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TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENT AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009 which amends MGL Chapter 30 A

Licensing Authority Minutes

DATE OF MEETING: March 06, 2017

Check below which one applies

The Clerk's office has this meeting date already posted X

This is a special meeting which has not been posted _____

TIME: 9:30 a.m.

PLACE: 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA

A meeting of the Barnstable Licensing Authority was held on Wednesday, March 6, 2017. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Ron Semprini, Clerk; Larry Decker, Associate Commissioner; Richard Scali, Director of Regulatory Services; Elizabeth Hartsgrove, Consumer Affairs Supervisor; CAO Officer Therese Gallant, Lt. John Murphy and Maggie Flynn, Recording Secretary. David Nunheimer, Associate Commissioner, did not attend the meeting.

Vote to accept Minutes

1. Vote to accept minutes of the 2/13/17 meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 2/13/17 meeting.

New Business:

1. **Application for a One Day Malt License:** Application of Michelle Johnson on behalf of the Bursley Manor, 651 Main Street, Barnstable for a one day malt license for a St. Patrick's Day Beer tasting event. The event is to be held at the Bursley Manor, 651 Main Street, Barnstable on March 17, 2017 from 4:00 pm to 6:00 pm.

Michele Johnson and Dave Gardner appeared for the application. Cape Cod Beer will serve the beer.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

2. **Discussion of Issuance of Seasonal Package Store Licenses:** Per Board request, a review of potential policies and procedures relative to the potential issuance of Seasonal Package Store licenses.

Chairman Hoxie stated that he has conducted an investigation. The Licensing Authority may have a public hearing next year prior to March 1st to discuss the population estimate/increase with the residents. The two applications will be tabled at this time.

3. **Consent Agenda:**

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the Consent Agenda as presented.

Public Hearings:

1. **Application to Amend Hours of a Seasonal Common Victualler License:** Application of Barnacle Enterprises Inc., d/b/a The Barnacle, 974 Craigville Beach Rd., Centerville to amend the business hours on its Seasonal Common Victualler License to 8 am to 9 pm from 11 am to 9 pm; daily.

Tony Ninivaggi appeared on behalf of the application; adding breakfast to the menu.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

2. **Application for a new Annual Common Victualler License:** Application of The Pineapple Caper LLC., d/b/a Pineapple Caper Cafe, 21 Wianno Ave., Osterville, Tammy Russell, Manager, for a new Annual Common Victualler license. Hours of operation will be 7:00 am to 3:00 pm daily. There will be 22 interior seats only as approved by the Building Commissioner on 2-9-17.

******Application to be heard on 3/20/17******

3. **Application for a new Annual Fortune Teller License:** Application of David Eli d/b/a Hyannis Psychic Readings, 26 Pearl Street, Hyannis, David Eli, Manager, for a New Annual Fortune Teller's License, to be operated Monday through Friday 10 am to 10 pm and Saturday-Sunday 9 am to 10 pm.

David Eli appeared on behalf the application. Mr. Hoxie basked about signage; he has appeared in front of historic. Mr. Scali reiterated that this is an entertainment purposes only. Officer Gallant asked about the relationship with the other Eli family members.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

4. **Application for a new Annual All Alcohol Common Victualler License and Live and Non-Live Entertainment Licenses:**

- a) Application has been filed by The Tavern on the Fairway LLC., William T Hensley manager, d/b/a Tavern on the Green located at 1460 Route 149, Marstons Mills, for a new Annual All Alcohol Common Victualler, and annual Non-Live Entertainment Licenses. Beverage Cart will also service the golf course.

Description of Premise: 155 Acre golf course, two story building with two floors to be licensed consisting of kitchen, dining room, bar and deck. Total seating of 136; seating to include 40 interior seats, 48 exterior seats on main floor and 48 interior basement level seats with 2 employees all approved by the Building Commissioner on 2/3/17.

Hours of Alcohol service are: 8:00 AM to 12:45 AM Monday – Saturday; Sunday 10:00 AM – Midnight.

Non-Live Entertainment to include: 3 televisions and recorded music below conversation level. Hours of Non-Live Entertainment: 10:00 AM – Midnight.

Attorney Joe Berlandi represented Mr. Helmsley regarding this application. Attorney Berlandi reviewed the operation of the facility and the two requests before the board. Mr. Hoxie asked about the individual responsible for the cart. Mr. Helmsley described his training program and education required for the cart. Mr. Helmsley discussed his experience. Mr. Semprini reviewed the attendance at the annual compliance meetings. Mr. Helmsley anticipates that the business will run sun-up to sundown. Do not expect any live entertainment.

Bruce McIntyre, Director of Golf Operations stated we are a full service golf course; there is an expectation that amenities are available. There is a hospitality cart on Hyannis Golf Course. It is more than just beer. This is the first time that Old Barnstable will have a beverage cart in 25 years. This will add to the golf experience. The DOR issue from the previous

lessee is not resolved. John J Flores, Town Councilor offered his support for the application.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

- b) **Application for (5) One Day Beer and Wine Licenses;** Application of WT Hensley on behalf of Tavern on the Fairway LLC, 1460 Route 149, Marstons Mills for five one day beer and wine licenses to be held at the Olde Barnstable Fairgrounds Golf Course, Tavern on the Green Restaurant, 1460 Route 149, Marstons Mills . Event dates are 3/16, 4/8, 4/13, 4/15 and 4/20/17. This is in support of golf course events.

Mr. Scali clarified that this is to fill the gap between the pending application and its approval at the ABCC.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

Another motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve a Common Victualler license.

5. **Application for a new Seasonal All Alcohol Common Victualler Licenses and Live and Non-Live Licenses;** Application has been filed for a new Seasonal All Alcohol Common Victualler License and Non-Live Entertainment Licenses for CRAC, Inc. d/b/a Chart Room at Crosby's, Thomas J Gordon Jr. ,manager, 330 West Bay Rd, Osterville.
Description of Premise: First floor of 3 story wood frame building. One front Entrance/Exit. Two side Entrances/exits, 1500 sq. ft. open area, bar seating, 400 sq. ft. storage area, 100 sq. ft. walk in refrigerator and dry storage shed in Northwest side; 420 +/- sq. ft. patio/deck/outdoor area. 49 total seats with 2 scenarios as follows: Scenario 1: Bar seats -12, table seats – 24, and 13 outdoor seats with 14 standees and 15 employees. Scenario 2: Bar Seats - 12, table seats - 32 and outdoor seats – 5 with 5 standees and 15 employees. All approved by the Building Commissioner on 2/6/17.
Hours of alcohol sales: 11 AM – 12:30 AM Daily.
Non-Live Entertainment to include: 2 televisions; hours of entertainment 11:00 am -12:30 pm daily.

Attorney Mark Boudreau represented the application. David Jarvis and Thomas Gordon also appeared. The neighbors have expressed concerns about the 12:30 closing time. The owners have agreed to close at 11:00 pm. They have run 3 other restaurants. The initial special permit limited the hours.

Attorney Albert Schulz is representing the neighbors. There is a concern on parking, middle of October until May there is no parking the boats are there. The question of 14 standees in addition to the 49 seats is also a concern. The Chart House in Cataumet is a bar scene. The request is to end at Thanksgiving.

The ZBA decision speaks to a 1992 plan that delineates parking. The Quarterdeck in Falmouth was recently sold. The applicants are not aware what the season will bring.

Attorney Schulz stated the ZBA did not address the parking. They are a sublease of the occupants. The decision was very vague. The lease does not stipulate designated parking spots.

Ms. Hartsgrove did state that the site plan review team did review the parking issue. Ms. Hartsgrove is trying to obtain this information. Mr. Semprini asked how many spots. Without boats, 110 spots, with boats 1-22 were designated by the ZBA.

Mr. Hoxie stated that the concern is patrons parking on private property. David Jarvis stated for after October they would be open Thursday night, Friday Night and Saturday Day and Night and Sunday day. We would not be open when boatyard employees will be working.

Mr. Semprini believes that this will be a tremendous asset. Please try to guarantee us that there will be no parking on private property. The emphasis is for food not a bar scene. They will not have fried food as to eliminate odors.

Attorney Schulz stated that we have to see what will happen in terms of parking, currently there are no spaces and there are no guaranteed spots for the restaurant. This was sort of left up in the air. The residents are still concerned that there can be 14 standees in addition to the 49 seats. Prior ZBA decision was limited to 10 decibels. This is equivalent to a whisper.

Deborah Fosci, an abutter stated that Google will send you down a private road until to get to and from until the Boatyard corrects/changes their address. Mr. Jarvis confirmed this fact and stated that the restaurant has created a Facebook page and Restaurant page with the correct address.

Scott Crosby, a direct abutter. He wants to be on record that he is happy that the hours are going to be 11pm. Later hours into the year we have concerns about traffic and noise. We are worried about parking, boat storage creates parking issues. Outside seating has never been permitted before.

Mr. Hoxie reminded the group that the Board can take swift action if parking and noise become a problem.

Lt. Murphy will pursue any type of complaints in an immediate fashion.

The ZBA decision needs to be amended to reflect the correct hours of operation after October 15th.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application with the following conditions: Hours of operation and will be 11:00 am to 11:00pm April 1-October 15. From October 15th to January 15th, hours of operation are Thursday – Saturday 8:00 am to 11:00 pm and Sunday 8:00 am to 5:00 pm. Special Permit No. 2017-010-CRAC Inc.

6. Application for a new Seasonal Wine & Malt Retail Package Store:

Application has been filed by Food Port International Market Inc. d/b/a Food Port International Market, 338 Main St., Hyannis for a new Seasonal Wine and Malt Retail Package Store license. Fredy Chavez, manager.

Description of Premise: Main floor 3 rooms, 2 entrances/exits; main entrance located on Main Street. 12 ft. x 11 ft. room for liquor display located at furthest corner of store, away from entrances/exits. Back room 18 ft. x 24 ft. used as a work room including utility closet, hallway and stairs to basement of approximately 2200 sq. ft. with two 10 ft. x 6 ft. restrooms and a large 35 ft. x 24 ft. storage area for food and liquor.

Hours of Alcohol sales: Weekdays 9:00 AM to 10:00 PM and Sunday 11:00 AM to 6:00 PM. ******Application Tabled******

7. Application for a new Seasonal All Alcohol Package Store: Application has been filed by Cotuit Grocery d/b/a Cotuit Fresh Market, 737 Main St., Cotuit for a new Seasonal All Alcohol Retail Package Store license. Steven Gould, manager.

Description of Premise: Wood frame 3 story building with 3600 sq. feet on ground floor with two exterior exits. All liquor display and storage in one area of 790 sq. feet as approved by the Building Commissioner. 50 ml. bottles (NIPS) will not be sold on premise at any time.

Hours of Alcohol sales: Monday through Saturday 8:00 AM to 8:00 PM and Sunday 10:00 AM to 8:00 PM. ***Continued from 1/23/17 Hearing****

******Application Tabled******

Old Business:

1. 2017 Lodging House License Renewal Discussion: Embassy Inn, 98 High School Road, Hyannis, MA. 02601.

****Continued from 2/13/17 Hearing****

Therese Gallant updated the Board regarding the progress made at the location. The Court case is still pending. Jeff Lauzon from the Building department inspected the deck this morning. It has not passed inspection to date. The deck is rebuilt but halfway done. The footings are not poured, not sufficient depth. Need to be 4ft. currently 2.5 feet and not laterally secured.

Attorney Hopkins stated that the builder did the construction properly. Mr. Maloney was made aware of this today. Request an extension to comply. Agenda of the 20th of March. Director McKean stated that the Health department is all set.

******Continued to 3/20/17 Hearing******

Show Cause Hearing:

1. **Show Cause Hearing for an All Alcohol Common Victualler License:** The Barnstable Licensing Authority will hold a Show Cause Hearing to consider violations of Section § 502-1r. Alcoholic Beverages General Provisions of the Town of Barnstable Code, for the sale or delivery of an alcoholic beverage to a person under 21 years of age by Pacific Bay, Inc., d/b/a Tiki Port Restaurant, Wai Fai Mah, Manager, 720 Route 132, Hyannis.

******Postponed until 3/20/17 Hearing******

Licensing Division Updates

1. **Licensing Department updates-** Ms. Hartsgrove reviewed the new Handicap Flier. Available at our website and disability commission website. Mr. Scali reviewed the potential group to discuss alcohol abuse on the Cape. This is being spearheaded by Jamie Binenda from the ABCC.
2. **Police Department updates-** Ms. Gallant stated Class I and Class II annual meetings on March 29

A motion was made to move that the Licensing Authority enter into Executive Session and not return to open meeting. Roll call (Hoxie, Burman, Semprini – yea)

The meeting was adjourned at 10:35

Respectfully submitted,

**Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority**

**Ron Semprini, Clerk
Town of Barnstable Licensing Authority**

Executive Session:

The Licensing Authority may vote to enter into executive session pursuant to G. L. c. 30A s. 21(a)(3) to discuss strategy with respect to the following litigation if the chair declares that discussion in an open meeting may have a detrimental effect on the litigating position of the Authority.

1. **Review of ABCC Appeal:** New England Clambake Inc. d/b/a Wimpy's, 752 Main St., Osterville, Ma. Daniele Siscoe, Manager.

Release of Executive Session Minutes, if any (0). And any other new business to come before the Licensing Authority.

- Matters not reasonably anticipated by the Chair

The list of matters, are those reasonably anticipated by the president/chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the sub-committee may go into executive session. For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours in

Town of Barnstable

Consumer Affairs

Elizabeth G. Hartsgrove, Supervisor

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BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

March 6, 2017

Renewals:

1. **Application for two One Day Entertainment Licenses:** Application of Cecilia Carey on behalf of the Hyannis Rotary, 146 Main Street, Hyannis for two One Day Entertainment Licenses for the Annual Home and Garden & Lifestyle Show. The event is to take place at the Barnstable High School, 744 West Main Street, Hyannis on March 18th and 19th, 2017 from 8:00 am - 5:00 pm. Two guitar players will be at the event.
2. **Application for a One Day Malt Only License:** Application of W Patrick Lentell on behalf of SEMC Sports, PO Box 2017, Cotuit for a One Day Malt License for the annual Tour de Barnstable event. The event is to take place at the Cape Cod Maritime Museum, 135 South Street, Hyannis on May 7, 2017 from 8:00 am – 6:30 pm.
3. **Application for (8) Wine and Malt and one Wine Only Alcohol Licenses:** Application of Andrea McArthur on behalf of Puritan Cape Cod, 408 Main Street, Hyannis for 8 wine and Malt and 1 wine only alcohol licenses. The Charity events are all located at the store and are from 5:00 pm to 8:00 pm. (See attached list).
4. **Application for a One Day Entertainment and Wine and Malt License:** Application of Jeff Marcotte on behalf of Cape Cod Community College for a One Day Entertainment and One Day Wine and Malt license for a music concert at Cape Cod Community College, 2240 Iyannough Rd., Hyannis. Event is to take place on March 19, 2017 from 2 PM to 5 PM at the Tilden Arts Center, CCCC, 2240 Iyannough Rd., Hyannis.
5. **Lodging House License:**
Beechwood Inn, 2839 Main St., Barnstable