



Town of Barnstable
Regulatory Services
Richard V. Scali, Interim Director
Licensing Authority

200 Main Street
Hyannis, MA 02601
www.town.barnstable.ma.us

Telephone: (508) 862-4674

Fax: (508) 778-2412

BARNSTABLE LICENSING AUTHORITY
LICENSING HEARING MINUTES

Town Hall Building, 367 Main Street, 2nd Floor Hearing Room, Hyannis, MA – 9:30 a.m.
February 10, 2014

A regular meeting of the Barnstable Licensing Authority was held on Monday, February 10, 2014. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Dick Boy, Associate Commissioner; Ron Semprini, Associate Commissioner; Richard V. Scali, Interim Director of Regulatory Services and Licensing Agent, Lt. John Murphy and Ptl. Steven Maher, Liaison Officers from the Barnstable Police Department, Christine Ade, Recording Secretary and Maggie Flynn, Principal Division Assistant. Paul Sullivan, Clerk, and David Nunheimer, Associate Commissioner were absent.

Vote to accept Minutes: Vote to accept minutes of the 1/13/14 Meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 1/13/14 meeting as printed.

Hearings:

Request of Thalia Haseotes on behalf of Cold Noses Foundation, 202 Pond Street, Ashland, to amend the One Day Entertainment License approved by the Licensing Authority on December 30, 2013 to hold a One Day Entertainment License on Sunday, May 11, 2014 from 11 am to 3 pm for a pet ownership fundraiser with demonstrations and a D.J. to be held at Craigville Beach parking lot at 997 Craigville Beach Road, Centerville, to Saturday, May 10, 2014.

Mr. Hoxie advised the request is just to change the date and the applicant does not have to appear.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the date change for the Cold Noses Foundation One Day Entertainment License to Saturday, May 10, 2014.

New Annual Common Victualler License: Application of Peter M. Goulet, d/b/a Morning Glory Cafe, 211 Cotuit Road, Marstons Mills, MA, Peter M. Goulet,

Manager, for a New Common Victualler License, with seating for 5, 3 employees as shown on plan signed by the Building Commissioner dated 12/6/13, hours to be 7 am – 3 pm.

Craig Larson appeared for the applicant as owner of the building. It is a year-round restaurant. There was a retail food service business there in the past. The maximum for seating is 5 persons. Mr. Scali asked why the applicant is not here; Mr. Larson advised he is in FL. Mr. Semprini asked if the Lessee has been paying this lease since 2012; he is according to Mr. Larson. Mr. Semprini asked if there is a lot of takeout as there are only 5 seats. Mr. Larson advised it was always a takeout only; they want to prepare more foods, not just have pre-packaged and selling retail.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Peter M. Goulet, d/b/a Morning Glory Cafe, 211 Cotuit Road, Marstons Mills, MA, Peter M. Goulet, Manager, for a New Common Victualler License, with seating for 5, 3 employees as shown on plan signed by the Building Commissioner dated 12/6/13, hours to be 7 am – 3 pm.

New Annual Common Victualler License: Application of Michael Hamwey, d/b/a Sea Street Cafe, 50 Sea Street, Hyannis, Michael Hamwey, Manager, for a New Annual Common Victualler License, to be operated 7 am to 3 pm. Seating for a maximum of 48 people, 2-4 employees.

Mr. Hamwey appeared for this request. He has been operating unintentionally without this common victualler license. It was a clerical error. Mr. Hoxie asked if the fee was paid. Mr. Scali stated he has paid the filing fee only. There was a question as to paying last year's fee...the Board decided the fee to make up the late charges would be \$250.00.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Michael Hamwey, d/b/a Sea Street Cafe, 50 Sea Street, Hyannis, Michael Hamwey, Manager, for a New Annual Common Victualler License, to be operated 7 am to 3 pm. Seating for a maximum of 48 people, 2-4 employees, and to charge \$250.00 for the license to bring him to date.

New Annual Common Victualler License: Application of Cape Cod Creamery, Inc., d/b/a Cape Cod Creamery, 655 Route 132, Hyannis, Alan M. Davis, Manager, for a New Annual Common Victualler License, to be operated 10 am to 11 pm. Seating for a maximum of 23 people indoors, 22 porch seats; 29 patio seats – total 74 seats in accord with plan signed by Building Commissioner 1/2/14 and 15 employees.

Mr. Davis appeared for his application – this is new construction in the Christmas Tree Plaza on 132. They also own the one in Yarmouth on Route 28. Mr. Hoxie asked about parking; Mr. Davis stated there is ample parking. Mr. Scali stated we

now have a lot of parking problems in that area with people parking in fire lanes, etc. It seems they will be taking lots of spaces. Mr. Davis stated there is plenty of parking. Mr. Scali stated they need to make sure the people are not double parking as we now have lots of complaints. Mr. Davis stated they are on the quieter side of the building. Lt. Murphy stated he is on the other side and does not anticipate an issue.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Cape Cod Creamery, Inc., d/b/a Cape Cod Creamery, 655 Route 132, Hyannis, Alan M. Davis, Manager, for a New Annual Common Victualler License, to be operated 10 am to 11 pm. Seating for a maximum of 23 people indoors, 22 porch seats; 29 patio seats – total 74 seats in accord with plan signed by Building Commissioner 1/2/14 and 15 employees.

New Lodging House License: Application of Pitchers Way, LLC d/b/a Pitchers Way House, 805 Pitchers Way, Hyannis, Harry Spooner, Manager, for a New Lodging House License for 8 rooms/8 lodgers.

Attorney Mark Boudreau appeared for Pitcher's Way, LLC. This has been a rooming house for over 15 years. The client got special permission from the Zoning Board of Appeals in October of 2013.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Pitchers Way, LLC d/b/a Pitchers Way House, 805 Pitchers Way, Hyannis, Harry Spooner, Manager, for a New Lodging House License for 8 rooms/8 lodgers.

New Junk Dealer License: Application of Catherine Dupuy and Lisa Nickerson, d/b/a Simply Vintage of Cape Cod, 1600 Falmouth Road, Centerville, for a new Junk Dealer License to be operated Sunday to Saturday, 10 am to 6 pm. (Mrs. Dupuy had a license for Simply Vintage in her name alone at a different location. Added a partner, moved and added "of Cape Cod" to establishment name).

Mrs. Dupuy and Ms. Nickerson appeared for this application. They have moved – were in business for 2 years in Cotuit and needed a bigger space. They are now going to be in Bell Tower Mall. Lt. Murphy stated that as we know the Junk Dealer ordinance passed several years ago has been a very good tool for the police department and community. They have no issues with this licensee. Mr. Burman asked if they are aware of the regulations. Mrs. Dupuy stated they do not deal in the types of things requiring the reporting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of Catherine Dupuy and Lisa Nickerson, d/b/a Simply Vintage of Cape Cod, 1600 Falmouth Road, Centerville, for a new Junk Dealer License to be operated Sunday to Saturday, 10 am to 6 pm.

Pledge of License (Annual All Alcohol Innholder License): Application of International Inn Bar & Grill, Inc., 662 Main Street, Hyannis, Ravi Ahuja, Manager for a pledge of the liquor license by Ocean Hospitality Group, LLC, Ravi Ahuja Individually, and International Inn Bar & Grill, Inc. to Hingham Institution for Savings. This is a refinance and monies gleaned from the transaction will be used only on and for the licensed premises.

Ravi Ahuja appeared from International Inn. He advised this is just a refinancing. Mr. Scali wanted to make sure the money he gets is just refinancing the existing loan and they will not be sending it on another property or using it for other reasons. Mr. Ahuja stated they will not.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application of International Inn Bar & Grill, Inc., 662 Main Street, Hyannis, Ravi Ahuja, Manager for a pledge of the liquor license by Ocean Hospitality Group, LLC, Ravi Ahuja Individually, and International Inn Bar & Grill, Inc. to Hingham Institution for Savings.

Mr. Hoxie asked Mr. Ahuja to stay and read the hearing notice for the next item.

Show Cause Hearing – International Inn Bar & Grill, Inc.: 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. Continued from 1/13/14.

This was continued from January 13th. The Authority will hear evidence from BPD first. Officer Maher presented the case. He called a witness, Officer Maloney, and advised he would be back later to give an overview. Officer Maloney said that he was dispatched to the scene. He went to the hotel and asked about the fight; no-one seemed to know anything but that the people around the “black van” were involved. Kenneth White in the van stated he did not have anything to do with a problem. He was combative and smelled of alcohol. A victim came up and stated it was not Mr. White who hit him. Later on the DJ came out and told Officer Maloney that Mr. White was a bouncer at the hotel. Mr. White was certainly intoxicated and admitted he had some “working drinks.”

When asked, Officer Maloney did not remember if Mr. White said he was working for International Inn or someone else. Officer Maher asked if anyone else from International Inn came out that night. Officer Maloney stated that no-one did. Officer Maher questioned Officer Maloney about prior calls to International Inn. Officer Maloney stated there is tons of drug activity there. Tons of crack cocaine

and heroin paraphernalia there. Lots of domestic and alcohol related problems there as well, and prostitution.

Officer Maher called Officer Matt Blondin as well about a new incident over the weekend that would help this case regarding lack of supervision...will not be a show cause hearing on its own. Lt. Murphy introduced Officer Blondin, a police officer for 7 years on the street crimes unit. Echoing Mr. Scali's concerns, keeping this general, Lt. Murphy asked about prior dealings at International Inn and his relationship with the management there. Officer Blondin stated one of their areas of patrol is certainly Cuddles and Bubbles; there is a high rate of crime activity there. They patrol in unmarked vehicles, dress in plain clothes. Part of the patrol is this establishment – they encounter narcotics activity, suspicious persons, etc. The employees working there are cognizant of the police and seem to alert their customers that the police have arrived - warning them. Lt. Murphy asked if Officer Blondin has ever been approached by the Inn personnel to help them get rid of the undesirables. Ptl. Maher has been there numerous times; each time he goes there it is a different "manager who is present." One of the problems is that no one is in charge. Officer Maher stated he has never seen Mr. Ahuja before today's hearing. There is a high amount of drug activity and alcohol issues there. He referred to the police log for this location. There were over 40 calls specific to this location. Other hotels have maybe 3 – 4. He has also told management at the Inn that speakers are not to be outside and yet they were back outside on the weekend. There is no clear responsible person there at night. The focus of entertainment on weekends and the people are completely uncontrolled. Officer Maher stated the manager on the license is not there. He asked who is paying for the entertainment. Is International Inn paying them? On the night in question, there was no supervision. There have been arrests made in the hotel, in rooms, outside...as well as prostitution in the rooms. It is much more prevalent than any other hotel. Mr. Ahuja called to the stand another person who is in charge whom he identified as the entertainment person he hired. His name is Peter Barboza. Mr. Barboza stated he is hired to provide security and entertainment. His entertainment provided is not connected to what happens in the rooms. He stated the bouncer was a one time hire; his regular bouncer was on vacation. He was hired by this entertainment person, not the hotel. Leonard Horton regularly works for him. Lt. Murphy stated he has dealt with Mr. Horton numerous times. Mr. Horton is a professional security person and does a good job. It is not a reflection on Mr. Horton that there was a problem on this evening. Mr. Barboza said that he and/or his brother are there and try hard to monitor the area. He did state that any other activity such as drugs are not in his purview. Mr. Hoxie asked what security they are in charge of. Mr. Barboza stated they are in charge of being the bouncer at this entertainment area. He stated he is not aware of the drug activity. He does not go outside and get involved with fights, etc. They are there weekends 9 pm – 1 am. Officer Maher asked if there is a cover charge. There is and it is \$5.00. Mr. Barboza is paid cash by the Inn \$200/night and he pays the bouncer \$50/night. The Inn does not pay the bouncer. Officer Maher asked Mr. Barboza if he is aware the Inn is responsible for the outside environs. He was asked when the food stops being served and said that the

kitchen closes 9:30. No food except an occasional buffet after that time. Officer Maher asked him if he knows the capacity for the room they use. Mr. Barboza stated 45 for one area, 42 for the other and 80 something for the patio – the 3 locations totaling 178. Officer Maher asked if he was aware the police department holds an information session every spring? Mr. Barboza was not aware. Officer Maher asked if he was there 9/15. He said he was not; his brother was there. He stated the bartender and desk person are here today if needed.

Mr. Semprini said that he is trying to compose himself and speak just professionally on this. Knowing what is happening in our town is disgusting to him. He is very concerned with this operation. Two DJ's and one bouncer...who is managing the bar, the bartenders? Mr. Barboza stated the Inn is managing them. Mr. Barboza and/or his brother are there for the entertainment. Mr. Semprini asked if they are working with the police department on these complaints?

Mr. Banta came to the stand and was introduced as a partner; he stated he is there most of the time – and more so on weekends, just not late. He said that whenever they hear of any problem they show the police their lists of who is there. They cannot discriminate. They have stopped letting people stay for a longer timeframe than normal. They have hired a new manager to run the hotel part. It was his understanding on 9/15 that his staff called the police that night. The people were not leaving quickly enough and loitering in the parking lot. He stated they always cooperate with the police department. Try to do whatever they can. They do have an “undesirables” list and do not rent to those people once they are on that list.

Mr. Scali stated Savi and her replacement, both of whom are now gone, are the only people from the hotel he has met. He said he has never talked to either Mr. Ahuja or Mr. Banta. Mr. Banta stated he was there 300 days or more a year. He said he is not a late night person. Lt. Murphy asked if they have security video cameras? Mr. Banta stated they do. Lt. Murphy asked if they can view them later on and he said that yes, video is saved. They can view it later. Lt. Murphy asked to have some testimony also about lack of supervision. Lt. Murphy advised he is supervisor of the street crimes unit. He has had conversations with staff about the security camera system in the past and was told by a woman manager they do NOT have a surveillance system and it is only viewed live, not saved. He was told it is a system viewed live and if she hits record it does save it but sometimes she forgot to hit it. Lt. Murphy asked again if they (Mr. Ahuja and Mr. Banta) are absentee landlords? He stated said he is there from 7 am to 11 pm approximately, in the office. Savi was handling it, and then another woman, another man and now the new person is in charge when Mr. Banta is not there. Lt. Murphy stated he would like to meet with him (the new manager) after this meeting to exchange cell phone numbers. He would also like to speak to the security person as well. Officer Maher respectfully disagreed with Mr. Banta's representations that they are cooperative with the police. On July 11th some officers were there and went to the desk employee asking for a guest list and the woman there told the police she was advised NOT to give anyone a guest list and that it was against Hippa laws to ask for it. Mr. Ahuja stated that

woman was only there a couple months and is now gone Lt. Murphy asked Mr. Barboza about the entertainment – he said he provides old school 70's and 80's music. Lt. Murphy advised that old school night has been going on for a long time – attracts all ages with no issues requiring the police to come out. Lt. Murphy stated he does not view Mr. Barboza as a problem; it is the level above him that is the problem.

Mr. Hoxie asked Mr. Ahuja if he has any other evidence in his defense to present. Mr. Ahuja asked that the bartender speak. He did, his name is Vito Closkey. He stated Mr. Banta is there much more than we think. He has had meetings with Banta stating riff raff was taking over. He said that Mr. Banta gave him permission to “rule with an iron fist.” He stated that they have banned quite a few people. It is important to them to get rid of the problem people. They do now seem to be disappearing. The clientele has been cut drastically. Lt. Murphy asked if Vito knows how many hotels are in town. He stated he did not. As the bar manager, he was asked why it is only this hotel that has the bad drug problems and issues. The bartender thinks the other hotels are more for tourists; theirs in the winter is more local people and Barnstable residents. Lt. Murphy stated the locals have access to all the other hotels as well, but it is only this one which is a problem. Lt. Murphy then stated he thinks the problem is sitting next to Mr. Barboza as the absentee Manager. The bartender stated there has not been a problem in the bar. He himself is vigilant and is checking himself when he refers to riff raff. It is hard to keep them out. Lt. Murphy apologized also and stated he is not trying to point the finger at the bartender. Officer Maher asked if the bartender was on duty that night. He stated he was; he had refused to serve the individual that was later taken away as intoxicated. Officer Maher asked who else as a hotel employee was there that night. The bartender stated no-one except the desk clerk. Mr. Semprini asked how many times since 9/15 the police department has been called there, and secondly asked the manager how many employees he has on duty in security if the manager is in his office? Officer Maher stated there have been at least 17 calls to that establishment – disturbance, drug calls, suspicious activity calls, etc. since 9/15. Mr. Banta stated they have 23 employees. At least 2-3 times they have someone walk around the entire area. They do have cameras in certain places. Mr. Banta stated they also have had flat screen t.v.'s stolen from rooms. They take I.D.'s and if someone comes again and there has been a problem they are now on a bad list and not rented a room. He stated that they charge a \$200 smoking fine as it is non-smoking there now. Mr. Semprini asked if the desk clerk is here – Mr. Banta said yes, and he was the one who called the police that night. His name is Jayden Mason. He is 19 and was there since late August. Mr. Semprini asked why there is such a turnover of employees. Mr. Ahuja stated it was because Savi, who had been there 20 years, left. The ones after her did not work out. Mr. Mason stated he had 1-1/2 wks training; he walks around at night, handles noise complaints. Anything in the parking lot, etc. He has been told to call police if there is a problem. He testified he has been instructed to give the police the hotel list if they come in. Officer Maher asked him who else at 1:45 on 9/15 was there that night – he was himself, the bar staff and DJ. Mr. Mason stated he was there as night auditor. Officer Maher asked who was

in charge of the building at 1 am when alcohol was being served...he stated he was partially in charge but the bartender as well. Mr. Hoxie asked if Mr. Ahuja had anything else to put into record. Mr. Hoxie stated he is the one responsible. Not the staff. What is he going to do from this time forward to prevent the illegal activity going on there. Mr. Ahuja stated he will meet with the Police Department to work with them to make it right. Mr. Banta stated they have a new person in charge now who is the one we need to talk to. His name is Rick Heroux, he is starting his 2nd week there. He views the lounge as a hotel lounge not a nightclub. Friday was his first weekend. They do last call at 12:30. Timing it right the lounge is empty at 1:00. Entertainment is over before 12:45. He subtracts the employees, entertainment, etc. from the total count of people in the room so as not to be overcrowded. He walks the halls, lets patrons know if it is too loud; if there is a smell that should not be there, etc. He is there at closing. He will be available. Lt. Murphy stated he is very glad to hear what he has said. He asked about policy on patrons "living" at the hotel. The new manager stated he has done weekly and monthly rentals at his old hotel in Worcester. He has to approve any long term resident, paid in advance. Lt. Murphy stated he does not want to sound arrogant as there are people who need to rent as they have nowhere else to live. However, there are others who rent for illegal activity, and they should look out for them. The new manager stated he is vigilant. He will knock on any door to ask what is going in if it is suspicious. He stated he knows what to look for. He noticed this past Saturday a vehicle pulled over in back by an unmarked car...he stated he had been watching that room and that person then checked out of the hotel. Lt. Murphy asked if he would in future please come out and ask the police what is going on so he knows. Mr. Hoxie asked who he reports to; he stated Ravi and Mr. Banta. Mr. Hoxie asked him to notify us if he leaves his position. Mr. Burman, as a prior owner of the hotel, said this is truly disturbing to him. The lack of supervision of the two owners is appalling to him. It is refreshing to hear a professional manager is now on board but is appalled by the lack of responsibility of the owners.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken for findings of that no supervision was noted.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken for findings of guilty.

Mr. Hoxie asked for recommendation as to sanctions. He stated this is a complaint on one night. However, this hotel has problems continually, with lack of supervision. He recommends a 5 day suspension, 3 days to serve, 2 to be held for a year from this date, shutting down the alcohol and entertainment and a written security plan to be submitted for the alcohol and entertainment within 30 days to the Police Department and the Licensing Authority. The police department can then work with them to fine tune it so it works well. Lt. Murphy stated their security should be beefed up for the winter time. He looks forward to working with the new manager. Officer Maher asked the suspension be on the weekend which is when most of the entertainment will be happening. Lt. Murphy stated maybe suspend for weekdays

and the days in abeyance be for a weekend should there be further problems. He stated this will give them the benefit of the doubt. This is their one change, and he apologized to Officer Maher for recommending something different. Mr. Hoxie agreed. Lt. Murphy stated if the new manager leaves we need to know.

Mr. Hoxie stated that a 3 day suspension be imposed March 10, 11, 12 and the abeyance dated the first Friday and Saturday in March of 2015. Also a written plan to be submitted as requested. Mr. Semprini agreed with the Friday and Saturday.

A motion was duly made by Mr. Burman that the alcohol license and entertainment licenses be suspended March 13, 14 and 15 and the balance (2 days) be held in abeyance; in addition that a written security plan be submitted to Licensing and the police dept within 30 days.

Show Cause Hearing: A Show Cause Hearing is called on Beech Tree Cantina/Off the Hook Sushi & Raw Bar, 599 Main Street, Brian D. Beatty, Manager, on a complaint from Unit Owners and a tenant of the Condo Association of the Residences at 615 Main Street, Hyannis in accordance with the Town of Barnstable Noise Ordinance, i.e., It shall be considered a violation whenever the noise level created by a licensed entertainment is clearly audible on property abutting the licensed premises. It shall be the responsibility of every license holder, licensed under Chapter 138 or 140 of the General Laws of the Comm. of MA to conduct entertainment, to contain the noise created by said entertainment to their own property. Failure to do so shall be sufficient grounds for revocation or suspension of their entertainment license. This regulation requires the management to take whatever steps are necessary to ensure that the noise created by their entertainment does not disturb the neighbors. Continued from 11/18/13.

Mr. Hoxie stated this will be continued to 4/14/14 at the request of the complainants.

Show Cause Hearing – Shanghai Chinese Restaurant: Show Cause Hearing for Shanghai Chinese Restaurant, Inc., d/b/a Shanghai Chinese Restaurant, 11 Ridgewood Avenue, Hyannis, MA, Henry Yang, Manager, for the following violations of the Code of the Town of Barnstable, Massachusetts, Part V, Ch 501 § 8A Environs of licensed premises, Section A: It shall be the obligation of the licensee 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 Shanghai owner Yong Sheng Ding and his staff on November 16, 2013 did not properly supervise the premises and exhibit control over the licensed premises while their patrons were interfering with an arrest made by the Barnstable Police Department.

Mr. Hoxie read the hearing notice.

Attorney Robert Mills appeared to represent Shanghai. Mr. Yang, Lucy Gow and her daughter Christine appeared with him. Also Mr. Ding, who was requested to appear.

Officer Maher called the officer present at the call on the night in question. Officer Blondin took the stand. He testified as being an officer for 7 years, working with the street crimes unit. Officer Maher asked him to describe 11/16/13. He stated he was assigned to patrol around Center Street. They observed a male to the left of the building in back urinating. Genitals exposed. They encountered the male, identified themselves as police officers. The male took something from his pockets and swallowed it. Officer Blondin believed it to be narcotics. Several patrons came to the back deck and most of them were known to police for narcotics related offenses. The male urinating was also intoxicated. He was placed in protective custody. Also arrested for indecent exposure and resisting. He had a Budweiser beer cap in his pocket. Stated he was a patron at the Shanghai and admitted drinking earlier. Another patron, his brother, came out with several associates. The crowd was verbally abusive to the police and seemed to be intimidating the police. Officer Blondin stated he has been inside the bar once; there are two entrances accessible to the public. Rear porch is where customers hang out to smoke, etc. Officer Maher asked if the area where he saw them is the problem area – and asked does he see them briefly or for longer periods outside. Officer Blondin stated both. Officer Maher asked if at the other entrance the patrons gesture towards people inside? Officer Blondin stated they do. If they see a police car marked or unmarked, they motion to people inside the bar. They also run inside to alert those inside. Officer Blondin stated there were several people this night in question – the perp and 3 others at least, who were known to him from police related activity. Two known and convicted narcotics dealers. They are regulars at the Shanghai. Officer Maher asked if any Shanghai employees came outside that night. Officer Blondin said they did not. He has been there numerous times for drug activity and other issues. He has also done extensive surveillance of that establishment. He asked if any of these people ever carry food out of there. Officer Blondin stated they do not.

Attorney Mills asked if Officer Blondin determined from the male in question if he had been drinking inside the Shanghai; Officer Blondin stated the perp would not admit he was drinking inside.

Officer Maher called Lt. Murphy to the stand. He asked him to describe his involvement. Lt. Murphy stated he was on from 5 pm to 1 am as supervisor of the street crime unit. He stated the street crime unit operates on a different frequency than regular police dispatch. He heard Officer Blondin requesting help. When he got there Mr. Tillman was in handcuffs. 7-8 people were being very vocal on the porch. He was concerned about the incident escalating; he went inside to get an employee to help disperse patrons. He walked through the people on the deck; spoke to Lucy who was behind the bar; asked her where the manager was and could he help. She said he was not there. Lt. Murphy went back outside hoping someone from the Shanghai would come out to help and that did not happen. Lt. Murphy said he then was in more of a crowd management mode, hoping to ward off

further problems. He went back inside and a man, the owner, was asked to follow him outside; that also did not happen. Lt. Murphy then told the street crime guys to leave and took the prisoner in – trying not to have the situation get worse or get someone hurt. He says there definitely was lack of supervision. He recognized 4 individuals by face and name as people with distribution and firearms convictions. All 4 he recognized as regulars. Officer Maher asked if he noticed how much food was in the restaurant at the time. Lt. Murphy stated when he walked in he did not make notice of anyone sitting in the restaurant portion of the establishment but the bar was full. His conversation was with the bartender telling her he needed help. She continued to serve the patrons at the bar instead of helping him. She did not respond properly to his request. Officer Maher asked if he has had proper responses from other restaurants. Lt. Murphy stated they have always helped him at other places. Officer Maher asked if he had been to Shanghai before on calls, and was the staff cooperative. Lt. Murphy said that when asking the staff inside if they had a security system he was handed the T.V. remote control. There is definitely a language problem. Lt. Murphy also stated the call log submitted with the complaint was not correct as to JUST the Shanghai. He replaced that log with a new document specific ONLY to the Shanghai, being Exhibit “A,” and attached herewith. July 2000 to present, 178 calls to that location; broken down as follows:

| | |
|---|----|
| Disturbances/fights/Intoxicated Persons | 70 |
| Assault/Assault with a dangerous weapon | 18 |
| Assist/Medical Assist (Could be IP) | 19 |
| Drug Sales/Suspicious Activity | 25 |
| B&E/Larceny | 17 |
| Town Liquor Ordinance | 19 |
| Miscellaneous calls | 20 |

Attorney Mills had no questions of the police department. He stated Lucy Gow is the owner with her husband and Henry Yang is the main manager – he works 35 hours/week. It is a Mom & Pop operation. Mr. Ding works in the kitchen and delivers. Cape Cod Hospital is their main client – hospital workers coming in. The location is challenging. In 2009 they were here (before the Licensing Board) because of a lack of supervision issue. Mrs. Gow did not understand the issue of people using the restroom so often, etc. at that time. He worked with them and says they have been trying to address these challenges. The evening in question Lucy was there; she knows Tillman’s and crew – 4 individuals. One of them was asked to leave as he was underage and he was outside. They were having appetizers and drinks that evening. The youngest is not of age and was the one asked to leave. Lucy was not sure what was being asked of her. She stated the people at the bar wanted to go out, smoke, then return inside to finish drinks and appetizers and leave later. Attorney Mills stated that Lucy and Mr. Yang are getting better with their understanding, but stated he still has some problem with their understanding him. He stated there are some people they will need to not allow in there. Also, the back door does not need to be open it seems. Lt. Murphy stated that door in back is very dark – not lit well. If needed as an emergency exit it should be lit. It leads to

something the restaurant does not want on their premises being so dark. In 2009 Attorney Mills stated they hired someone to help them with the door; but there are only certain days and hours that needs to be done. They were unable to get people to work just those few hours, but evidently they need to look a lot closer at this. Henry, the manager, is getting near to retirement. They are looking at a change of manager fairly soon. It would be the older son. That would go a long way to resolve some of these issues.

Lt. Murphy stated he has concerns given the location and some of the people intimidating employees and staff in managing their own restaurant. Specifically the ones there the night in question might cause them to be afraid of reprisals. The daughter translated for Lucy. She then said these people come in telling her that they are 21 and are allowed to be there. She tells them to leave but they will not do so and she does not make them.

Lt. Murphy asked Attorney Mills if he has advised them they have the right to "trespass" people. He stated they did not understand that before but have been told. There are some people that go there whom they do not want to have there. Lt. Murphy stated he is open to having a dialogue with them about the ability they have for policing themselves. Attorney Mills stated they will do so to get help from the police department. Mr. Burman stated he has great respect for anyone who is trying as a family to be successful. He stated that language seems to be one of the biggest problems. They need a person who can communicate in English and is not afraid to stand up and tell people to get out if needed. The daughter said the people use the excuse that they are 21 and can be there. Attorney Mills stated their son will fill this void. Lt. Murphy stated that obviously, the lady behind the bar is not able to properly manage. Mr. Hoxie asked when the son can come in.

Attorney Mills stated that will be in April. Lt. Murphy stated this has been going on for a long time; he stated he is concerned about moving forward. The repetitive nature of the offenses is disturbing. Attorney Mills said they do not know how to address this in the short term...Lt. Murphy stated that from pervious experience in Newark, NJ and challenge of neighborhoods is something the Shanghai deals with. The police department will work with that but also need to be given help from the Shanghai. He is thankful we have not had a serious problem there. His point is that are they willing to be engaged in meetings with the police and Attorney Mills to try to solve this problem? Their daughter Christine is saying the answer is yes; of course they are willing, but she does not know what they can do. Christine will help until April and that is when her brother turns 21. Christine is in high school. Lt. Murphy asked if Christine has viewed the intimidation. She said she is not there most of the time as she is in school. If there are problems with these people she is not afraid to tell them they need to go. Lt. Murphy stated there is no penalty in calling the police to say they need help. If people are being uncooperative, they need to call the police.

Mr. Burman stated he is at a loss.

Mr. Burman made a motion for findings that the Shanghai did not exercise responsible management and lacked supervision on November 16, 2013. Mr. Semprini seconded and a unanimous vote was taken that the charge was proved.

Mr. Burman made a 2nd motion that they are guilty as charged, which motion was also seconded by Mr. Semprini and a unanimous vote taken of guilty.

Officer Maher deferred to Lt. Murphy as to sanctions. Lt. Murphy stated he does have some reservations as he does not want to interfere with people making a living, but did recommend a 5 day suspension, 3 days to serve, 2 to be held in abeyance.

Mr. Scali stated that close monitoring and working with the police to weed out the undesirables is of utmost importance and should be started immediately – Attorney Mills can help organize that.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to suspend the alcohol license for 5 days on March 10th, 11th, and 12th, 2014 and for 2 days to be held for a year and dismissed in no further problems occur in the interim. Also, a plan is to on security and control of unwanted patrons.

Lt. Murphy stated that he wants a meeting prior to April, as the son is not back yet and then be put back on an agenda.

Mr. Scali asked that they report back to the Licensing Authority.

An appeal may be made within 5 days of receipt of this decision to the ABCC.

Request to postpone suspension imposed at Show Cause Hearing on 1/13/14:

At the request of the Town of Barnstable Building Division and Barnstable Police Department, a Show Cause Hearing was held 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." At that hearing a 30 day suspension was imposed, of which 15 days was to be served commencing on February 13, 2014. An appeal was filed by the Attorney for Ferriera's. Request that the Board vote to postpone this suspension until the appeal is finalized or to a date certain.

Attorney Houghton stated if the vote went forward to postpone he would withdraw the request for Executive Session. Mr. Hoxie is not a fan of Executive Session and thinks it would be a good idea to just vote to postpone the suspension. Attorney Houghton suggested the suspension begin 15 days following entry of judgment on

their appeal. If they withdraw their appeal, same thing, 15 days following the judgment.

Mr. Burman did not wish to postpone because of the licensee's record of infractions. Attorney Houghton stated they can make a motion in Court to stay the suspension. If he were to win he could bring an action for loss income. This is a certiorari action; review of the court to see if our action was reasonable. He would then need to bring a 2nd lawsuit to recover damages. Mr. Hoxie stated that in the past we did not go forward if litigation was involved. Attorney Houghton stated we are getting to the point of needing to go into Executive Session. It has been common for this authority to set suspensions enough in future to take into account if the licensee were to appeal. However, this is not an alcohol case. The distinction is that alcohol is governed by liquor statutes but this one is not; it is straight certiorari. Mer. Hoxie asked if we could continue the suspension for a month...we could do that. Mr. Hoxie stated he does not want to drag this out. H suggested continuing this for a month.

Mr. Burman made a motion to continue the suspension date formerly imposed for February 13th for 15 days to our March 24, 2014 hearing. Mr. Semprini seconded the motion and a unanimous vote was taken for the continuance.

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. Semprini and a unanimous vote taken to approve the Common Victualler renewals as submitted below:

Common Victuallers:

The Egg & I, 512-23 Main Street, Hyannis

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

Lodging House:

Summer Winds of Hyannis, 511 Ocean Street, Hyannis – Discussion on whether there must be a resident manager or owner occupied required. Mr. Scali stated that in Cambridge they required it; the Board stated that has not been the case here.

Hostelling International – Hyannis, 111 Ocean Street, Hyannis

Business Meeting:

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

The meeting was adjourned at 12:04 p.m.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Gene Burman, Vice Chairman
Town of Barnstable Licensing Authority