



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.

June 25, 2012

A regular meeting of the Barnstable Licensing Authority was held on Monday, June 25, 2012. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Richard Boy, Associate Commissioner; Thomas Geiler, Director of Regulatory Services and Licensing Agent, Richard Scali, Consumer Affairs Supervisor, Lt. John Murphy, Liaison Officer from the Barnstable Police Department, and Christine Ade, Recording Secretary. Paul Sullivan, Clerk, and Patrolman Steve Maher, Liaison Officer from the Barnstable Police Department, were absent.

Vote to accept Minutes: Vote to accept minutes of the 6/4/12 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a unanimous vote taken to approve the minutes of the 6/4/12 Meeting.

Hearings:

One Day Entertainment License: Application of Rachel Sanders on behalf of Wicked Dance Academy, 316 Route 28, West Yarmouth, MA for a One Day Entertainment License for a dance recital to be held on June 30, 2012 from 5 pm to 9 pm at Barnstable High School Performing Arts Center, 744 West Main Street, Hyannis.

Rachel Sanders appeared for Wicked Dance Academy's application. This will be at the High School. They held it last year at the college and did not know this license was required at that time.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Rachel Sanders on behalf of Wicked Dance Academy, 316 Route 28, West Yarmouth, MA for a One Day Entertainment License for a dance recital to be held on June 30, 2012 from 5 pm to 9 pm at Barnstable High School Performing Arts Center, 744 West Main Street, Hyannis.

One Day All Alcohol and One Day Entertainment Licenses: Application of Todd Walantis, for Cape Cod Child Development, 83 Pearl Street, Hyannis for a One Day All Alcohol License and a One Day Entertainment License for its annual Cape Cod 5000 Fishing Tournament to be held on July 1, 2012 from 5:00 pm to 7:00 pm at Oyster Harbors Marine, 182 Bridge Street, Osterville.

Todd Walantis appeared for Cape Cod Child Development for the Cape Cod 5000's 4th annual fishing tournament. No changes from last year. It has always been a successful event.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Todd Walantis, for Cape Cod Child Development, 83 Pearl Street, Hyannis for a One Day All Alcohol License and a One Day Entertainment License for its annual Cape Cod 5000 Fishing Tournament to be held on July 1, 2012 from 5:00 pm to 7:00 pm at Oyster Harbors Marine, 182 Bridge Street, Osterville.

One Day Entertainment License: Application of Kevin Pidgeon on behalf of Hyannis Sound, 14 Franbill Road, Hyannis for a One Day Entertainment License for its annual Alumni Reunion Show followed by a group from 1997 singing tunes from their summer, on August 4, 2012 at Barnstable High School Auditorium from 5 pm to 11 pm.

Mr. Pidgeon appeared and introduced Hyannis Sound, going on its 20th year, a ten man a capella group. They charge \$15.00 admission. Mr. Hoxie stated the approval will hinge upon whether or not they are as good as they were last year. They then serenaded the Board.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Kevin Pidgeon on behalf of Hyannis Sound, 14 Franbill Road, Hyannis for a One Day Entertainment License for its annual Alumni Reunion Show followed by a group from 1997 singing tunes from their summer, on August 4, 2012 at Barnstable High School Auditorium from 5 pm to 11 pm.

Mr. Hoxie stated if they want to be approved next year he expects a different song.

One Day Beer & Wine and One Day Entertainment: Application of Jennifer Williams on behalf of Osterville Historical Museum, 155 West Bay Road, Osterville for a One Day Beer & Wine License and a One Day Entertainment License for its second Pigs & Pearls event to be held on July 8, 2012 from 5:00 pm to 7:00 pm outside in a tent on the grounds, with a small jazz group entertaining.

Jennifer Williams appeared for Osterville Historical Museum. It is their 2nd annual event – it is a fundraiser for the museum. Farmer's Market vendors, restaurants, Cape Cod Beer will be there. Pigs & Pearls is pork, pizzas, seafood, baked goods,

lots to choose from – bacon theme runs throughout. Tickets will be sold for \$55/person or \$100/couple.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Jennifer Williams on behalf of Osterville Historical Museum, 155 West Bay Road, Osterville for a One Day Beer & Wine License and a One Day Entertainment License for its second Pigs & Pearls event to be held on July 8, 2012 from 5:00 pm to 7:00 pm outside in a tent on the grounds, with a small jazz group entertaining.

Alteration of Premises and Amend Daily Live and Non-Live Entertainment

Licenses: Application of Beech Tree Cantina, LLC, d/b/a Beech Tree Cantina, 599 Main Street, Hyannis, Caitlyn Sweeney, Manager for Alteration of Premises to change the premises description to read: Premises located at 599 Main Street, Hyannis, includes 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 on the first floor 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 50 seats for a total of 163 interior seats on the first floor. There exists a waiting area on the second floor with 8 seats. The rear courtyard consists of a bar with 13 seats and 87 table seats for a total of 100 rear courtyard seats. There are three handicap accessible bathrooms on the 1st floor and one man's and one ladies' bathroom located on the 2nd floor. The first floor has 11 means of egress and the second floor has one means of egress. Also requested is a change in the Daily Live Entertainment License with a maximum of 3 performers, 3 pieces, amplified, 7 T.V.'s and a Daily Non-Live entertainment license inside, each to have music from 4 pm to midnight rather than to 11 pm; the addition of 1 musician between 4 pm to 8 pm on the rear patio outside with light amplification with 2 small speakers at ground level.

Attorney Steven Pizzuti appeared on behalf of Beech Tree Cantina with Bill Pane, Philip Jared Pane, and. He presented a copy of a License Agreement for the back area egress and the Abutter Affidavit. They also wish to change their entertainment licenses to include the group we just heard who were absolutely spectacular. He would like to applaud the Authority for recent decisions. It is vital to these businesses to receive the tools they need to succeed. The inside is not changing except to reduce the coffee shop seating to 50 from 60. They have moved the entertainment to a different location in that coffee shop. Mr. Pizzuti stated he is very proud of what his client has done in this project – it is a classy operation. They have spent the money to ensure this success with the Board's indulgence. The outside patio is beautiful – vegetation added is gorgeous. They are seeking to increase the seating there by 52 to a total of 100 including the 13 bar stools already there. They feel the entertainment there is vital to give the ambience for the tourists. They have revitalized that end of the street – they are a big draw. They have preserved the integrity of the tree. It is now blocked off so people can't go up and carve names, etc. Lighting has been added in the tree. It is a very cool area because of all the

shade created. The average age is 30-50. We now need to give them the tools to ensure its long term success. They would like one musician between 4 pm and 8 pm. This is dinner music – at conversation level. The space is large. There are 2 ground speakers. There are 2 other speakers by the bar – if they did not have these you could not hear the music. It will not be a nightclub. The food, if you have had a chance to eat there has gotten rants and raves. It is a fabulous experience. He asked the Chairman for questions. Mr. Hoxie asked if Building and Fire have approved – Mr. Pizzuti stated all has been inspected and approved and meets code. Mr. Hoxie asked if the noise/music will be contained on the premises. Mr. Pizzuti stated it will. Mr. Hoxie asked what type of music? Mr. Pizzuti stated light music – more island type music; not rock and roll. To maintain the level of control they have a staff member dedicated to sound control and crowd control. It is running very smoothly. Mr. Hoxie asked if a fee will be charged for the entertainment. Mr. Pizzuti stated there will not. Mr. Pane stated there will be 2 security people in back and in front. Mr. Hoxie stated the rear egress is now established – Mr. Pizzuti stated it has. Mr. Burman asked the TOTAL number now – 113 restaurant, 50 coffee shop, 100 rear, 38 front patio. With standees and employees it comes to 35 standees in the rear, 20 in the coffee shop and 20 in the restaurant, 20 employees – 376? Mr. Burman asked about emergency lighting in the rear. He stated he is very impressed – it is beautiful. Mr. Boy echoed that – it is very nice. Mr. Boy asked about going from 11 to midnight – the police department has no problem with that. He stated he is concerned about parking – they have valet. Mr. Pane stated there is free parking at Manoog's parking lot. Mr. Boy wanted to make sure the parking issues are resolved – Mr. Pane stated they did not have that lot at the time there were problems with Mr. Chilli. Sam Traywick appeared as a 39 year resident – he recently purchased a unit at 615 Main Street. He said he met Mr. Pane and echoes the compliments of the Board for the property. What he did want to say is that if there are any objections to this from nearby residents; it is clear there is a restaurant/bar there. If they did not want any music, etc. they should've bought in Centerville. He stated he has found it very very improved and has made Main Street a much nicer place. He strongly recommends we endorse his requests. He stated we need to pass this 100%. It will show the Licensing Authority cooperation to all the business owners wanting to make good changes on Main Street.

Erin Kennedy also appeared to support this project. She lives right there at 615– has 2 teenage daughters. Since this construction, there are no drug dealers, no homeless people; the entertainment is not any kind of problem. If a person chooses to live on Main they should expect activity. They are looking forward to it this summer.

Elizabeth Wurfbein, Executive Director of BID, appeared to support this project, stating that Bill Pane has made a huge improvement. It was a desolate area needing a champion. This team has done that. She is here to make sure the residents and businesses live in harmony. She offered their services (the BID) to the residents and businesses to help wherever needed. Any concerns can come there anytime.

Mr. Pane came to the podium – he said jokingly that counsel is very worried about him speaking. He said that he does not have to give his speech now – with all the good comments. Every Sunday morning he said he goes there for coffee – he now watches people come and they do not leave right away - they stay there. They take photos. Before they would see homeless sleeping, drug dealers, etc. Now it is joyful – kids, old folks; tourists that come to Main Street just to see that tree. The only other comment he had was the ABCC was there – they stated they did not believe it looks this nice.

Mr. Burman commented he saw Jared, Mr. Pane’s son, in the rear and it is a shame he is not in front. Mr. Pane said he needs more experience first.

Mr. Geiler stated the Licensing Authority has been very responsive to businesses over the years. This establishment has come a long way – the improvements made recently are second to none. The only thing he wanted to stress is contrary to what Mr. Traywick said, we do have noise regulations. Those must be complied with. The difficulty in complying is present at this location. He does not anticipate police down there, but with the number of residents in the area it could be a problem. He stated that the operator in there right now is doing a great job. We have to be aware that it will be difficult to comply with sound requirements. No-one has come forward with a suggestion to change any of those regulations. Mr. Geiler stated he thinks this request absolutely should be approved and everything they have done so far has exceeded expectations.

Lt. Murphy stated they have had no security issues. There was an issue when first open but just people leaving, not a Beech Tree issue. He said he is on 5-1 shift and the only issues he sees are people congregating outdoors because of smoking – he investigated a noise complaint Friday night but there WAS no infraction by Beech Tree. The complainant was anticipating a Trader Ed’s atmosphere with possible problems in the future and he (Lt. Murphy) could vouch that was not the case. He does not think we should penalize the licensee for what may happen in the future – let them prove themselves.

Mr. Hoxie stated to deny we would have to be aware the noise would disturb someone and there could be a quick reaction. It is obvious the establishment should be allowed to go forward as they wish. Mr. Pane stated he gave the condo association his word as to how this restaurant and the beech tree area would be managed and he will continue to do so because he gave them his word.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken on the alteration of premises to approve a total occupancy including employees and standees as stated above of 376.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken on the change to their entertainment licenses to the requested changes

above – 3 performers, 3 pieces.....and to midnight; and in the rear to have one entertainer and light amplification – no mention of # of speakers. Attorney Pizzuti stated they plan to use the 2 speakers for canned music and use two more speakers over the bar to project the music rather than crank up the level of the music itself. This was approved as requested.

Transfer of Stock and Change of Manager: Application of H&S Entertainment, LLC, d/b/a Bistrot de Soleil, 350 Stevens Street, Constantinos Mitrokostas, Manager, for a Transfer of Stock, 33.34% to Tarsis Santos and 33.33% to Katarina Soldatov, and for a Change of Manager to Katarina Soldatov.

Mr. Mitrokostas appeared with Tarsis and Katarina for this application, stating that Attorney Nunheimer could not appear as he was summonsed to trial today. It is a simple request. Mr. Mitrokostas stated they changed the name – had a meeting with Mr. Geiler as to how to move forward. Katarina will replace Mr. Mitrokostas as Manager and move forward to eventual takeover of the restaurant. Katarina has experience managing and is TIPS certified. Mr. Hoxie stated he has heard very favorable comments about the restaurant.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of H&S Entertainment, LLC, d/b/a Bistrot de Soleil, 350 Stevens Street, Constantinos Mitrokostas, Manager, for a Transfer of Stock, 33.34% to Tarsis Santos and 33.33% to Katarina Soldatov, and for a Change of Manager to Katarina Soldatov.

Change Sunday Alcohol Service Opening Time: Application of The Mill Street Tavern, Inc., d/b/a Cape Cod Inn/Duck Inn Pub, 447 Main Street, Hyannis, John Greene, Manager, to amend the opening hour of their alcohol service on Sundays for brunches to 10:00 am.

John Greene appeared for his application. He stated that this is just a request to serve alcohol at Sunday brunches beginning as early as allowed by law. By oversight this was not included in his original request.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of The Mill Street Tavern, Inc., d/b/a Cape Cod Inn/Duck Inn Pub, 447 Main Street, Hyannis, John Greene, Manager, to amend the opening hour of their alcohol service on Sundays for brunches to 10:00 am.

New Common Victualler License: Application of Kevin Richards, d/b/a K K & G Ventures, 309 Mystic Drive, Marstons Mills, for a New Seasonal Common Victualler License for Kalmus Beach Concession, Kathy Gianno, Manager, 670 Ocean Street, Hyannis, MA to be operated from 9:30 am to 6:30 pm. His seating is all outdoors at picnic tables.

Mr. Richards appeared for this license, which he said he did not know was necessary for him to obtain – he thought the food service permit was all he needed as the picnic tables are not just dedicated to them. He said they have a three year lease – they are extremely excited. They have a real sense of community to do some things there. They have incorporated a lot of local businesses into what they are doing – library events, family nights, storytellers, decorating seashells, etc. The menu is still traditional beach menu but they also do a fresh lobster roll, homemade meatballs, Italian items. The focus is on families. They put up a flag in the middle of the beach so people can go there and order. He stated 9 pm would be a better closing time than what he had asked for on the application. Mr. Hoxie agreed.

A motion was duly made by Mr. Burman, seconded by Mr. Boy and a unanimous vote taken to approve the application of Kevin Richards, d/b/a K K & G Ventures, 309 Mystic Drive, Marstons Mills, for a New Seasonal Common Victualler License for Kalmus Beach Concession, Kathy Gianni, Manager, 670 Ocean Street, Hyannis, MA to be operated from 9:30 am to 9:30 pm. Seating is all outdoors at picnic tables.

Mr. Geiler asked about the menu board sign that used to be out on Main...Mr. Richards said they are not going to do that. They put a sign on the premises just past where you pay. It says snack bar open and what they will have. The signage was approved by Building.

Show Cause Hearing: Show Cause Hearing on RCSJ Group, Inc., d/b/a Fresh Ketch, 460 Main Street, Hyannis, Raymond C. Roy, Manager to determine if its Seasonal All Alcohol Common Victualler License and/or Live Entertainment License should be modified, suspended, revoked or conditions imposed due to violations of the Rules and Regulations of the Licensing Authority as follows:

1. Ch. 501-3. Admissions to the premises, Section D for a failure to provide a written or printed receipt, permanently recorded and numbered seriatim, presented to each individual customer or group of customers;
2. Ch. 501-3. Admissions to the premises, section H. Licensees shall not permit entrance to the premises by more persons than the number approved by the Building Commissioner for the capacity of the premises minus the number of employees working in the public areas at the time. By allowing over 300 people inside the establishment at approximately 2200 hrs.;
3. Ch. 501-5. Physical premises, Section B. The licensed premises shall conform to the floor plan approved by the Licensing Authority with regard to the structures and the walls at the premises, as well as with regard to all tables, chairs, booths, bars, counters, barstools, dance floors or areas, railing partitions, and other barriers at the premises. Any changes in the floor plan or any renovations of any kind may not be made without notification to the Licensing Authority and the approval of the Licensing Authority. This includes substantial changes in the arrangement of moveable furniture. By moving tables and chairs out of the dining area to allow for space for a DJ and dancing;
4. Ch. 501-6. Business arrangements of licensees, Section C. No licensee shall permit any person to have a direct or indirect financial or beneficial interest in the licensed business or to receive any revenue from the business or to manage the premises other than the persons

properly approved of by the Licensing Authority and the salaried employees of such persons. By allowing an outside entertainment company, (AYBOI Entertainment) to have a financial interest in the event on May 25, 2012; 5. Ch. 501-6. Business arrangements of licensees, Section G. No licensee shall enter into an agreement with an independent contractor to provide beverages or food or entertainment or management at the premises without the approval of the Licensing Authority. By allowing a outside entertainment company, (AYBOI Entertainment) to promote and run the "Old school reunion 5" event held on May 25, 2012; 6. Ch. 501-8. Environs of licensed premises, Section A. It shall be obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times. Each licensee will be held accountable for all violations that are related to the licensed premises to determine whether or not the licensee acted properly in the given circumstances. By not adequately having staff present for the size and type of entertainment on May 25, 2012, as well as the issues listed above. By allowing a situation to exist whereby a patron was severely injured as a result of a fight inside the establishment. This hearing was requested to be continued to 7/30/12 by the Barnstable Police Department.

Mr. Scali advised that Mr. Carter, the attorney for Fresh Ketch, agreed to the continuance and Mr. Roy had been notified not to appear.

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. Along with this hearing, the renewal/non-renewal of the Junk Dealer License for 2011-2012 will be determined. Attorney Atwood's Office advised they were still in Court for 9/24/11 but the matter should be wrapped up for the 10/24/11 hearing. Request was made to continue this hearing to 10/24/11 and today it was continued to January 30, 2012 as the prior Licensee is still in Court. Per request of Licensee's attorney, this hearing was continued to March 26, 2012. This matter was continued from the June 24, 2012 hearing as it is still in Court and the attorney again requested a continuance from today's meeting.

Lt. Murphy stated it should be rectified on July 25th at Court.

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken as follows: continue the hearing to September 10, 2012.

Renewals:

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

Renewals:

Common Victualler:

The Egg & I, 521-23 Main Street, Hyannis

A motion was duly made by Gene Burman, seconded by Dick Boy and a unanimous vote taken to approve the renewal of The Egg & I for a Common Victualler license.

Business Meeting:

Vote to release the Executive Session Minutes of 2/13/12. Mr. Hoxie and Mr. Burman participated in that Executive Session.

A motion was duly made by Mr. Burman, seconded by Mr. Hoxie and a majority vote taken to approve release of the Executive Session Minutes of 2/13/12.

Adjourned at 10:30 am.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Gene Burman, Vice Chairman
Town of Barnstable Licensing Authority