



**Town of Barnstable**  
**Regulatory Services**  
Richard V. Scali, Interim 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.**  
**January 13, 2014**

A regular meeting of the Barnstable Licensing Authority was held on Monday, January 13, 2014. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Dick Boy and Ron Semprini, Associate Commissioners; Richard V. Scali, Interim Director of Regulatory Services, Lt. John Murphy and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary. Tracey Smith, Administrative Assistant to the Director of Regulatory Services was also present. David Nunheimer was absent.

**Vote to accept Minutes:** Vote to accept minutes of the 12/30/13 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the minutes of the 12/30/13 Meeting.

**Vote to accept Minutes:** Vote to accept minutes of the 1/8/14 Special Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the minutes of the 1/8/14 Special Meeting.

**Hearings:**

**One Day Entertainment License:** Application of Carol Saunders on behalf of the Hyannis Public Library, 401 Main Street, Hyannis for two One Day Entertainment Licenses for its 38<sup>th</sup> annual Antique Show And Sale to be held on February 15, 2014 from 10 am to 5 pm and February 16, 2014 from 11 am to 4 pm at Barnstable Intermediate School, 895 Falmouth Road, Hyannis.

Carol Saunders appeared for her application. There were no questions.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Carol Saunders on behalf of the Hyannis Public Library, 401 Main Street, Hyannis for two One Day Entertainment Licenses

for its 38<sup>th</sup> annual Antique Show And Sale to be held on February 15, 2014 from 10 am to 5 pm and February 16, 2014 from 11 am to 4 pm at Barnstable Intermediate School, 895 Falmouth Road, Hyannis.

**One Day All Alcohol and One Day Entertainment License:** Application of Bill Sykes on behalf of Best Buddies International, 100 SE 2<sup>nd</sup> Street, Miami, FL for a One Day All Alcohol and One Day Entertainment License (a live band) for its annual Best Buddies event to be held at Eunice Kennedy Shriver Ocean Park, Craigville Beach Road, Centerville on May 31, 2014 from 1 pm to 9 pm.

Bill Sykes appeared for the application 50 mile ride and 20 mile ride on May 31<sup>st</sup>. Entertainment 3 pm – 6:30 pm, lobster bake and other things. Gourmet caterers serve the alcohol. Mr. Sykes has been involved since 2003 and it has been going on since 2001. He stated it has been very successful.

An abutter to the property, Mary Capizzi, 1010 Craigville Beach Road appeared to advise they have not been at this location for 12 years. She stated that since they have been at this location it has been a problem for the abutters. She believes the tent is approx 200' long x 100-150 ' wide and there are also smaller tents. It is major construction – takes days to assemble and break down. She advised that they are somewhat responsive to her concerns but hopes the Board will take into account all the issues. These include building of the structure – machinery, people, lots of noise every year – takes up the whole Craigville Beach area. There is no parking there except by Covell's Beach. She suggests they use a larger place with more parking available. Also, the music is loud – not just the band; they play music, the band practices, and then plays on the event day. The entertainment is not supposed to be heard less than 150' from the event. She asks that the Board deny the event here.

Mr. Hoxie asked if a building permit is needed for the tent. Mr. Scali stated it is. Mr. Scali advised that Ms. Capizzi has complained for years; and has chosen today to come in as it seems to be getting worse. She advised they are trying and have stopped shining lights at her house, etc. but it is unsightly and noisy and really affects her. She says she is a year round resident. Every Spring she dreads it. It is a huge event for a small area.

Mr. Sykes advised they try to accommodate her the best they can – eliminate late hours, Sundays, etc. They do pay the Town to rent the lot across the street and the staff that comes there. It is a considerable fee. They also use the CBA parking lot and Covell's and The Beach Club. The tents are up particularly in that area – the big tent is 220' x 90'. They have made an effort to control the music.

Mr. Hoxie asked what they would do if this was denied. Mr. Sykes stated they have no alternate location. They used to have ½ the number of people. They cap it to the size of the location. They used to be at West Beach in Hyannisport; the party being on the Senator's lawn. They moved it to the Eunice Kennedy lot, as alcohol cannot be served on Town property.

Mr. Hoxie asked how long it takes to set up and dismantle. Mr. Sykes stated about 10 days ahead...setting up the tents and production. Across the street set up is a couple days later. They try to get it up and down as quickly as possible. The third area is not put up until the Friday before the event. Everything is out by Sunday.

Mr. Hoxie asked what else they can do to mitigate the problems Ms. Capizzi raised. Mr. Sykes stated he will speak to the promoters to try to keep the noise down and the production people for setup to keep it down as much as they can. The event is usually all done prior to 9 pm. The event people are gone by then but the tent dismantling takes longer.

Mr. Scali stated there is a noise ordinance of 150' from the structure within which the entertainment should not be heard. Mr. Sykes stated he will continue to try to make it all less intrusive for her.

Ms. Capizzi said they have done quite a bit to accommodate her – yet one time there was a loud generator left on which she went over and turned off herself. The noise from it was very annoying. She also stated there was a huge dumpster of lobster carcasses left last year in the heat – it really stank onto her property. She stated there are other options. It is a matter of them not wanting to change venues. All the major structure construction is very intrusive to her as is living in the “sea of white.” She asked the Board to ask them to look elsewhere, and the Board not approve it yet. She also stated it is a public beach, which is not accessible to the residents for that weekend.

Mr. Hoxie asked Lt. Murphy if there were any problems in the past years – Lt. Murphy stated there have not been to his knowledge. Mr. Hoxie asked the Building Commissioner, Tom Perry, to comment about the building permits. Mr. Perry stated part of the problem is the license for the alcohol on the beach – the Town cannot issue one elsewhere. It is a stress skin structure. They own it, and that is what they use. Building issues a temporary structure permit. Mr. Burman asked if there is a way to shorten the construction time? Mr. Perry stated it takes 5-6 days to put this together. Mr. Semprini asked how far she lives from the tent.

Ms. Capizzi advised there is a driveway and fence and then the tent about 20' west of her and the cottages west of her are seasonal rentals. She does not know their feelings about the event.

Mr. Semprini asked if possibly Best Buddies can move the band and dumpsters farther away from her and seek another location for the following year? She stated yes; she would be happier with that, however, Mr. Shriver owns that property to hold this event. They do not intend to move the event. He does not think the tent is that close to her, but will try to have the people hired set it up further from her if they can; set it up at a quicker pace, and get the dumpsters emptied faster – he stated they always do make it a priority to get the trash emptied as soon as feasible. He said he

is speaking as a representative for Best Buddies but thinks he would have to speak directly to the organization about even considering it's not being at the same location next year. Mr. Sykes stated he has worked with the Town closely to make this event work. They have sent resident notices out, and try to accommodate the people who live nearby as much as possible.

Mr. Scali suggested a downsizing of the event and asked that he submit a new plan for this year. He stated that Mr. Perry has looked at this through Site Plan Review in the past; and Mr. Perry stated he could do it again for a new plan at this location.

Mr. Hoxie asked what has been done so far for the event. Mr. Sykes advised that bids are out for the tents and things; he did not think this request to not approve the event would come up, and planned to go with what they used last season. He stated that he had not been notified of the generator problem or that the dumpsters were an issue or that the tent was so close to Ms. Capizzi's home. He will come back with a new plan.

Mr. Burman stated as he sees it there are 3 issues 1) generator noise; 2) music noise and 3) smell. He said his problem is balancing the fantastic benefit of this event with the neighbors.

Ms. Capizzi stated another problem is the actual size of the tent. She states it is a very good cause. According to a report she had, there are over 800 buddy pairs. It apparently cost them over \$12 million dollars. They brought in roughly \$19 million and just over ½ of it went to salaries. She said she was not going to bring this up today but did because it is not a matter of not appreciating what they are trying to do but how many of the 835 pairs are from the Cape?

Mr. Sykes stated the 835 is not pairs but chapters in the organization. She stated there ARE 835 buddy pairs. Mr. Hoxie asked Mr. Perry what would be a reasonable time to get he downsized plan done with Site Plan review? He stated it should be done by February or early March.

Mr. Hoxie suggested continuing this to the March 3, 2014 hearing and asked that Ms. Capizzi be notified of upcoming meetings.

**Mr. Hoxie announced that Mr. Semprini will sit on the rest of the hearings for Paul Sullivan.**

**New Lodging House License:** Application of Beechwood Inn B&B, LLC d/b/a The Beechwood Inn, 2839 Main Street, Barnstable, Julie Garvey, Manager, for a Lodging House License for a maximum of six (6) lodging rooms, 12 lodgers and 8 parking spaces. Use Variance on File dated 7/22/96 on ZBA Appeal No. 1996-69.

Ms. Garvey appeared for her application. She will run it as it has been run in the past.

Mr. Scali asked if she lives there and is in charge of day to day operations? Ms. Garvey said she does and is.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Beechwood Inn B&B, LLC d/b/a The Beechwood Inn, 2839 Main Street, Barnstable, Julie Garvey, Manager, for a Lodging House License for a maximum of six (6) lodging rooms, 12 lodgers and 8 parking spaces. Use Variance on File dated 7/22/96 on ZBA Appeal No. 1996-69.

**Show Cause Hearing:** Show Cause Hearing for International Inn Bar & Grill, Inc., 662 Main Street, Hyannis, Ravi Ahuja, Manager, for violation of Ch 501 § 8 Environs of Licensed Premises, to wit: "It shall be the 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." It is alleged that on 9/15/13 a door person/bouncer was under the influence of alcohol at 1040 hours.

A motion was duly made by Mr. Burman, seconded by Ron Semprini and a unanimous vote taken continue this hearing to February 10, 2014 at the request of Mr. Ahuja to accommodate his being out of town.

**Show Cause Hearing:** At the request of the Town of Barnstable Building Division and Barnstable Police Department, a Show Cause Hearing is requested on Ferreira's, 85 Old Yarmouth Road, Timothy J. Ferreira, Manager for the purpose of determining if its Annual Junk Dealer License should be modified, suspended, revoked or otherwise conditioned due to the following violation pursuant to a Police Report dated October 25,: Violation of the restriction on its current Junk Dealer's License, to wit: "Recycling bins and related equipment to be utilized and stored within the existing building." Mr. Ferreira's Attorney had requested to continue this hearing to January 13, 2014 from 12/9/13.

Mr. Hoxie read the notice and introduced Officer Maher and James Connors, Esq., who appeared for Mr. Ferreira.

Officer Maher testified that on October 25, 2013 at 10:30 am he went with Mr. Perry, Building Commissioner, to Ferreira's. The issue became the outside of the property. Several items were not in compliance with his license. Officer Maher showed a slide presentation with photos of outside debris of all types. The license states all bins and debris are to be kept inside at night. Photo looking at back property line – tires, sinks, etc. were all on the ground. The next pile is from one end – 2 piles; one of cardboard and one of aluminum & metals. The issue is that the storage is not being kept inside.

Mr. Perry stated he went out last week – new slide taken LAST WEEK – looking to the left of the building the pile of cardboard is still there since the photos taken last October. They were told in October it would be removed in a couple weeks. It has not been moved.

Officer Maher stated Mr. Ferriera has a long history with the Board. The inside of the building is fine. There are several areas outside which are not fine. He did state that they did not see any hazardous materials except maybe the tires and the cardboard.

Mr. Hoxie asked if all these items could fit inside. Officer Maher stated they could not as there was not room – his business has expanded to a larger amount of items than can be kept inside.

Attorney Connors suggested a meeting with Town people to address all these issues and then to come back to see if there is a chance to modify the license rather than to punish him by suspending or revoking today. He did state there is a long history. He said that Mr. Ferreira's business IS growing. Perhaps it is best to sit down to see how we can modify his license.

Mr. Hoxie stated the license was restricted in the first place because of the water district and possible contamination. Attorney Connors stated there was a small fire about a year ago and there was a bit of gasoline found. EPA came out and found it was not contaminating. The articles found recently are not hazardous. That's why he suggests continuing for further action, to work out a modification with Town officials.

Mr. Hoxie stated he is asking what they will do from today forward rather than addressing what he did wrong to have this hearing take place. Attorney Connors mentioned possibly getting a separate structure. He suggested that may be the way the license can be addressed as the business grows as opposed to a punitive measure.

Mr. Hoxie asked if Officer Maher would be averse to a continuance. Officer Maher stated that he does object. This licensee has been before us for 4 different show cause hearings to date. The inspectors have asked him to address the violations and resolve the issues. He does not seem to do this on an on-going basis. For his attorney to be asking just to modify the license is not enough.

Attorney Connors disagreed. He restated that the main problem is hazardous materials and he does not believe cardboard is hazardous. Mr. Hoxie stated it looks like there is more than cardboard outside. Mr. Perry stated there are also all kinds of metals outside, rusting may contaminate the water by getting into the water table. Mr. Perry stated the pile of cardboard looks like it was compacted and taken somewhere and then rejected as other things were mixed in other than just

cardboard. In any case, the restriction on his license was put on for a reason. He is violating the restrictions on his license.

Mr. Burman stated this is his third location and violations go back to the first license. There were show cause hearings in 2007, 2009, 2010, 2012 and now 2014. He stated Mr. Ferreira's attorney is trying to make a silk purse out of a sow's ear. He states he is at the end of his patience with this licensee.

Mr. Ferreira asked to address the Board himself. Mr. Ferreira stated he moved his location to address the Board's wishes for him to move so he would be in compliance. He stated that the materials outside were not from a compactor. He said he has a hauler's permit and has learned how to recycle – and is doing this at present. The last picture taken was a different pile – he had the other pile taken away by Pina. He then stated that the Board is ignorant about recycling. The Town has a serious issue with recycling, and Mr. Ferreira said that he thinks the Town and he as a business can get this recycling done properly. He stated that his business is clean and respectful to the community.

Mr. Hoxie stated obviously there are violations just looking at the photos. He would like to be able to discuss with Town officials possible modifications at a later date but thinks today we should take action on the complaint. He asked Officer Maher what he recommends. Mr. Hoxie then asked if there is anything further before making findings.

Attorney Connors stated the "violation", if there was one, is primarily based on cardboard. Officer Maher stated it does not matter what it is; nothing is supposed to be stored outside. It is cardboard, metal, etc. Whether Mr. Ferreira can change these restrictions remains to be seen. Officer Maher stated there is no third party. He himself was there. Mr. Ferreira has had more than ample opportunity to comply, and still we were shown a photo of a pile still there

Attorney Connors stated they are here for violations on bins and equipment – those items are not shown. Mr. Perry stated there are piles of material all over the property. Whether or not it is in a bin is irrelevant. Officer Maher stated there are 5 bins (containers) in the photo – and asked if those could be put inside the building. They cannot; they would not fit.

Mr. Hoxie again stated we should make the findings on the photos. Mr. Semprini also stated the history is troubling to him; to see 4 offenses in this person's history. The fire in 2012 said there was an explosion, not just a fire. Attorney Connors stated they were cutting up an old camper (RV) with a gas tank. Mr. Perry stated there were no permits for the cutting torch. They at least ignited the gas tank and maybe that exploded, and a tire as well. There was an explosion connected, however small in scale.

Mr. Ferreira stated they had hired a welder. There were remnants of gas in a line that the welder was cutting – a tire went POUF – it was not an explosion. It was not a complete motor vehicle. It was only part of one. He confirmed that the Fire Department was there.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken for findings as follows: There was a violation of the restriction on the current junk dealer license “Recycling bins and related equipment to be utilized and stored within the existing building...” and that Ferreira’s is in violation.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken for guilt as follows: That the license holder is guilty of violation of the terms of his license.

Mr. Hoxie asked Officer Maher for a recommendation as to sanctions. Officer Maher stated this is not the first complaint. Sanctions imposed have all been continued. We have gone beyond that now. The sanction today he suggested is a 30 day suspension; 15 days to be served 30 days from today’s date. That gives him time to clean up the property and meet with Town officials to modify the license and 15 days to be held in abeyance for 2 years, and as well inspections without notice by Town officials.

Attorney Connors again stated if there is a violation, the Town view what was really outside, which was mostly cardboard. It is not anything else. We also need to address how he can grow his business. Taking punitive measures based on cardboard is too strict and he would suggest 15 days is rather harsh.

Mr. Hoxie asked if there is any room to keep some types of items outside? He wondered if it would be worthwhile in the decision to include how we can modify and adjust the license because of indoor space. Mr. Perry stated this is a wellhead protection area. Storing metals outside is a problem in a wellhead protection area. The only solution is a building. He also stated that Mr. Ferreira knows he must keep this stuff inside.

Mr. Hoxie asked if there is room on the property for a 2<sup>nd</sup> structure? Mr. Perry stated there is. Attorney Connors stated the suspension would thwart Mr. Ferreira’s ability to erect this other building.

Mr. Hoxie said the recommendations are a 30 day suspension to begin in 30 days; 15 days to serve and 15 days to hold for 2 years plus unannounced inspections. Mr. Semprini suggested a one week suspension period instead of 15 days. He indicated that it is a very delicate area, but he does have sympathy with the business owner.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken for sanctions as follows: A 30 day suspension with 15 days to



be served starting February 13, 2014 and the other 15 days to be held for 2 years to February 13, 2016 and the ability to conduct unannounced inspections at any time.

Attorney Connors stated the unannounced visits were not allowed by Court order back in 2012. There was an order that notice was required. Mr. Hoxie asked if perhaps Mr. Ferreira would allow the unannounced visits. Attorney Connors stated that yes, he is willing to agree to that.

Mr. Scali stated that he needs to come back to modify the license after his meeting with Site Plan Review to modify the license to add a building.

**One Day Entertainment License:** Application of Thalia Haseotes on behalf of Cold Noses Foundation, 202 Pond Street, Ashland, for a One Day Entertainment License for a Cape Cod Dog Beach Party to be held at Craigville Beach Parking Lot, Centerville, MA on May 11, 2014 from 11 am to 3 pm.

Thalia Haseotes appeared for this hearing. It is a festival. They have a State Promoters License. They raise money all around the globe for pets. This festival will raise funds and awareness for local rescue organizations. They will only be using the parking lots at Craigville Beach. Vendors will bring popup tents. There will be no adopting out that day, but animals will be there and they can take applications. She stated she wanted to ask BPD to do a demo of their canine unit. They will probably have just background music, announcements, but no band. Mr. Hoxie asked if she has permission for use of the lot; she stated they will – and that they must staff it.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Thalia Haseotes on behalf of Cold Noses Foundation, 202 Pond Street, Ashland, for a One Day Entertainment License for a Cape Cod Dog Beach Party to be held at Craigville Beach Parking Lot, Centerville, MA on May 11, 2014 from 11 am to 3 pm.

**Request to Close:** Request of Colombo's Cafe & Pastries, Inc., d/b/a Colombo's, 544 Main Street, Hyannis to close from 1/5/14 to 1/31/14 for cleaning and maintenance.

Cesar Herreira appeared for this application. They are already closed. Will reopen February 1, 2014.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the request of Colombo's Cafe & Pastries, Inc., d/b/a Colombo's, 544 Main Street, Hyannis to close from 1/5/14 through 1/31/14 for cleaning and maintenance.

**Request to Close:** Request of 9 Lives Corp., d/b/a The Black Cat Tavern, 165 Ocean Street, Hyannis to close from 1/21/14 through 2/28/14 for cleaning and maintenance.

Scott Brownlee came in for closing for the Black Cat from 1/21 – 2/28 approved.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve this application as submitted.

**Renewals:**

**Class II Auto Dealers:**

Auto Wholesalers of Cape Cod, 92 Rosary Lane, Unit 20 Tax Title issue – licensee has been notified of problem; will work with Landlord to resolve.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the renewal of Auto Wholesalers of Cape Cod, 92 Rosary Lane, Unit 20, but hold the license until taxes are paid within a year of being current.

**Common Victuallers:**

Dunkin Donuts, 317 Falmouth Road, Hyannis  
Dunkin Donuts, CC Mall, Hyannis  
Dunkin Donuts, 1648 Falmouth Road, Centerville  
Dunkin Donuts, 627 Main Street, Hyannis  
Dunkin Donuts, 3821 Falmouth Road, Marstons Mills  
Dunkin Donuts, 702 Iyannough Road, Hyannis  
Dunkin Donuts, 147 North Street, Hyannis  
Dunkin Donuts, 1220 Iyannough Road, Hyannis  
Dunkin Donuts, 156 Iyannough Road, Hyannis  
Dunkin Donuts, 751 West Main Street, Hyannis

These were late filers according to Mr. Scali; had to be put on this hearing.

A motion was duly made by Mr. Burman, seconded by Mr. Sullivan and a unanimous vote taken to approve the renewal of the Common Victualler license listed above.

**Non alcohol non-renewals just for informational purposes:**

**Lodging Houses:**

Flaherty's Two – phone disconnected  
Hostelling International – Hyannis – closed until May; emailed them about renewing  
Summer Winds of Hyannis – voice mailbox full when called

**Common Victuallers:**

Cape Cod Chocolatier – moved to new location and does not have seats; not renewing  
The Egg & I – not open now; did not renew; no voicemail  
Porky's Concessions/Cafe 75 – phone not in service

**Auto Class I**

Coastal Trailer Sales – left message on phone but have not heard from them

**Auto Class II**

American Classic Dream Cars – not renewing

ES Auto Sales & JC Auto Sales (same owner) – did not renew; phone not taking messages

Ron’s Truck Stop – not renewing; has not been using license

Stevens Street Used Cars – property now part of the new Premier Mazda – took this out of system

**Business Meeting:**

Release of Executive Session Minutes, if any (0). There were none.

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