



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.

November 14, 2011

A regular meeting of the Barnstable Licensing Authority was held on Monday, November 14, 2011. 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, Richard V. Scali, Consumer Affairs Supervisor, Sgt. John Murphy and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

Hearings:

Two One Day Entertainment Licenses: Application of Jennifer Pitta on behalf of Cape Cod Symphony Orchestra, 712A Main Street, Yarmouth Port, MA for 2 Entertainment Licenses for concerts to be held at BHS Performing Arts Center, 744 West Main Street, Hyannis, on December 10, 2011 from 8 pm to 10:30 pm and February 1, 2012 from 7:30 pm to 10 pm.

Jennifer Pitta appeared for the application. Their fees vary. It is the same events they have every year.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Jennifer Pitta on behalf of Cape Cod Symphony Orchestra, 712A Main Street, Yarmouth Port, MA for 2 Entertainment Licenses for concerts to be held at BHS Performing Arts Center, 744 West Main Street, Hyannis, on December 10, 2011 from 8 pm to 10:30 pm and February 1, 2012 from 7:30 pm to 10 pm.

One Day Entertainment Licenses: Application of Susan Campbell on behalf of Tanya Vincent, Coastal Dance Company (ACAD), 49 John Maki Road, West Barnstable, MA for One Day Entertainment Licenses for a performance of the Nutcracker Ballet for school children on December 9, 2011 at 10 am and performances open to the public on December 10th and 11th, 2011 from 2:00 pm to 4:00 pm, to be held at BHS Performing Arts Center, 744 West Main Street, Hyannis.

Coby Vincent appeared for the application. He is the principal dancer in the ballet. This is their ninth year – no changes except the time (2:00) this year.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Susan Campbell on behalf of Tanya Vincent, Coastal Dance Company (ACAD), 49 John Maki Road, West Barnstable, MA for One Day Entertainment Licenses for a performance of the Nutcracker Ballet for school children on December 9, 2011 at 10 am and performances open to the public on December 10th and 11th, 2011 from 2:00 pm to 4:00 pm, to be held at BHS Performing Arts Center, 744 West Main Street, Hyannis.

Request to Close: Request of Holly Management and Supply Corp. on behalf of Radisson Bistro, Inc., d/b/a Radisson Bistro, 287 Hyannis Road, Christopher Connolly, Manager, to close the restaurant for renovations from November 17, 2011 to April 15, 2012.

Mr. Bornstein appeared for this request as principal of the hotel. They have actually closed as of last night. This is a closing of the entire hotel. They will renew the license for 2012. They are making extensive renovations.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the request to close from November 17, 2011 to April 30, 2012.

Change of Manager: Application of A.J. Luke's of Hyannis, Inc., d/b/a Luke's Super Liquors, 395 Barnstable Road, Hyannis, for a Change of Manager on its annual All Alcohol Retail Package Store License from John Jeremy Hilley to Tim Walker.

Mr. Luke and Mr. Walker appeared for the application. Mr. Walker has experience in a couple different locations; he has been with this location for about 2 years. Mr. Burman asked about the wholesale license. Mr. Luke advised there is very little activity with this license; it is 2 pallets a month coming in and storage in the basement. Mr. Walker will oversee the delivery.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of A.J. Luke's of Hyannis, Inc., d/b/a Luke's Super Liquors, 395 Barnstable Road, Hyannis, for a Change of Manager on its annual All Alcohol Retail Package Store License from John Jeremy Hilley to Tim Walker.

Amend Entertainment License: Application of Seaside Pub on Main, 615 Main Street, Hyannis, Uy Phu, Manager, to amend its Daily Non-Live Entertainment License to add karaoke.

Uy Phu appeared for this application. Nothing else will change. This is something which attracts business. Mr. Phu presented the Board with a letter in favor of the karaoke from two upstairs tenants.

Mr. Geiler asked why the entertainment hours are requested for 13 hours per day. Mr. Phu stated the karaoke is usually from 9 pm to close of entertainment. He just wrote those hours as what they have for non-live. Mr. Hoxie asked if he would mind if the hours be specified as 9:00 pm to 12:45 am. Mr. Phu stated he would not. Mr. Burman asked about amplification; Mr. Phu said it is amplified in that it goes through the house system which they control.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Seaside Pub on Main, 615 Main Street, Hyannis, Uy Phu, Manager, to amend its Daily Non-Live Entertainment License to add karaoke from 9 pm to 12:45 am, providing the noise from it be contained within the premises.

Change of Manager: Application of Outback Steakhouse of Florida, LLC, d/b/a Outback Steakhouse, 1070 Iyannough Road, Hyannis, for a Change of Manager on its annual All Alcohol Common Victualler License from Brian T. Cray to Jennifer Broderick.

Ms. Broderick appeared for the application. Mr. Hoxie asked her experience in dispensing; she has 11 years in full service restaurants and is TIPS trained. Mr. Hoxie asked how long she has been here – she advised she will be moving here from Seekonk and has not started yet. Mr. Burman asked if she is familiar with Town of Barnstable Regulations – she said she has read them on line. Mr. Burman asked her to make sure she has a copy of the Rules and Regulations as we don't want to see her here for violations.

A motion was duly made by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken to approve the application of Outback Steakhouse of Florida, LLC, d/b/a Outback Steakhouse, 1070 Iyannough Road, Hyannis, for a Change of Manager on its annual All Alcohol Common Victualler License from Brian T. Cray to Jennifer Broderick.

Show Cause Hearing: Show Cause Hearing for Hyannis Lodge #1549 B.P.O. Elks, d/b/a Hyannis Elks, 852 Bearses Way, Hyannis, MA, for failure to respond to a request from the Licensing Authority to file a Change of Manager application, as the current Manager on the annual All Alcohol Club License has resigned.

Mr. Scali informed the Board and meeting attendees that the New Manager appointed for Hyannis Lodge #1549 B.P.O. Elks, d/b/a Hyannis Elks has been in to file their application for Change of Manager, so the Show Cause Hearing should be cancelled.

Mr. Hoxie advised that this item will be taken off the hearing list.

Show Cause Hearing: The Town of Barnstable Licensing Authority will hold a Show Cause Hearing for Oceans Harbor, LLC, d/b/a Oceans 10, 10 Ocean Street, Hyannis, MA, John Greene, Manager, for failure to complete the Licensing process with the ABCC after approval of its Annual All Alcohol Common Victualler License by the Licensing Authority on 5/16/11, to cancel the approval of the License.

Attorney David Nunheimer appeared for Oceans Harbor, LLC, d/b/a Oceans 10. He stated that there are a number of reasons that this application will be withdrawn; there will be no license at the 10 Ocean Street location. It is vacant. They will operate at the other Ocean Street location (Hyannis Angler's Club) under the present license.

Mr. Scali stated that this was not what had been represented, and that we had requested a Change in d/b/a for the Hyannis Angler's Club – it will come in to show that the d/b/a will be Hyannis Angler's Club/Oceans and that they will be operating the whole building.

Officer Maher stated that he has heard that Mr. Greene will not be the Manager; Attorney Nunheimer advised that is correct, that there will also be an application for Change of Manager to the new person. Mr. Scali stated it now has a Common Victualler license which operates the entire premises; restaurant downstairs and a club upstairs (private). Mr. Geiler stated the licensee changed from a Club to a Common Vic with a primary tenant upstairs (the club). If that is going to be different, we will need to talk about that.

Mr. Geiler and Mr. Scali asked for a letter withdrawing the application of Oceans 10, the other location. Mr. Nunheimer stated he will supply that.

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 Carousel License renewal listed below:

Carousel:

Island Carousel, Cape Cod Mall, Hyannis

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Cinema/Theatre renewal listed below:

Cinema/Theatre:

Barnstable Comedy Club, 3171 Main Street, Barnstable

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

Class I Auto Dealers:

Cycle Services JD Signs, 100 Ridgewood Avenue, Hyannis
Dick Beard Chevrolet, 20-25 Ridgewood Avenue, Hyannis
Everett H. Corson, Inc., 1019 Iyannough Road, Hyannis
Buick GMC Cadillac Saab of Cape Cod, 600 Yarmouth Road, Hyannis
Premier Cape Cod, 460 Yarmouth Road, Hyannis
Hyannis Honda Body Shop, 1336 Phinney's Lane, Hyannis
Hyannis Honda, 830-880 West Main, Hyannis
Hyannis Marina, 1 Willow Street, Hyannis

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

Class II Auto Dealers:

Joe's Auto Sales, 744 Bearses Way, Hyannis
Robert J. Trapp, Inc., 123B Falmouth Road, Hyannis
Nantucket Auto Sales, 89 Bassett Lane, Hyannis
Barnstable Motors Wholesale, 669 Yarmouth Road, Hyannis
Route 66 Auto Sales, 362A Yarmouth Road, Hyannis
J&J Auto, 381 Camp Street, Hyannis
HiLine Auto Sales, 367 Yarmouth Road, Hyannis – needs BOND
Hyannis Honda Annex, 405 West Main, Hyannis
Used Auto Cape, LLC, 61 Falmouth Road, Hyannis
Club 44 Acquisition Services, 1740 Old Stage Road, West Barnstable
Barnstable Auto Repair, 91 Barnstable Road, Hyannis
Cape Cod Cars and Trucks, 319 Barnstable Road, Hyannis
Argus Auto Sales, 119B Thornton Drive, Hyannis
Trans-Atlantic Motors, Inc., 49 Bearnse Road, Hyannis
Davis Auto Sales, 50 Airport Road, Hyannis
Prime Pre-Owned Center, 95 Falmouth Road, Hyannis

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:

Osterville Fish Too, 275 Millway, Barnstable
D'Angelo's Sandwich Shop, 793 Iyannough Road, Hyannis
Papa Gino's, 1600 Falmouth Road, Centerville
D'Angelo's Sandwich Shop, 187 Falmouth Road, Hyannis
Centerville Pie Company, 1671 Falmouth Road, Centerville
Keyes/Sea Street Snack Bar, 465 Sea Street, Hyannis
International House of Pancakes, Rte 132, Capetown Plaza, Hyannis
7-Eleven #34380-A, 426 Main Street, Hyannis
Persy's Place, 247 Main Street, Hyannis
Regina Pizzeria, CC Mall, Hyannis
Katie's Homemade Ice Cream, 568 Main Street, Hyannis
Sarku Japan, CC Mall, Hyannis
Mary Lou's Coffee, 1481 Iyannough Road, Hyannis
Kentucky Fried Chicken/Taco Bell, 1314 Barnstable Road, Hyannis
Freshens of Cape Cod, 793 Iyannough Road #F102 CC Mall, Hyannis
Subway #29595, 251 Iyannough Road, Hyannis
BJ's Wholesale Club #321, 420 Attucks Lane, Hyannis
McDonald's, 654 Iyannough Road, Hyannis
McDonald's, 175 North Street, Hyannis
Fame/Cape Cod Community College, 2240 Iyannough Road, W. Barnstable
Cape Cod Hospital Food & Nutrition Svcs., 27 Park 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 renewals listed below:

Video Games/Coin Operated:

Papa Gino's, 1600 Falmouth Road, Centerville

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:

Papa Gino's, 1600 Falmouth Road, Centerville
Island Carousel, Cape Cod Mall, Hyannis

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

Lodging Houses:

Cape Cod Yoga Retreat & B&B, 2415 Meetinghouse Way, W. Barnstable

Tidewater Inn, 275 Ocean Street, Hyannis
The Mains'l, 535 Ocean Street, Hyannis
Friends of Prisoners, 84 Bears's Way, Hyannis
Bursley Manor, 651 Main Street, W. Barnstable
Fernbrook Inn, 481 Main Street, Centerville
900 Realty Trust, 961 Pitcher's Way, Hyannis
900 Realty Trust, 975 Pitcher's Way, Hyannis
900 Realty Trust, 989 Pitcher's Way, Hyannis
Sea Beach Inn, 388 Sea Street, Hyannis
The Captain David Kelley House, 539 Main Street, Centerville
Simmons Homestead Inn, 288 Scudder Avenue, Hyannis
Memories by the Sea, 162-166 Sea Street, Hyannis
Bass River Properties, 156 Main Street, Hyannis
Bass River Properties, 164 Main Street, Hyannis
Bass River Properties, 18 Quaker Road, Hyannis
Bass River Properties, 80 Yarmouth Road, Hyannis
The Old Hundred House, 1211 Craigville Beach Road, Centerville
The Hillcrest B&B, 70 Gosnold Street, 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:

Papa Gino's, 1600 Falmouth Road, Centerville
Island Carousel, Cape Cod Mall, Hyannis

Business Meeting:

Notification of application by Harry's at the Depot, 477 Yarmouth Road, Hyannis, Don Patchin, Manager, for a Keno license. Mr. Hoxie advised we do not have to do anything if we do not object. There were no objections from Mr. Burman, Mr. Sullivan or Mr. Hoxie. Mr. Geiler stated they are still working on renovating this building.

Mr. Burman asked about something approved a year ago and never exercised – the auto auction; Mr. Geiler stated that was interrupted by the movie being made – it has since been put back together but the individual being brought in to run it is no longer available. Mr. Burman asked how long the license can remain if not used; Mr. Geiler stated there is nothing in the law stating it can't continue as is. Mr. Geiler stated they would have to renew it if they want to keep it. At that time we could raise any issues we want. Officer Maher stated he saw Mr. Trapp just last week and it is not a problem. Mr. Geiler stated the manager on the license is one of the principals – the person they were bringing in is just a general manager

Release of Executive Session Minutes, if any (0).

Handout from The Attorney General's Office – Open Meeting Law Complaint. Discussion. Mr. Hoxie asked if everyone has read the handout. Mr. Geiler stated that you can't make phone calls and do emails, write letters, whatever between the Board members if there is a quorum. No decisions on proposals, etc. can be made in a non-public meeting. Mr. Burman stated he talks to Marty on the phone all the time – Mr. Geiler stated it is only that they be making recommendations on any public business. Mr. Hoxie stated that a member cannot solicit from all board members or send copies for input to a draft. The members can respond to just one member, not copying all.

Mr. Sullivan stated the footnote pretty much sums it up. You have to keep the Board discussion to a public meeting. Mr. Geiler stated that the one member recommended to the whole Board what she thought should be done outside of an open meeting. Mr. Hoxie stated a 3 member Board has to be very careful; anything not from him cannot be disseminated to the other member. Mr. Geiler stated there is now a huge problem with email. Years ago you wouldn't blast off a paper letter and yet an email or a tweet is common. Mr. Burman stated we have too many rules and regulations.

Mr. Geiler brought up the issue of the Barnstable News Store stating that about 6 months ago BPD picked up the license, advising them if they could demonstrate they had a legal right to the license we would put them on an agenda to reinstate it. Apparently the corporation holding the license was dissolved several years ago yet they kept renewing it under that corporate name. We now need to clean this up. He suggests we bring them in to revoke the license to make this a clean break. What we now have here is a situation wherein an all alcohol package store license could become available. This has not happened for years and years. The Board will have to decide how they will deal with that. There are several ways to deal with it – 1st come, 1st served; or whatever. Mr. Hoxie stated rumor has it Fancy's is taking it over – and this was in the paper.

Mr. Geiler stated that certainly the Board has done a good job spreading out the licenses. There is only one on the north side – if it does not go back there, where would it go? Mr. Geiler asked the Board to think about this - the step after revoking the license in Barnstable Village. Mr. Geiler stated the rumor he is hearing is to continue to operate the general store facility like the Miller family and have a liquor license. Mr. Hoxie asked what the status is now – Mr. Geiler stated that the ABCC identified that the entity on the license was not operating it. Mr. Geiler stated it would be best to revoke it, as there is an appeal process. If revoked, the appeal process would not injure any new applicant.

There is actually a new entity in there now as a retail store. Mr. Hoxie asked that we bring them in at the Board's request to revoke the license at the December 5, 2011 hearing since they are not operating.

The meeting was adjourned at 10:20 a.m.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority