



# 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.

April 9, 2012

A regular meeting of the Barnstable Licensing Authority was held on Monday, April 9, 2012. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Richard Boy, Associate Commissioner, Thomas Geiler, Director of Regulatory Services and Licensing Agent, Richard Scali, Consumer Affairs Supervisor, Lt. John Murphy and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, Christine Ade, Recording Secretary.

**Vote to accept Minutes:** Vote to accept minutes of the 3/26/12 Licensing Authority Hearing.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the minutes of the 3/26/12 Hearing.

#### **Hearings:**

**One Day Wine and Malt License:** Application of Jane K. Walsh on behalf of the Barnstable Yarmouth Lions Club, 30 Ansel Hallett Road, West Yarmouth, for a One Day Wine and Malt License for a fundraising event for its Cambodian Eye Project to be held at the JFK Museum, 397 Main Street, Hyannis, on April 26, 2012 from 5:30 pm to 7:30 pm.

Sharon Brown appeared on behalf of the Lions Club. This is the first one at the JFK. It was held last year in Yarmouth. Cape Cod Package Store is coming and serving.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Jane K. Walsh on behalf of the Barnstable Yarmouth Lions Club, 30 Ansel Hallett Road, West Yarmouth, for a One Day Wine and Malt License for a fundraising event for its Cambodian Eye Project to be held at the JFK Museum, 397 Main Street, Hyannis, on April 26, 2012 from 5:30 pm to 7:30 pm.

**One Day Entertainment:** Application of Kim Greenlaw on behalf of Falmouth Dance Academy, 150 Oyster Pond Road, Falmouth, for a one day entertainment license for its annual dance recital to be held at the Barnstable High School on June 1, 2012 from 6 pm to 8 pm and June 3, 2012 from 4 pm to 6:30 pm.

Kim Greenlaw appeared for this request. This is the annual recital. It is June 1<sup>st</sup> and 3<sup>rd</sup>, \$14 admission, open to the public. It is held in the big auditorium at the high school.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Kim Greenlaw on behalf of Falmouth Dance Academy, 150 Oyster Pond Road, Falmouth, for a one day entertainment license for its annual dance recital to be held at the Barnstable High School on June 1, 2012 from 6 pm to 8 pm and June 3, 2012 from 4 pm to 6:30 pm.

**One Day Wine & Malt and One Day Entertainment Licenses:** Application of MJ Carpenter, 1336 Phinney's Lane, Hyannis, for a One Day Wine and Malt License for a fundraising event for seven local charities to be held on August 17, 2012 from 5:00 pm to 9:00 pm. Also requested is a One Day Entertainment License for a band as well as a live/silent auction.

Beth Marcus appeared to advise this is the 3<sup>rd</sup> annual event; it has worked so well in the past that they are not changing anything. There is a fee at the door. They raised \$25K last year for the charities. It is \$25/person.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of MJ Carpenter, 1336 Phinney's Lane, Hyannis, for a One Day Wine and Malt License for a fundraising event for seven local charities to be held on August 17, 2012 from 5:00 pm to 9:00 pm. Also requested is a One Day Entertainment License for a band as well as a live/silent auction.

**One Day Wine & Malt and One Day Entertainment Licenses:** Application of Elizabeth Marcus, 1336 Phinney's Lane, Hyannis, for a One Day Wine and Malt License for an Earth Day festival event to be held on April 22, 2012 from 11:00 am to 4:00 pm. Also requested is a One Day Entertainment License for live music.

Beth Marcus appeared for this request as well. This is for the Earth Day festival – a brand new event. They are inviting green organizations and business in to demonstrate their goods. The alcohol service is to defray the costs of holding the event.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Elizabeth Marcus, 1336 Phinney's Lane, Hyannis, for a One Day Wine and Malt License for an Earth Day

festival event to be held on April 22, 2012 from 11:00 am to 4:00 pm. Also requested is a One Day Entertainment License for live music.

**One Day Wine & Malt and One Day Entertainment Licenses:** Application of Michael Brooks on behalf of Cape Cod Synagogue, 145 Winter Street, Hyannis, for a One Day Wine and Malt License for its annual raffle party to be held on May 12, 2012 from 6:00 pm to midnight at it's Winter Street facility. Also requested is a One Day Entertainment License for live music.

Mr. Brooks appeared for his request. This event has been held for 25-30 years. There will be a live band and they will serve beer and wine.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Michael Brooks on behalf of Cape Cod Synagogue, 145 Winter Street, Hyannis, for a One Day Wine and Malt License for its annual raffle party to be held on May 12, 2012 from 6:00 pm to midnight at it's Winter Street facility. Also requested is a One Day Entertainment License for live music.

**One Day Wine & Malt License:** Application of Sarah Biggs of Casual Gourmet, 31 Richardson Road, Centerville, on behalf of the Bill Keating Committee, P.O. Box 3065, Buzzards Bay, for a One Day Wine and Malt License for a fundraising event to be held on April 27, 2012 from 5:30 pm to 7:30 pm at the JFK Museum, 397 Main Street, Hyannis.

Mary Lyons appeared for Sarah for this request. This is the 1<sup>st</sup> time for this event, but they have been in many times for other events.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Casual Gourmet, 31 Richardson Road, Centerville, on behalf of the Bill Keating Committee, P.O. Box 3065, Buzzards Bay, for a One Day Wine and Malt License for a fundraising event to be held on April 27, 2012 from 5:30 pm to 7:30 pm at the JFK Museum, 397 Main Street, Hyannis.

**One Day Wine & Malt License:** Application of William Bishop on behalf of Homeless Not Hopeless, 310 Ocean Street, Hyannis, for a One Day Wine and Malt License for a fundraising dinner auction to be held on June 1, 2012 from 5:30 pm to 9:30 pm at Our Lady of Victory Parish Center, 230 South Main Street, Centerville.

No-one appeared for the request. Mr. Hoxie continued the hearing to 4/30/12.

**One Day Entertainment License:** Application of Pastor John Machado on behalf of Life House Church, 17 Jericho Street, Middleboro, for a one day entertainment license for a fundraising event with Christian folk/rock music and John Machado preaching to be held at the Calvary Baptist Church property outside at 25 Lincoln Road, Hyannis on April 21, 2012 from 8 am to 6 pm.

No-one appeared for the request. Mr. Hoxie asked that the applicant be notified it could not hold the event without a license, unless the event was free of charge. Our next hearing is after the event is scheduled to take place.

Mr. Geiler advised that the site might be kind of a problem as the building is not able to be occupied; will they have port a potties? Will it be tented in case of rain? Mr. Hoxie said that they have had a lot of difficulties – the fire and he heard something about the pastor's wife passing away. Mr. Geiler stated they will have a lot more difficulties if someone gets hurt at the site. Mr. Hoxie stated we will hold this; nothing we can do. They have to either pick another date or request a special hearing.

**Two One Day Entertainment Licenses:** Application of Janet C. Preston on behalf Cape Cod Maritime Museum, 135 South Street, Hyannis for two one day entertainment licenses for its 11<sup>th</sup> annual Cape Cod Maritime Festival at Aselton Park, Hyannis, with live music on June 9<sup>th</sup> and 10, 2012 from 10 am to 6:30 pm. All activities will benefit the museum's mission to celebrate and preserve Cape Cod's maritime past, present and future.

Janet Preston, Director of the maritime museum, appeared for this request – the 11<sup>th</sup> annual festival. There will also be strolling minstrels and strolling pirates. No beer and wine for this event. It is mostly a family event. Mr. Burman said he has had reservations because of parking. Ms. Preston said there is no change in the parking.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Janet C. Preston on behalf Cape Cod Maritime Museum, 135 South Street, Hyannis for two one day entertainment licenses for its 11<sup>th</sup> annual Cape Cod Maritime Festival at Aselton Park, Hyannis, with live music on June 9<sup>th</sup> and 10, 2012 from 10 am to 6:30 pm. All activities will benefit the museum's mission to celebrate and preserve Cape Cod's maritime past, present and future.

**One Day All Alcohol and One Day Entertainment License:** Application of Janet C. Preston on behalf Cape Cod Maritime Museum, 135 South Street, Hyannis for a One Day All Alcohol license and a one day entertainment license for its Pirate's Ball fundraiser for the museum, to be held in a tent, open shed and in the courtyard behind the museum, with a raw bar, hors d'oeuvres and a cash bar, silent auctions, a raffle and a dance band on July 13, 2012 from 6 pm to 11 pm. All activities will benefit the museum's programs, exhibits and operations.

Janet Preston appeared for this next request as well. This is a non-profit organization. They will have professional bartenders.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Janet C. Preston on behalf Cape Cod Maritime Museum, 135 South Street, Hyannis for a One Day All Alcohol license and a one day entertainment license for its Pirate's Ball fundraiser for the museum, to be held in a tent, open shed and in the courtyard behind the museum, with a raw bar, hors d'oeuvres and a cash bar, silent auctions, a raffle and a dance band on July 13, 2012 from 6 pm to 11 pm. All activities will benefit the museum's programs, exhibits and operations.

**One Day Entertainment License:** Application of Donna Giberti on behalf of Independence House, 160 Bassett Lane, Hyannis for a One Day Entertainment license for The Nicholas Xiarhos Respectful Youth Relationship Program with a dance troupe to be held on April 15, 2012 from 5:30 pm to 8:00 pm at the BHS Knight Auditorium, Hyannis, MA.

Lauren Titus appeared for this request. It is the first event they have had. Tickets for students are \$5, adults are \$8.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Donna Giberti on behalf of Independence House, 160 Bassett Lane, Hyannis for a One Day Entertainment license for The Nicholas Xiarhos Respectful Youth Relationship Program with a dance troupe to be held on April 15, 2012 from 5:30 pm to 8:00 pm at the BHS Knight Auditorium, Hyannis, MA.

**One Day Beer & Wine License:** Application of Richard Ekross on behalf of Baybridge Clubhouse, 278 Main Street, Hyannis, for its 8<sup>th</sup> annual Dessert First – A Chocolate Soiree” fundraising event for Baybridge to be held at the JFK Museum, Main Street, Hyannis for a One Day Beer & Wine License on April 12, 2012 from 5:00 pm to 7:30 pm.

Fred Williams appeared for this request. This is the 8<sup>th</sup> annual event. Qualified people will serve the alcohol.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Richard Ekross on behalf of Baybridge Clubhouse, 278 Main Street, Hyannis, for its 8<sup>th</sup> annual Dessert First – A Chocolate Soiree” fundraising event for Baybridge to be held at the JFK Museum, Main Street, Hyannis for a One Day Beer & Wine License on April 12, 2012 from 5:00 pm to 7:30 pm.

**One Day Entertainment License:** Application of Brian Morrison on behalf of the Masons (Centerville Building Corp.) and Kiwanis Club of Hyannis as well as several other organizations for a One Day Entertainment license for a community service fair to raise money for the rebuilding of the children's playground on Main Street, Centerville, next to the Centerville Community Building. The event will also promote

these service groups to the public to hopefully increase their membership. The fair will be April 21, 2012 at the Fraternal Lodge, 1989 Falmouth Road, Centerville, from noon to 4 pm.

Bill Elkins and Brian Morrison appeared for this request. Mr. Elkins explained that it is a one day affair from 12 – 4. This is a community fair to raise funds for the playground in Centerville. Admission is \$1 per person. They try to raise \$100,000.00.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Brian Morrison on behalf of the Masons (Centerville Building Corp.) and Kiwanis Club of Hyannis as well as several other organizations for a One Day Entertainment license for a community service fair to raise money for the rebuilding of the children's playground on Main Street, Centerville, next to the Centerville Community Building. The event will also promote these service groups to the public to hopefully increase their membership. The fair will be April 21, 2012 at the Fraternal Lodge, 1989 Falmouth Road, Centerville, from noon to 4 pm.

**One Day Entertainment License:** Application of Suzan Fellows on behalf of Brenda J. Cottingham for a One Day Entertainment License for the third annual Evening of Clairvoyance to be held at the Barnstable Unitarian Church, Main Street, Barnstable from 7 pm to 10 pm on September 14, 2012.

Jane Loumiutis appeared for this request. This will be the 3<sup>rd</sup> event Ms. Cottingham has held.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Suzan Fellows on behalf of Brenda J. Cottingham for a One Day Entertainment License for the third annual Evening of Clairvoyance to be held at the Barnstable Unitarian Church, Main Street, Barnstable from 7 pm to 10 pm on September 14, 2012.

**Re-confirm vote on Prova Brazil Steakhouse – entertainment licenses portion:** Board to vote to re-confirm the entertainment licenses portion of the vote from the 3/26/12 Licensing Authority Hearing as it was not specifically referenced in the motion to approve the application “as written.” Entertainment applied for was Daily Live entertainment for up to 4 entertainers, dancing (560 sq ft dance floor), Non-live entertainment, and 4 T.V.'s, all from 11 am to 12:45 am daily.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to reconfirm the Daily Live entertainment license be granted for Prova Barzil Steakhouse, 415 Main Street, Hyannis, Fabio S. De Oliviera, Manager, for up to 4 entertainers and dancing (560 sq ft dance floor), and that a Non-live entertainment license, and 4 T.V.'s, all from 11 am to 12:45 am daily be granted.

**Alteration of Premises:** Application of Brazilian Grill Inc., d/b/a Brazilian Grill, 676-78 Main Street, Hyannis. Kelly A. DePaula, Manager, for Alteration of Premises to change to the following premises description: Wood frame building at 676-78 main Street with 1 entrance on Main Street, 2 exits to rear of building. 74 x 16 kitchen, 8 1/2 x 4 1/2 coffee room. Central dining room 48 x 18 with 67 seats, 2<sup>nd</sup> dining room 48 x 17 with 44 seats, garden room 38 x 28 with 48 seats. Garden room has 1 entrance from central dining corridor and 2 emergency exits to sidewalk. Bar room 28 x 18 with 20 seats. Outside patio 9 x 12 with 16 seats. 10 x 24 salad bar, 3 restrooms with handicap provisions, 8 x 14 registration area, 15 x 15 waiting area. Total seating 195. Application approved 3/12/12 but back on this agenda because abutter notification/affidavit was not done within 3 days of publication.

Jonathan Tyler appeared with his Affidavit of Abutters confirming proper notification for abutters in the proper timeframe.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Brazilian Grill Inc., d/b/a Brazilian Grill, 676-78 Main Street, Hyannis. Kelly A. DePaula, Manager, for Alteration of Premises to change to the following premises description: Wood frame building at 676-78 main Street with 1 entrance on Main Street, 2 exits to rear of building. 74 x 16 kitchen, 8 1/2 x 4 1/2 coffee room. Central dining room 48 x 18 with 67 seats, 2<sup>nd</sup> dining room 48 x 17 with 44 seats, garden room 38 x 28 with 48 seats. Garden room has 1 entrance from central dining corridor and 2 emergency exits to sidewalk. Bar room 28 x 18 with 20 seats. Outside patio 9 x 12 with 16 seats. 10 x 24 salad bar, 3 restrooms with handicap provisions, 8 x 14 registration area, 15 x 15 waiting area. Total seating 195. It can now be sent to the ABCC.

**New Junk Dealer License:** Application of Nicole Lynch, d/b/a Kyle's Consignment Corner, 505 Main Street, Hyannis, for a new Annual Junk Dealer License, hours of operation to be 9 am to 6 pm.

Ms. Lynch appeared for her application. She is not yet open for business. She is considering Wed – Sun 10-6 for now but would like to have it 7 days per week for season. It is a children's consignment shop.

Mr. Sullivan asked if she has a copy of the junk dealer's regulations, which she said she has. Mr. Geiler stated it is important she realize which items need reporting. She will be given another set of the regulations by the Licensing Office when she picks up her license as the changes made at the 3/26/12 meeting were not in her package.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Nicole Lynch, d/b/a Kyle's Consignment Corner, 505 Main Street, Hyannis, for a new Annual Junk Dealer License, hours of operation to be 10 am to 6 pm.

**Change of Manager:** Application of Hyannis Lodge #1549 BPO Elks, Hyannis Elks, 852 Bearnse's Way, Hyannis, for a Change of Manager on its Annual All Alcohol Club License from Stephen R. Lebel to Richard J. Walker.

Mr. Walker stated he has been in the business since 15 yrs. of age at the Red Coach Grill.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Hyannis Lodge #1549 BPO Elks, Hyannis Elks, 852 Bearnse's Way, Hyannis, for a Change of Manager on its Annual All Alcohol Club License from Stephen R. Lebel to Richard J. Walker.

**New Annual Common Victualler License:** Application of Chipotle Mexican Grill of Colorado, LLC, d/b/a Chipotle Mexican Grill, 793 Lyannough Road, Hyannis, Chris Baglieri, Manager, for a new annual Common Victualler License. Hours of operation will be 11 am to 10pm, with 48 seats inside and 6 seats outside.

Mr. Baglieri was unable to be here due to a family matter – Brad Toothman appeared for this application with Allie, who is another manager. They are a Mexican restaurant. The next closest is on the South Shore. They will be in the Mall near Sears. They are not planning on alcohol yet – in a few months will be requesting alcohol. Scheduled opening is May 22<sup>nd</sup>. They are taking only about 1/3 of the space of the original restaurant (TGI Friday's).

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Chipotle Mexican Grill of Colorado, LLC, d/b/a Chipotle Mexican Grill, 793 Lyannough Road, Hyannis, Chris Baglieri, Manager, for a new annual Common Victualler License. Hours of operation will be 11 am to 10pm, with 48 seats inside and 6 seats outside.

**New Annual Common Victualler License:** Application of Mary Phelps, d/b/a Earthly Delights, 15A West Bay Road, Osterville, Mary Phelps, Manager, for a New Annual Common Victualler License, the hours of operation to be 7:00 a.m. to 3:00 p.m. with outside seating only for 12 at 6 tables in front of the restaurant.

Attorney David Lawler appeared with Mary Phelps for this application. There will be outside seating only. Mary has been operating for approximately 12 years. Apparently the seating used to be "common" seating; they have now obtained a variance. The seating will require a Common Victualler license. It is open 7 days a week in season and 6 off season. Mr. Hoxie asked what happens if it rains. Attorney Lawler answered, "You get wet." It has an awning. There is a lot of takeout. It is a great place – a little breakfast, and lunches.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Mary Phelps, d/b/a Earthly



Delights, 15A West Bay Road, Osterville, Mary Phelps, Manager, for a New Annual Common Victualler License, the hours of operation to be 7:00 a.m. to 3:00 p.m. with outside seating only for 12 at 6 tables in front of the restaurant.

**New Class I Auto Dealer License:** Application of 440 Falmouth Road, Inc., d/b/a BMW of Cape Cod, 25 Falmouth Road, 49 Bears Road and 28 Bears Road, Hyannis, Joseph Laham, Manager, for a New Class I Auto Dealer License, hours of operation to be Mon – Thurs 8 am – 8 pm, Fri 8 am – 6 pm, Fri & Sat 8 am – 6 pm, Sun 12 noon – 5 pm, sharing space with Volvo of Cape Cod, 213 total spaces; 135 display, 42 employee, 34 customer and 2 handicap spaces.

Attorney Michael Ford and Attorney Jeffrey Ford appeared for this application as well as the next one. The BMW dealership is being purchased by Mr. Laham. He has a number of dealerships in town; has an approved site plan. He has approval from the franchise. There is a Class I license issued to Viti BMW and Volvo and that will vacate. It is a lease situation. There is one snag – the application lists it as 440 Falmouth Road, Inc. not 440 Yarmouth Road, Inc. The correct corporation is 440 Yarmouth Road, Inc. for BMW.

Mr. Geiler asked about the other 2 lots – each have special permits. Mr. Burman wondered how Mr. Laham could be spread so thin – Attorney Ford stated he is well able to handle it all and has very competent staff to help him.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of 440 Yarmouth Road, Inc., d/b/a BMW of Cape Cod, 25 Falmouth Road, 49 Bears Road and 28 Bears Road, Hyannis, Joseph Laham, Manager, for a New Class I Auto Dealer License, hours of operation to be Mon – Thurs 8 am – 8 pm, Fri 8 am – 6 pm, Fri & Sat 8 am – 6 pm, Sun 12 noon – 5 pm, sharing space with Volvo of Cape Cod, 213 total spaces.

**New Class I Auto Dealer License:** Application of 25 Falmouth Road, Inc., d/b/a Volvo of Cape Cod, 25 Falmouth Road, 49 Bears Road and 28 Bears Road, Hyannis, Joseph Laham, Manager, for a New Class I Auto Dealer License, hours of operation to be Mon – Thurs 8 am – 8 pm, Fri 8 am – 6 pm, Fri & Sat 8 am – 6 pm, Sun 12 noon – 5 pm, sharing space with BMW of Cape Cod, 213 total spaces; 135 display, 42 employee, 34 customer and 2 handicap spaces.

Attorney Ford stated this will take place immediately. There will be no visible change. Attorney Ford asked if the licenses could be picked up today. Mr. Geiler said certainly in 24 hours.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of 25 Yarmouth Road, Inc., d/b/a Volvo of Cape Cod, 25 Falmouth Road, 49 Bears Road and 28 Bears Road, Hyannis, Joseph Laham, Manager, for a New Class I Auto Dealer License, hours of

operation to be Mon – Thurs 8 am – 8 pm, Fri 8 am – 6 pm, Fri & Sat 8 am – 6 pm, Sun 12 noon – 5 pm, sharing space with BMW of Cape Cod, 213 total spaces.

**Show Cause Hearing Re-opened:** Due to a request from Judith Eldredge, the Licensing Authority is re-opening its Show Cause Hearing for Auto Smart, LLC, Daryl Fietz, Manager, 202 Yarmouth Road, Hyannis, MA, which hearing was called for January 9, 2012 for failure to return her deposit or otherwise make her whole under MGL c. 140, §58 (c) (1) (v) (8) despite her returning the vehicle to Auto Smart, LLC for mechanical issues and higher loan payments. That hearing was closed as the Licensing Authority was advised that Ms. Eldredge was satisfied with the resolution of the matter. The Licensing Authority may cancel, suspend, revoke or further condition this Class II Auto Dealer License.

Mr. Hoxie read the hearing notice. He asked who was here today and confirmed Mr. Fietz was here along with Judith Eldredge.

Mr. Hoxie asked Ms. Eldredge to come forward first on this. She advised the Authority that last July she purchased a car with a \$1000 down payment. The next day she found out the payments were \$14 more than he had told her they would be. She took the car back to him and she alleges he said he had to sell the car first before returning the \$1000. She sent a letter to us in January as she still did not have her money or a satisfactory vehicle. She backed out of the former hearing as he promised her a vehicle. He then offered her \$805 out of the \$1000. She banked that as she was glad to get something, but she went to Court to see if she is entitled to the other \$195.00. She said that is put off until May. She stated that she already paid money to his mechanic directly so she should not owe him any more money. Mr. Hoxie asked if the matter was still at Court; she said it is. Ms. Eldredge stated he called her the other day and threatened her saying he was going to sue her for thousands of dollars. He knew she did not have more money than she had agreed to pay. She said if he could not get her a car for what she told him she could pay , he should have returned her money. She still has no car.

Mr. Fietz appeared and stated the ordeal began last summer. She required special financing. Source One Financial is the company he uses – the 27 page document was reviewed with her prior to the deal being made – spelling out her payments, etc. He said that she signed all the documents, took possession of the vehicle and left. He stated that in Mass, there is no 3 day refusal. He was kind to even agree to try to help her. She returned the following week saying there was something wrong with the vehicle – he stated there was nothing wrong, but her real concern was that she was paranoid about the payment. He asked her what she wanted him to do. He said the minimum payment at this company is \$50 per week. He talked them into a \$25-\$30 payment per week for her, but of course it would then have to be a cheaper car. He showed her maybe 6 vehicles. Her comment was “he wants to put me in that >>>?” Her vehicle was on his lot. She had conversations with his mechanic and with him. They are now offering to fix her car. The pan is not even made for Ford. Gas is leaking and it is unsafe. This has also been through Consumer

Assistance Council. He states he could not make her happy, and then finally she had a tow company take her car out of his lot and scrapped it. He stated that not once did they say she was not getting her money back, but he does feel he has to be compensated something for his time. A few weeks ago he gave her the \$805. He wrote on the check memo paid in full. They both shook hands and he said he believed this to mean she would not pursue it further in Small Claims Court. He did not go but she did. He said that his bond protects him. Now he has to go back to Court if he wants to get the judgment reversed. He reiterated that she shook his hand, took the check and then went to Court. She knows exactly what she is doing. He said for 8 months he has been trying to help her. He states he fought with a company on her behalf to get a very low payment. The Court case he agrees he defaulted on but only because he thought she had withdrawn it after they shook hands. He does not want to go on with this; will pay the \$195.00 – he has the Judgment, the only thing she was talking about was that the “payment” date is May 2. It is a closed case, nothing further would happen in May unless he didn’t pay. Mr. Sullivan stated the Judgment does not address the merits of the case. It was awarded because he did not go to the Court when she agreed with him she would withdraw the case. Mr. Fietz stated that in this economy he has helped many many people get loans when they cannot elsewhere. Mr. Fietz will pay that money today if we wish to Mrs. Eldredge.

Mr. Scali stated we are here only to see if he is running his business properly. There have been three complaints – one settled, this Mrs. Eldredge case and another complaint that came in Friday. He is here only because there seems to be a pattern of issues at Auto Smart and because he did not show up at the last hearing.

Mr. Geiler asked Mr. Fietz if he understands his obligations with respect to lemon law, refunds and being able to satisfy a customer. He said Mr. Fietz sold a 2007 vehicle with 75K + miles on it for almost \$11K. When pointed out there was mechanical work necessary, he stalled and did not fix it. Mr. Fietz stated that there was nothing mechanical wrong with it. Mr. Geiler stated he does not know if he is a fit person to hold an auto dealer license – procedures are spelled out in the law – they are not his personal decisions to make. Mr. Fietz said he has had 2,600 + sales with no problems until now. He stated he can’t afford to be conned and lied to and cheated. Mr. Sullivan asked how long he has been licensed here; he said 6 years in two locations.

Mr. Hoxie asked that he satisfy Ms. Eldredge this morning and we will file this complaint.

Meredith Carter came forward with her additional complaint. She stated she left a deposit of \$1500 for a vehicle; she was in need of funds and asked for \$1000 back; when she was there she saw a person driving her car – the one she still had a \$500 deposit on. He then told her the car was in Bridgewater and she says he sold it out from underneath her. He still has her deposit. She called Bridgewater which he indicated to her was affiliated with his dealership and they said they want nothing to

do with Darrell Fietz, that he owes them almost \$8,000. She stated he swore at her when she went to his lot to get her money back. He next tried to charge her for the car she was driving. Cape Auto Credit is on his sign. She googled him and said he has been arrested for breaking and entering. She says she was sworn at in front of his mechanic. Her person was also threatened on the phone in very descriptive foul language. She has filed a complaint at the Attorney General's Office and the Consumer Assistance Council as well as with us.

Mr. Hoxie stated without making any judgments on this we will advertise for a show cause hearing on this specific case for the April 30<sup>th</sup> meeting.

Mr. Scali advised the Board they may want to hold off on the decision on the Eldredge case until 4/30 as well because they may want to consider the cumulative complaints. Ms. Eldredge asked if she had to be there and Mr. Hoxie stated she did not.

#### **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 All Alcohol License renewals listed below:

#### **Common Victualler All Alcohol:**

Eclectic Cafe, 606 Main Street, Hyannis  
The Islander, 72 Crosby Circle, Osterville

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:**

Eclectic Cafe, 606 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 renewal listed below:

#### **Daily Non-Live Entertainment:**

Eclectic Cafe, 606 Main Street, Hyannis

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

**Common Victualler:**

Coffee Table Cafe, 230A Ocean Street, Hyannis

**Junk Dealers:**

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

Spindle City Precious Metals, 769 Iyannough Road, Hyannis (CC Mall), Hyannis  
Diamond Perfections, 422 Main Street, Hyannis  
Newbury Comics, CC Mall, Hyannis  
Hannoush Jewelers, 793 Iyannough Road, Hyannis  
J. Craig Medeiros, 142 Corporation Street, Hyannis  
Best for Less American Treasures, 207 Iyannough Road, Hyannis  
Kay Jewelers, 793 Iyannough Road, Hyannis  
A.J. Marks Jewelers, 1140 Iyannough Road, Hyannis  
Edythe & Co., 805 Main Street, Osterville

**Business Meeting:**

Mr. Hoxie asked if anything further should be added to the police seminar agenda. Nothing was suggested.

The meeting was adjourned at 10:55 a.m.

Respectfully submitted,

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Christine P. Ade, Recorder  
Town of Barnstable Licensing Authority

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Paul Sullivan, Clerk  
Town of Barnstable Licensing Authority