boy asked if the coffee shop will be open year round – Mr. Payne stated that yes, it will. He is gearing toward the winter. He thinks it is an intricate part of the flavor of the project. There will be make your own sundaes, candy, the "Chocolate Sparrow" atmosphere. There will be readings under the tree for kids in the summer. He said that time will tell – he stated we will see soon that they have a really diverse plan. The plan is to open between Thanksgiving and Christmas for the restaurant – the coffee shop February to April. Mr. Geiler stated that can't happen – we have to approve the whole thing if it is on the plan and on the license. When we come to inspect it must all match the plan. Then everyone is on the same page. What the town is looking for is compliance with the plan. He then said If they want a Phase II it has to come off the plan and be approved later on.

Mr. Payne stated that was not his understanding. Attorney Pizzuti stated no-one expected it to take this long. At this point, maybe the intention initially was different from how they have been able to perform. They will open first with having the coffee shop open as soon as possible. They will utilize the two extra bathrooms in the coffee shop while it is being completed. Mr. Scali stated there was no conversation about using the bathrooms in the coffee shop. Attorney Pizzuti said that obviously there is some misunderstanding. They are planning a phase two much later with other areas in the property.

Mr. Geiler stated if they do not plan to open the coffee shop and do not need to use those restrooms because of the capacity, they could open just the main part now. Mr. Burman stated he is now thoroughly confused. The first time they were in it was fine dining, and then he heard about paper service in back; an agreement for egress through the rear property; nothing has come up about this yet either. Attorney Pizzuti stated that is not before us now for increasing the rear patio capacity, and is under regulatory review. Mr. Burman stated that this is a public safety issue

because of the number of people on site and there is a narrow alleyway which could be a problem.

Attorney Pizzuti stated they have gone back to the theory that they are not asking now for any addition to the rear patio. If there is a fire back there, they can open the gate and leave through it. In an emergency situation the lives and safety of the patrons is NOT at stake. Mr. Payne stated the front restaurant was reviewed by Fire Inspectors and Building inspectors – they changed the exits for the front to what would work best. Those changes cover the buildings out front, and is how this change came about in the plan.

Mr. Geiler stated those people determined they needed change to meet code. It was those people who requested these changes. Mr. Geiler stated right from the beginning there has been concern about the capacity numbers. He stated that concern is still going to exist. He is not sure that given the size of the property the facility suggested would normally be approved. A restaurant up front; a restaurant in back; limited service in the patio. Now it is changed to Mexican – what will we have – Mariachi bands in the courtyard? Will that work? Will that be a good thing?

Attorney Pizzuti stated that this exact same restaurant type is open in Falmouth with no problems. Mr. Hoxie stated we CAN grant a license on the condition that the premises upon completion must meet the plan. We CAN issue the license with premises not in existence. Mr. Geiler stated that yes we can grant the license, but before issuance he believes they have to comply.

Attorney Pizzuti stated his greatest fear is that someone who wants to invest in Main Street, who is watching the Licensing Authority maneuvering through this and trying to find ways to stop people from opening will be put off from investing in Main Street. They will be listening to the Board trying to find reasons to deny this license. The establishment has so many exits there will be no problem with safety. You have to give these people the ability to realize a return on their investment, which is considerable. He said will advise his clients to do whatever they can to complete and open the coffee shop before the end of the year. He asked for consideration from the Licensing Authority.

Mr. Geiler stated it sounds like they are making it a problem with the Town. Mr. Geiler stated every step of the way we are trying to make this happen, but they are the ones making all the changes. We are trying to make sure these things can happen and yet still be in compliance. Mr. Geiler stated the tear jerk story was out of line.

Mr. Payne stated there are a lot of people Mr. Geiler stated are against it. They in fact have a petition with 95% signing the petition to be in favor. These are people on Main Street. Mr. Payne also advised that Attorney Pizzuti had suggested he not put this restaurant on that end of Main Street, but he has deliberately chosen to do so and is very proud of the project.

Mr. Hoxie stated he thinks the vote can take place to approve the license today but that it not be issued until compliance with the plan is complete. Mr. Scali suggested the problem is coming back and forth. We need to be sure this is the final change to come before us. That the coffee shop will open or not open – give us a timeframe. That is what is causing confusion and mistrust. He suggested the commissioners give them a deadline. Mr. Burman totally agreed with Mr. Hoxie’s interpretation. He asked again if this the final plan. Mr. Hoxie stated if the plan is changed, the license is not to be issued. Mr. Burman suggested we continue the matter to November 14.

Attorney Pizzuti stated there will be no changes from this plan to open. Later on if they wish to make changes, they will reapply for those changes. Mr. Hoxie asked for a date from them. Attorney Pizzuti asked if they can open the restaurant before the end of the year and the coffee shop by February 1. Mr. Burman stated he has a plan with no date on it. Mr. Geiler asked if the “Change in Seating” is the same as the “Final Plan.” Attorney Pizzuti stated it is. Mr. Payne stated he wanted leeway to open the coffee shop before April 1.

Mr. Hoxie proposed that the restaurant be open by December 31st and the coffee shop by April 1st, licenses to issue upon the completion of both of these areas in compliance with the plan. The license issued would be minus the 60 for the coffee shop. Then when the coffee shop is done and inspected, we issue a new license to include the 60.

Mr. Burman wanted the number of seats for the front restaurant – he was advised it is 113; with the front patio it is 199 total not including the 48 in the rear. (259 – 60 = 199 restaurant, front patio and rear patio)

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of Salt & Sea, LLC, d/b/a Salt, 599 Main Street, Hyannis, MA, to change the name of the LLC to Beech Tree Cantina, LLC and to change the premises description on its Annual All Alcohol Common Victualler License in accord with the Plan dated 9/27/11, with all but the coffee shop to open prior to January 1, 2012 and the coffee shop to open prior to April 1, 2012.

Mr. Payne and Attorney Pizzuti thanked the Board for its indulgence.

New Class II Auto Dealer: Application of WAJ Auto Sales, Inc., d/b/a WAJ Auto Sales, 143 Old Yarmouth Road, Hyannis, MA, Alex Barcelos, Manager for a Class II Auto Dealer License for a total of 13 vehicles outside and 4 inside. Hours of operation will be Monday through Saturday, 10 am to 7 pm.

The partners appeared for this License. It was a car place, then boats and now cars again. The manager has sold cars in the past, and his partner has been mostly in construction. Mr. Geiler stated they are in a wellhead district, and asked if they are aware there is no repair and no washing. They stated they are aware of that.

Officer Maher asked when we will look at “need” for more car dealerships. Mr. Hoxie stated we should look at that separately from this specific application but it should be addressed.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the application of WAJ Auto Sales, Inc., d/b/a WAJ Auto Sales, 143 Old Yarmouth Road, Hyannis, MA, Alex Barcelos, Manager for a Class II Auto Dealer License for a total of 13 vehicles outside and 4 inside. Hours of operation will be Monday through Saturday, 10 am to 7 pm.

Show Cause Hearing: Show Cause Hearing for Cape Cod Precious Gems & Coins, 48 Iyannough Road, Hyannis, MA, Carl Marchetti, Manager, for revocation of its Junk Dealer License as a result of information presented to the Licensing Authority by Detective Sgt. John Murphy of the Barnstable Police Department at the December 7, 2009 Licensing Authority Hearing for failure to comply with the Town of Barnstable Rules and Regulations under Chapter 502 regarding non-reporting of items purchased for sale, that it purchased items which appear on a list of stolen property, and a determination that Mr. Marchetti is an improper person to hold a Junk Dealer License, to show cause why its Junk Dealer License should not be permanently revoked. Continued from 8/10/11, 2/14/11, 6/20/11, 9/19/11, 10/24/11. Along with this hearing, the renewal/non-renewal of the Junk Dealer License for 2011-2012 will be determined. As Attorney Atwood’s Office advised they were still in Court for 10/24/11 but the matter should be wrapped up for a January hearing. Request was made to continue this hearing to January 30, 2012 as the prior licensee is still in Court.

Show Cause Hearing: Show Cause Hearing for H&S Entertainment, LLC d/b/a Dina’s, at 350 Stevens Street, Hyannis, MA, Constantinos Mitrokostas, Manager, for violation of MGL, Ch. 138 and the Town of Barnstable Code Ch. 501-6 § L for failure to notify the Licensing Authority in writing of closing of its business, and failure to request a hearing for a closing in excess of two weeks.

David Nunheimer, Esquire appeared for the Licensee, Mr. Mitrokostas, who was also here. Attorney Nunheimer stated admittedly they did close up. The opening was delayed because of the prior license, season did not kick off as anticipated; they closed for a period of time and have been in talks with a possible purchaser – hoping to wrap that up before the end of the year. He apologizes to the Board but wishes to keep the license active until the end of the year. The Landlord is cooperating with them and recognizes they are trying to transfer it. If it became an issue they would let it expire on December 31. Mr. Geiler has no problem if there is still a valid lease. Attorney Nunheimer assured the Board they are in close touch with the Landlord on this. Mr. Geiler stated that there was no response for quite a while to the Board’s concerns. Attorney Nunheimer apologized for that. Mr. Geiler suggested we continue this to January 1, 2011 to hits first January meeting, January 9, 2012.

Show Cause Hearing: A Show Cause Hearing has been called due to a report from the Barnstable Police Department of two violations of Pufferbellies, 183 Rear Lyannough Road, Hyannis, Sunny Aroustamian, Manager on July 19, 2011 of the Code of the Town of Barnstable Licensing Authority, to wit: Chapter 501, §7I, Sale or delivery of an alcoholic beverage to a person under 21 years of age (1 count) and of Chapter 501, §8A, Failure to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Hearing was requested to be continued by the licensee from September 19, 2011 & October 3, 2011.

Attorney David Lawler appeared with the Licensee Manager, Sunny Aroustamian. Mr. Hoxie swore in the witnesses.

Officer Maher made the presentation based on a report filed for the incident July 18th as a result of an arrest and comments made by the person that he had been drinking at Pufferbellies prior to the arrest. Officer Mark Cabral testified. He has been with BPD 9 years. He went to Craigville Beach for a stolen taxi. He arrested the suspects after a canine chase. The underage person was 16, severely intoxicated and said to him he was drinking at Pufferbellies. He transported this person and advised him of his rights. His speech was thick, slurred, he was clearly and admittedly intoxicated. Officer Cabral stated the suspect admitted he had no license only a permit. He failed the alphabet test and blew 1.1. The BBT test was an hour after drinking. He then said he advised Officer Maher of where this person stated he had been drinking. Officer Maher asked if he (the underage person) identified himself as anyone else; Officer Cabral stated that the suspect had a Brazilian license listing his age as 5 years older than he was. He asked the subject about the license; which the suspect said he had purchased in Brazil and used to get into bars. Officer Cabral stated he said he used it at Pufferbellies. The officer asked him again where he was drinking and he stated only at Pufferbellies. He did not have a MA license.

Attorney Lawler asked if Officer Cabral observed a wristband. Officer Cabral stated he did not witness one. On page 2, he referred to his report he said there was a bottle of vodka (750) half full. Certainly an individual that age – the amount in the bottle could have made him as intoxicated as he was. Officer Cabral stated that he did not go to Pufferbellies. Attorney Lawler asked was he aware that Pufferbellies does not accept Brazilian licenses – only passports. Officer Cabral stated he was not aware of that. With respect to the other person, when asked Officer Cabral stated he lied to him several times. Officer Cabal stated that was true. Attorney Lawler asked about the person using the DJ equipment. He then asked about the person with the fake ID; why did he not do any further investigation with Pufferbellies to determine whether or not the person's testimony was true. With respect to the lack of investigation of Pufferbellies, he took it all on the word of this intoxicated person that he was there, and drank there. This person was an admitted felon – purposely using a fake ID he purchased. He asked if the person was inside or outside Pufferbellies. Officer Cabral stated the person stated he bought several drinks at Pufferbellies. Officer Maher asked how many people were around that

vehicle. Officer Cabral stated 4. Attorney Lawler stated he had no way of knowing who consumed it. He then asked the officer if with his experience, have underage people always complied at bars. Did he advise the person of what he was arrested for. Officer Cabral said he was told larceny of a MV and unlicensed operation of a motor vehicle only. He would have no reason to lie about drinking at Pufferbellies.

Attorney Lawler asked how long it was before he knew of the incident. Mr Aroustamian said not for 3 months. Officer Maher asked about the stamp and wristband. Mr. Aroustamian said they stamp the people of age or give them wristbands – he said that would be inconsistent with someone entering Pufferbellies without either. Officer Maher asked Mr. Aroustamian about this. He asked what the stamp is and was told under 18, and the wristband is under 21.

Attorney Lawler stated there is no case here – there might be a “possibility” this person drank at Pufferbellies. He stated virtually anything in the world is possible. Here we have an establishment with a metal detector, extensive security, takes extreme precautions to operate in the correct way. The ½ empty bottle of vodka in the car is suggestive that this person drank it. Someone that intoxicated would not rip off a wristband or have a stamp. The other witness lied 6-7 times. This one had every basis to lie. In order to punish the establishment, based upon a kid in a cruiser with handcuffs and drunk, is just not right. Attorney Lawler suggests this is all hearsay. The officer was in this to render an arrest for the stolen vehicle. The alleged comment cannot be used to punish an establishment. There has to be some level of evidence and there is not. The kid’s story is inconsistent with the policy of the establishment of accepting ONLY passports not Brazilian licenses.

Officer Maher stated that unsolicited by Officer Cabral, this person told him he was at Pufferbellies. Based on Officer Maher’s experience, it is that the door persons do not always follow protocol. He alleges this person was in fact inside Pufferbellies.

Attorney Lawler stated the possibility he may have been there is just not enough.

Mr. Hoxie stated he can see why the officer brought the case forward, but the witness (suspect) is not here to question. The other person saying he worked at Pufferbellies brings credence to the allegation that the other person was there too. Mr. Burman asked Mr. Aroiustamian if this person worked Pufferbellies that night. Mr. Aroustamian answered no; they had a Russian DJ that night, and this person is from Brazil.

A motion was duly made by Dick Boy, seconded by Gene Burman and a unanimous vote taken as to findings that there is no proof he was drinking at Pufferbellies

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken as to guilt that the licensee is not guilty. The hearing was dismissed unanimously.

Renewals:

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

A motion was duly made by Gene Burman, seconded by Dick Boy, and a unanimous vote taken to approve the following for renewal for 2012:

Class I Auto Dealers:

Buckler's

A motion was duly made by Gene Burman, seconded by Dick Boy, and a unanimous vote taken to approve the following for renewal for 2012:

Class II Auto Dealers:

Image Motors
Ziggy's

A motion was duly made by Gene Burman, seconded by Dick Boy, and a unanimous vote taken to approve the following for renewal for 2012:

Common Victuallers:

Cooke's Seafood
Honey Dew Donuts

A motion was duly made by Gene Burman, seconded by Dick Boy, and a unanimous vote taken to approve the following for renewal for 2012:

Daily Non-Live Entertainment:

Lightning Falls Mini Golf

A motion was duly made by Gene Burman, seconded by Dick Boy, and a unanimous vote taken to approve the following for renewal for 2012:

Lodging Houses:

Cape Cod Ocean Manor
High Pointe Inn

A motion was duly made by Gene Burman, seconded by Dick Boy, and a unanimous vote taken to approve the following for renewal for 2012:

Mini Golf:

Lightning Falls

Business Meeting:

Licensing Authority Vote to accept surrender of the Wine & Malt Common Victualler License of Semp, Inc., d/b/a Cafe at the Airport. 480 Barnstable Road, Hyannis, Ronald Semprini as of September 1, 2011. Mr. Burman made a motion to accept the surrender, and it was unanimously voted to accept surrender of the Wine & Malt Common Victualler License of Semp, Inc., d/b/a Cafe at the Airport. 480 Barnstable Road, Hyannis.

Update from Police Liaison Officer(s) on the impact of the new Crowd Manager requirement and the Fire and Building Safety Check list requirement in all section 12 licensed premises during operating hours. What was the level of compliance? Did the new requirement improve the overall management and safety of the facility? Did the new requirement create any problems? And any other pertinent comments.

Officer Maher said he brought his partner in. Back in July, some establishments were unfamiliar with this, but everyone was willing to comply. The 1st time there was about 50% compliance; then a bit later all were compliant. The biggest problem has been the dance floor modifications. It changes whether they need or do not need the crowd manager on premises. Mr. Hoxie asked the #; it is 100 or more, and is triggered when there is entertainment. Officer Maher stated we should discuss modification of premises when entertainment begins.

Discussion: Policy discussion of prior history for alcohol licensee violation sanctions and carryover of prior owners' violations on alcohol transfers. Mr. Scali thought this was worth discussion in terms of what policy could be or should be in the future. Sometimes the ABCC will use that if it is a continuing owner, but not if a different owner as to what the violation should be. He suggests the Board look at this with regard to punishment issues only for the future. Mr. Hoxie stated if a prior establishment were issued a 2 day suspension and then was sold; the new owner would not have to serve it.

Mr. Geiler stated in practice the suspension went with the license if transferred. The parties in a corporation could be the same as a new corporation. This subject came up when the Board decided to impose the year from incident suspensions. He stated the penalty needs to be served, even if a new owner. The old owner should be disclosing the sanction against the establishment to let the new owner decide what he is willing to pay for it – that puts the penalty on the original person in the end. Mr. Geiler stated reviewing “history” is important – a violation 20 years ago and 20 days ago should not be treated the same. Mr. Scali stated situations with a complete change of ownership and method of operation should not be penalized for something that had nothing to do with them. Mr. Burman said this falls into a similar category as the ABCC not approving a new license if taxes are owing from the

previous one. Mr. Hoxie stated we had been keeping the policy of imposing sanctions onto the new owner if not yet served and should continue.

Mr. Hoxie made an announcement regarding the retirement of our Police Liaison Officer Lt. JoEllen Jason. He thanked her for her service – her experience and hard work will be missed by all. He said he is sure she will enjoy herself. Lt. Jason stated the Town is served better for having the police liaison. She introduced Sgt. John Murphy, who will work with the Board with Officer Maher after she leaves. Sgt. Murphy stated he looks forward to working with the Board.

And any other new business to come before the Licensing Authority – none.

The meeting was adjourned at 11:30 am.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Dick Boy, Clerk
Town of Barnstable Licensing Authority