



**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.**  
**March 24, 2014**

A regular meeting of the Barnstable Licensing Authority was held on Monday, March 24, 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; David Nunheimer, Associate Commissioner; Richard V. Scali, Interim Director of Regulatory Services and Licensing Agent; Lt. John Murphy and Officer Steve Maher, Liaison Officers from the Barnstable Police Department, Maggie Flynn and Christine Ade, Recording Secretaries. Paul Sullivan, Clerk, was absent.

Mr. Hoxie announced that Paul Sullivan has resigned. He wished him good health and a long and happy retirement. He also thanked him for his many years of service. Mr. Hoxie also notified the Authority that Christine Ade, the recording secretary, will be retiring and thanked her for all she had done for the Board over the years.

**Vote to accept Minutes:** Vote to accept minutes of the 3/3/14 Meeting. A motion was duly made by Mr. Burman seconded by Attorney Nunheimer to approve the minutes of the 3/3/14 Meeting. The votes were unanimous.

**Hearings:**

**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 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. Continued from 1/13/14.

Mr. Bill Sykes spoke on behalf of Best Buddies International. He congratulated Christine on her retirement and Maggie Flynn on her new position. He is returning today to address questions from last time, how to handle the issues raised by Mrs. Capizzi. A bullet points list was presented to the Authority on improvements and reductions for the event. The celebration tent will begin construction on Wednesday

May 22, 2014, work will be 9-6 daily and no work will be performed on Sunday or on Memorial Day. The finished tent is reduced in size and will be moved as far forward as possible and this will eliminate some issues. The stage will be repositioned towards the beach, acoustic music will be played, and no loud rock and roll will be played. Berkshire Hills Academy will also be performing. Sound checks will be at a minimum. Dumpsters will be emptied Sunday morning. Breakdown is scheduled from 6-9pm Sunday to be completed by 6/4/14. Lots to be cleared by 7 am Sunday morning free of trash. Additional security by Barnstable Police Department, 2 officers, 1 officer at Long Beach and 1 officer at the finish line. Parking will be at CBA, Melody Tent, shuttle services will be provided and message boards. Mr. Burman questioned sound checks and noise, sound checks will be kept to a minimum. Acoustic instead of rock, checks are needed. At Craigville Beach since 2007, Mr. Hoxie asked if there have been any difficulties. Mr. Sykes stated Best Buddies has a good relationship with Town. Barnstable Police Department has not been needed. Mr. Hoxie asked what music play in between acts? Acoustic will be playing and Berkshire Hills Academy. There will be awards. Mr Scali asked who will be the contact person that day. Mr. Sykes advised that Jerry Thompson is the contact, he will be at Victory tent, he will get contact number and distribute. Mr. Hoxie asked if anybody wanted to speak in favor of this event. Patti Machado from the Town of Barnstable, Recreation Department, who oversees Craigville Beach stated Best Buddies has a wonderful relationship with them as well as triathlon, always have music, different hours. Best Buddies has always tried to reach out. There were problems with bleachers, it was addressed. Always a good influence with no negatives. We did get a letter to contact Mrs. Capizzi. They have always done what was requested. They are trying to be a good neighbor; have 60 adults in special needs, huge bonus for them and they look forward to this event all year. Traveling would represent huge issues for these kids/adults who are involved. Makes them feel like they are contributing, hate see our kids not be involved. Could Best Buddies use a different location Mr. Hoxie asked. Event used to be Hyannisport, got to be too big and then the lot sold. Why near a beach? Mr. Sykes advised that it adds to ambiance, enhances things, people come from all over. Next speaker Craig Whelton, Director introduced Alosha O'Brien, who is involved in Best Buddies and said it has changed his life, makes the world a better place, a dream come true. Mr. Whelton spoke as to where the funds go. The funds are used to match students with and without disabilities. Mr. Whelton is involved with job matching. This is the largest fund raiser. Mr. Hoxie asked who else wanted to speak in favor. Paul Mazzeo, Town of Barnstable resident, came forward. The first problem is generator noise, they try and get temporary electric hookup from street, or perhaps Tom Capizzi could donate quiet generators. The second, music too loud, music could be lowered. Dumpsters smell of lobsters, company could empty 2-3 times. Insurance bond for \$10,000 to get emptied by 10:00 A M. However they bought a house next to parking lot, rental cottages in front all summer, proximity cannot be solved. Cathy Pina, next speaker in favor from the Recreation Commission, not go over Patti, said that Bill Sykes does come to commission ahead of time and afterwards, gave fantastic kudos for this event in our Town. Hates to see a small incident for a weekend (of noise) take this event away. This would be a cloud

for the TOB. Melody Tent has music all summer. "Got to give to give back". Attorney David Lawler, here on another matter said that sitting here he cannot believe what he is hearing. Both my kids are involved in the integrated programs; my children benefited far more than even the buddies, Barnstable benefits far more. I live on a main street, you need to deal, if these kids can live their whole lives like this please give me a break. Another speaker in favor was, Robert Masseli, a special needs teacher for 33 yrs, civilian best buddy, who said his best buddy looks forward to this event for the whole year. President of Massachusetts Bicycle promotes bicycle use as transportation and recreation. Hundreds of riders to raise money, and economically, encourages all bicyclists to Cape. Said he has known Bill Sykes for a long time; he is a master of logistics. The Licensing Authority also received a letter from the Centerville Civic Association on how this event benefits the Town and Centerville.

Mr. Hoxie asked then Mary Capizzi to speak.

Ms. Capizzi stated some things need to be set straight. As a citizen, she values where she lives, wants what is good, and values our disabled. She lives next to a parking lot; this event is a week of construction not 1 day. As for the other issues, thank you to Bill Sykes to work to correct. Said that bleachers do not relate to her she is doing this an individual, on her own with her own opinions not her husband's, please be more respectful. Rental properties in front of her home, we love it, life of the summer. We love the parking lot. Having major construction, a big sea of white, is over encompassing. The fact that they want it a beach I respect, sometimes space is too small, they should look for more suitable size. Not a one day event it is nine days. Melody Tent is set up for the event; do not take issue with that. Takes longer than one day with all respect to Best Buddies and Licensing Authority you need to find a different venue. Video being shown at hearing is taken from her bedroom. Video shows loud music with a panoramic view. Licensing Authority also received pictures in their packages. May 22 they start construction of tent; Bill Sykes stated that was the amount of time needed to construct the tent and said they cannot work on Sunday and Memorial Day. David Nunheimer asked if any inquiry was made about the electrical issue. According to Bill Sykes, not enough power is available at the street. The generator is not really loud. Only runs during setup. Ptl. Maher inquired about acoustic band no amplified music no electric guitars. Per Bill Sykes, I do not think the music will be that loud, tent will be smaller, all speakers pointed towards beach. Mr Scali asked if the tent is pre-made or constructed. Mr. Sykes said the tent is constructed each year, same one every year; use it for safety purposes. To make smaller they will take a bay off to reduce the size, will make it shorter on each end. Production tent will be in the front portion and food catering in the back. All tents will be moved as far away as possible from Mrs. Capizzi. Also, they are looking at removing brush along the street to see if we can move tents etc. even further. Mr Burman asked if cutting size of tents will accommodate size of event, limit to 1500 people. Mr. Hoxie stated this is a worthwhile event and successful and also noted complaint is somewhat justified. The Licensing Authority is responsible for making sure safety and health of the public is protected. According to the first

amendment and Article 16 in order to deny we have to be certain that this would be detrimental to the society and safety.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the 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 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 and to comply with the conditions on the attached list.

**One Day All Alcohol License:** Application of Scott Swaylik on behalf of Joe Cronin Memorial Jimmy Fund Fishing Tournament, P.O. Box 625, Centerville for a One Day All Alcohol License (2 days) to be held at Nauticus Marina, Osterville, from 4:00 pm to 10:00 pm on July 31 and August 1, 2014.

Scott Swaylik appeared stating he lives in Marstons Mills. He is the tournament chair. They are requesting two one day alcohol licenses for this event. They are in their 21st year; they are the largest fundraiser and longest running event.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the application of Scott Swaylik on behalf of Joe Cronin Memorial Jimmy Fund Fishing Tournament, P.O. Box 625, Centerville for a One Day All Alcohol License (2 days) to be held at Nauticus Marina, Osterville, from 4:00 pm to 10:00 pm on July 31 and August 1, 2014.

**One Day Alcohol and One Day Entertainment Licenses:** Application of Susan Martin on behalf of Osterville Village Library, 43 Wianno Avenue, Osterville for 6 One Day Wine only licenses in 2014 noted below:

April 20	Cape Cod Commission lecture/reception, 3 pm – 6 pm
May 18	Mindy Todd lecture/reception, 3 pm - 6 pm
June 8	C.L. Fornari lecture/reception, 3 pm – 6 pm
July 27	Scott Doney lecture/reception, 3 pm – 6 pm
August 17	Dan Wolf lecture/reception, 3 pm – 6 pm
Sept. 21	George Price lecture/reception, 3 pm – 6 pm

Application of Gail Nightingale for a One Day Beer & Wine License (June 22, 2014 Annual Clambake 4 pm – 10 pm), Application of Cynthia Shulman for a One Day All Alcohol License (June 27, 2014 Mutt's & Martini's cocktail party 5 pm – 7:30 pm), and application of Cynthia Shulman for 11 One Day Entertainment permits for its summer concert series to run from 5:30 pm – 8 pm, dates in 2014 below:

June 22	clambake, live entertainment – Vernon Paris
June 26	jazz band
July 3	duo voice/guitar
July 17	one man singer/guitar player
July 24	10 piece jazz ensemble
July 31	swing band 1930's to 1950's
August 7	1950's band

August 14	blues & rock & roll band
August 21	jazz quartet
August 28	duo voice/guitar

Mary Ann Columbo, administrative assistant, appeared representing the Library. Advised her name is on the letter with applications. All are traditional events happening over the summer schedule. New program for speakers, Cape residents, book signings, the rest are traditional. The clambake event is in its 20<sup>th</sup> year.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the application of Susan Martin on behalf of Osterville Village Library, 43 Wianno Avenue, Osterville for 6 One Day Wine only licenses in 2014 noted below:

April 20	Cape Cod Commission lecture/reception, 3 pm – 6 pm
May 18	Mindy Todd lecture/reception, 3 pm - 6 pm
June 8	C.L. Fornari lecture/reception, 3 pm – 6 pm
July 27	Scott Doney lecture/reception, 3 pm – 6 pm
August 17	Dan Wolf lecture/reception, 3 pm – 6 pm
Sept. 21	George Price lecture/reception, 3 pm – 6 pm

and the application of Gail Nightingale for a One Day Beer & Wine License (June 22, 2014 Annual Clambake 4 pm – 10 pm), Application of Cynthia Shulman for a One Day All Alcohol License (June 27, 2014 Mutt's & Martini's cocktail party 5 pm – 7:30 pm), and application of Cynthia Shulman for 11 One Day Entertainment permits for its summer concert series to run from 5:30 pm – 8 pm, dates in 2014 below:

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August 7	1950's band
August 14	blues & rock & roll band
August 21	jazz quartet
August 28	duo voice/guitar

**One Day All Alcohol and One Day Entertainment License:** Application of Paul Covell on behalf of Barnstable County Deputy Sheriff's Assn, P.O. Box 2038, Pocasset, MA for a One Day All Alcohol License and One Day Entertainment License (a guitar player and dancing) for its annual event to benefit the association and sheriff's youth programs, to be held at St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, from 6:00 pm to 12:00 pm on April 4, 2014.

Applicant was not here when called at hearing initially. The Licensing Authority stated it will hold the application. Mr. Covell arrived late and was sorry for his tardiness as he was called into an emergency meeting. According to Mr. Covell this

event has been held for a decade without incident, all participants behave themselves.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the application of Paul Covell on behalf of Barnstable County Deputy Sheriff's Assn, P.O. Box 2038, Pocasset, MA for a One Day All Alcohol License and One Day Entertainment License (a guitar player and dancing) for its annual event to benefit the association and sheriff's youth programs, to be held at St. George Greek Orthodox Church, 1130 Falmouth Road, Centerville, from 6:00 pm to 12:00 pm on April 4, 2014.

**New Annual All Alcohol Common Victualler License:** Application of Ling & K, Inc., d/b/a Saga Fusion Restaurant, Hui Ling Chen, Manager, 1560 Old Post Road Unit C, Marstons Mills: One story multi-tenant building; western portion – Unit C, 2156 sq. ft. Seating for 36, 9 employees, 4 takeout as shown on plan dated 2/20/14 signed by Building Commissioner. Hours 11AM -11PM

Attorney Ted Schilling appeared on behalf Ling K. Inc. dba Sega Fusion Restaurant, applying for an Annual Common Victualler All Alcohol license, for 1560 Old Post Rd, Marstons Mills. The space is in the new Eastern Bank constructed by the Hayden family. Attorney Schilling had with him Hui Ling Chen owner and manager, Peter Jung translator. The applicant applied through Board Of Appeals to ensure that the zoning and site plan review is approved for their restaurant. Zoning was approved and applicant will get started if the Licensing Authority approves. Applicant has secured a Long term lease with owner of building; Building Commissioner has approved parking and site plan review. There are restrictions in place for this restaurant due to the zoning of the area. It is a full service restaurant with wait staff with only 15% takeout allowed. It will have a small service bar with Sushi and five seats. Applicant has read the Liquor Licensing Rules and Regulations book; she is TIP certified, Serv Safe certified, and here to answer questions. The hours of the restaurant will be 11:00-11:00, Monday through Thursday probably only to 10 pm. Will serve lunch gave copy of menu, no hibachi. Mr.Hoxie asked if we have a plan. Unit C is the restaurant, he thinks there is a wall. Licensing Authority has a plan. Attorney Schilling has complete construction plan, it will be finished out. Mr. Hoxie talked about traffic. Attorney Schilling said that traffic was brought up at great length, and his own property is on Route 28 and he just went to the corridor meeting. It is life threatening street; the Funeral Home takes a right turn. Industry Rd. goes through the back to the shopping center. Most turn right onto Old Post Road since the Town only constructed a small island. Most people will not take a left hand turn; they will use Industry Road and the lights. We have Coastal and Bortolotti, Dominos Pizza, and a number different business. Route 28 is not a great street; you need to use good judgment. The bank will be closed most of the time; other businesses there close at five. Mr. Hoxie asked the applicants/attorney if they are you aware of opposition. He said they have read all letters. It is not intended to be a drinking bar, it is restaurant. It is a spot that was there for 41 years. We will suggest people take a left turn on the menus. Mr. Hoxie asked why they had to go to the ZBA? The lot

location of a service and distribution area only allows banks; applicants must go through special permit process. Attorney David Lawler said he represents the Haydens; they met with Growth Management, Steve Seymour and Elizabeth Jenkins to get best entrance. Discussed restaurant use as anticipated, then site plan, Fire Building Department etc, made changes relative to Route 28, he said he represents all surrounding business, safer to use the light. A tremendous amount of thought was placed in relationship to the neighbors. Route 28 is a State highway. Most people do go around. Lt. Murphy asked if they anticipate applying for an entertainment license for this location; no. Mr. Scali asked about the ability of client to speak to employees, communicate with employees and police. Attorney Schilling stated she is a citizen. She will have a number of employees, cashier, bartender, waiter and crew. She can communicate, that is not a problem. She will get someone to help out. Lt Murphy asked if he could sit at the 5 seat bar without purchasing food. Attorney Schilling said mainly to serve Sushi. Mr. Scali said the reason for my question is it can turn into a barroom or lounge. Attorney Schilling said that not interested in that not at all what they want. Mr. Scali advised that the Licensing Authority has heard this before and it turns into a lounge. Attorney Schilling stated they are under strict rules that will be monitored. The bar itself will be monitored. Mr. Hoxie asked if anyone is in favor. Are there any in opposition asked Mr. Hoxie. John Norman, Representative from Precinct 12 and on his own behalf as a resident 1625 Old Post Road, stated there is no dispute that this restaurant is allowed, the question is the service of alcohol, traffic studies, funneling drivers to Industry Road that take left hand turns past a residential neighborhood, through parking lot to a light. There are children riding bicycles, Dominoes traffic, Stop and Shop traffic, a Funeral Home, must use the plaza to maneuver. Mr. Norman requested that the Licensing Authority deny the alcohol permit. They could be funneling impaired drivers. Mr. Hoxie asked about any other opposition. Attorney Schilling stated every restaurant has a potential for impaired drivers but this is only intended to be a restaurant. These applicants have experience, not a problem for them; alcohol is more of a problem for house guests on Arcadia Drive. Why not a Beer and Wine license? Attorney Schilling stated this is a full service restaurant. Not intending to be a bar or a nightclub. Attorney Lawler stated in respect to Councilor Norman the entire way back you have Coastal Rentals, Bartolotti Construction and other businesses on Industry Road, only approximately 100 feet frontage to residential area. This is a Business District. Japanese food establishments are not heavy drinking establishments, not a tremendous amount of alcohol is served, least invasive type of establishment. This is a 5 seat service bar. Lt. Murphy asked if you can stand at that bar. Attorney Schilling stated that this is a possibility that can happen but not in the game plan, there is no intention to serve, we have restrictions on everything here, you have control through zoning and the Licensing Authority. Lt. Murphy stated a similar location on North Street in Hyannis has created such a problem. He said he truly endorses the restaurant, not a barroom. He has concerns about this. Officer Maher stated on the seating plan there is no other area for standees. Mr. Burman asked how much time he is going to be there. Peter stated he does not work there. Who is the translator in the restaurant? The owner has experience in bartending and restaurant functions and can communicate. Sometimes she does not understand. She intends to hire someone according to Peter Jung. Mr. Burman would like to hear from her. She stated Peter will help me. Mr. Burman stated his concern is other situations in town; do not know how to control people due to language barriers. Officer Maher asked for Attorney Schilling's client to tell about her background. She answered that she worked for four years, two years was her answer. Mr. Scali asked how do you handle rowdy, drunk patrons and keep the neighborhood safe. Attorney Schilling stated we will not serve drunken people, needs to have a staff member to handle. Per Attorney Schilling she has experience, afraid of speaking incorrectly in front of the Licensing Authority. Mr. Hoxie stated his concern is traffic, impact on the residential area and how many residents

expressed opposition. Mr. Norman stated approximately 5-7 resident letters. My concern also is alcohol for a full service restaurant. He does not agree that the Zoning decision does not affect the neighborhood. The Licensing Authority must take into consideration how it will impact the lives in the surrounding area. Per Attorney Schilling five approved at the zoning board. Attorney Schilling stated it is unfair to an applicant that building is done in an area where restaurants are allowed. He stated no entertainment will be applied for and it is not a nightclub. The neighbor's argument is not justified. He does not see how neighbors are affected. She has experience, she will control, she has a restaurant in Wareham, it is not intended to be a drinking bar. It is fair to take into account the neighbors. Per Attorney Lawler when this restaurant is in operation it is at the end of the street, the Board can place limits. Already agreed to place a road sign to take a left turn when exiting the premises. We cannot control a state highway. If she can pass a citizenship test she should be able to pass the Licensing Authority approval. This is a family style restaurant, we could not get a lesser type use. They are quiet no loud music, peaceful type of dinner. Tremendous amount of controls for the S&D district, serve people of Cotuit and Osterville, 34 seats, traffic is minimal, no high turnover. Very respectful request which is allowed and has been allowed, fears of lounge could not be further from what is proposed. The Haydens are here, they have had a tremendous amount of positive input. Look at what this is, not what it may be. Do you feel Town Councilor Norman is wrong, doing his job, application for the TOB not one street. I believe his fears are overstated. 90% of trouble never happens; we are taking into consideration that 10%. Mr. Hoxie asked if you have ever been in this area at 10PM. Attorney Lawler replied traffic is non existent, but it will increase. Cars do not make a lot of noise. This is restaurant not a bar, passive dining experience. We have restrictions, you must be seated, 85%. The alcohol is part of the dining experience. Attorney Schilling stated that if the Licensing Authority is only interested in such area as service bar, add that restriction, also she will add manger that is fluent in English. Recommend turning the proper direction. Our hours are spread out with the other tenants. We are willing to put in restrictions. We cannot satisfy 5 neighbors but will do our best. No one over served at an only a service bar. The restaurant will never be changed to a bar, Never any entertainment. Look at the number of closed restaurants, it is very difficult. Need the full liquor to get people in the door. Per Lt. Murphy being a US citizen and ability to communicate is a concern, not a problem for BPD. Major concern is the bar. Mr. Scali asked if there were neighbors at ZBA, how much communication. There were letters written regarding traffic flow and having a restaurant next to their house. One person appeared, did not meet with them. I cannot adjust anything like that to make it better. For the future it was suggested to meet with the neighbors. Mr. Hoxie asked Attorney Nunheimer his opinion, he is in favor since ZBA has approved. If something changes then action will be taken. Per the Licensing Authority they need someone with a greater command of the English language. Only a service bar and a fully fluent English speaking individual there most of the time. Mr. Hoxie told Mr. Norman to notify the Licensing Authority of any problems. Lt. Murphy wished applicants good luck. Mr. Burman instructed applicants about Police Department hearings in May. Seminar for licenses will probably be by June 1.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the application of Ling & K, Inc., d/b/a Saga Fusion Restaurant, Hui Ling Chen, Manager, 1560 Old Post Road Unit C, Marstons Mills: One story multi-tenant building; western portion – Unit C, 2156 sq. ft. Seating for 36, 9 employees, 4 takeout as shown on plan dated 2/20/14 signed by Building Commissioner. Hours 11AM - 11PM. License approved with the following restrictions. The sushi bar will only be a service bar and a manager needs to be hired that can communicate in English fluently; must be on the premises a majority of the time.



**Transfer of Annual All Alcohol Package Store License:** Application of Town Line Package Store Inc., d/b/a Willow Package, Edward A Rosario, Manager, for transfer of its All Alcohol Package Store License, at 700 Yarmouth Road, Hyannis, MA, to Bilal Corporation, d/b/a Willow Package, Shakeel M Farooq, Manager, the hours of operation for alcohol sales to be from 8 am to 11 pm Monday through Saturday, and noon to 11 pm Sundays.

Attorney Tom Souza, Ed Rosario, Shakeel Farooq all appeared at the hearing. Mr. Rosario has applied for a transfer of Willow Package to Bilal Corporation with Mr. Farooq as manager. Mr. Hoxie asked if Mr. Farooq has any experience. Attorney Souza responded that he has extensive experience in sales of alcohol. He owns 2 stores now and been a manager for both locations. He will focus on this store and hire a new manager for one of his other locations.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the application of Town Line Package Store Inc., d/b/a Willow Package, Edward A Rosario, Manager, for transfer of its All Alcohol Package Store License, at 700 Yarmouth Road, Hyannis, MA, to Bilal Corporation, d/b/a Willow Package, Shakeel M Farooq, Manager, the hours of operation for alcohol sales to be from 8 am to 11 pm Monday through Saturday, and noon to 11 pm Sundays.

**Alteration of Premises and Change of Manager:** Application of Colombo's Cafe & Pastries, Inc., d/b/a Colombo's Cafe & Pastries, 544 Main Street, Hyannis, Thomas J. Fantom, Manager for an Alteration of Premises description to change the existing premises description to: 1 story cement block & wood structure at 544 Main Street, Hyannis, MA with 1<sup>st</sup> floor and basement. Basement consists of men's and women's restrooms, storage area and mechanical room. Main floor consists of an ADA handicapped accessible restroom, waitress station, 11 seat main dining room (82 seats at tables, 16 seats at bar, total 108), performance kitchen, separate kitchen area, 2<sup>nd</sup> dining room (16 seat 2<sup>nd</sup> bar, 28 seats, 13 standees, total of 57) for a total indoor occupancy of 165. Patio/sidewalk outside dining area (total of 12 seats of which 4 seats, a portion of 2 tables and fence enclosure shall be located on town sidewalk). Total of 3 exits (main entrance at front, one accessing patio from 2<sup>nd</sup> dining room and one at rear); and for a Change of Manager to Chris M. Basley.

Dan Creedon, Dave Colombo, Chris M. Basley appeared. Attorney Creedon stated this is a three prong application to modify, change of manager, and alteration of premises. One, enclosure of existing patio and town café permit. 2. Change of Manager, Mr. Basley has been the bar manager, asking him to replace Mr Fantom. Has 15 yrs experience. 3. To enclose patio. Restaurant has been operating since 2008, has done well. Add a small bar, primarily dining room, A small portion of the outside seats (4 of the 12) will be on the sidewalk. Only a net change of 2 seats, there will be 54 patio seats. No changes in entrances or exit numbers. The entrance is on the South side which would be looking towards Main Street. Parking is off location. Patio is changing from seasonal to year round service. The additional space will add 12-13 new jobs. Mr. Hoxie asked if there are any plans for more entertainment. Attorney Creedon stated they have an existing license, 1-2 acoustical

pieces. Dave Colombo answered we are licensed for 4 entertainers now and will be happy for 2 and only off season to attract business. Mr. Scali asked how will this look. Is it the open window concept? Presently, the entertainment is on the patio and open air; will not be in season only off season, when windows will be closed. Windows on driveway side, The BID is proposing to allow open air, no food stored or prepared. Any entrance where food is prepared or stored needs air curtains. The proposed front of building will be open; the top half of wall will also open up. The BOH will allow no screens. Noise is not an issue, no entertainment in season. The space can be closed during cold in off season, gives the feel of being outside even though you are inside. Per Dave Colombo, the philosophy is to increase the waiting area seats, only adding 2 seats, reducing the number of tables, increasing waiting area and expedite food. Train bartenders to sell food at tables. Today's restaurants, have larger lounges, smaller dining rooms, diners want to be entertained. Officer Maher stated there can be problems with open air, underage persons grabbing a drink. How would they handle this, Mr. Colombo said there are barriers, we will do our best, full staff on all the time, may have hostess stand there. Will put a doorman if need be.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the application of Colombo's Cafe & Pastries, Inc., d/b/a Colombo's Cafe & Pastries, 544 Main Street, Hyannis, Thomas J. Fantom, Manager for an Alteration of Premises description to change the existing premises description to: 1 story cement block & wood structure at 544 Main Street, Hyannis, MA with 1<sup>st</sup> floor and basement. Basement consists of men's and women's restrooms, storage area and mechanical room. Main floor consists of an ADA handicapped accessible restroom, waitress station, 11 seat main dining room (82 seats at tables, 16 seats at bar, total 108), performance kitchen, separate kitchen area, 2<sup>nd</sup> dining room (16 seat 2<sup>nd</sup> bar, 28 seats, 13 standees, total of 57) for a total indoor occupancy of 165. Patio/sidewalk outside dining area (total of 12 seats of which 4 seats, a portion of 2 tables and fence enclosure shall be located on town sidewalk). Total of 3 exits (main entrance at front, one accessing patio from 2<sup>nd</sup> dining room and one at rear); and for a Change of Manager to Chris M. Basley.

**New Annual Common Victualler License:** Application of Karina Hernandez, d/b/a El Mariachi Loco, 569 Main Street, Hyannis, MA, Karina Hernandez, Manager, for a New Annual Common Victualler License, to be operated 11 am to 11 pm. Seating outdoors only with a maximum of 22 seats in accord with plan signed by Building Commissioner on 2/27/14.

Karina Hernandez appeared as the manager for the restaurant. Mr. Hoxie asked what type of menu and what experience she has. She stated it will be a Mexican menu, 6 inside seats, 22 seats outside. MS. Hernandez has worked in 3 previous restaurants; the two cooks have 13 years experience. Want to open April 1, 2014.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the application of Karina Hernandez, d/b/a El Mariachi Loco, 569 Main Street, Hyannis, MA, Karina Hernandez, Manager, for a

New Annual Common Victualler License, to be operated 11 am to 11 pm. Seating outdoors only with a maximum of 22 seats in accord with plan signed by Building Commissioner on 2/27/14.

**Show Cause Hearing:** Show Cause Hearing for The Dockside Restaurant, 110 School Street, Hyannis, Velma Roberts, Manager as a result of a complaint brought forward by Barnstable Police Department that under Ch 501 § 10 Entertainment at premises which serves food or beverages to be consumed on the premises (1) Sec. B – No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment can be heard outside the boundaries of the premises. You have allowed music to be heard beyond the property on two occasions, (2) Sec. D, No entertainment may take place at a licensed premises and no member of the public may be at the licensed premises except during the hours and days when the Licensing Authority has approved the premises to be open to the public. You have allowed music to be played beyond the time allowed on their license on three occasions, and (3) Violation of Ch 501 § 8 Environs of the licensed premises, Sec. A, “It shall be the obligation of licenses to ensure that a high degree of supervision is exercised over the conduct to 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 these actions took place on October 27, 2013 after being advised of the regulations on October 4, 2013.

Martin Hoxie, Gene Burman and David Nunheimer sat at this hearing. Mr. Hoxie read the hearing notice.

Officer Steve Maher introduced Deputy Chief Tamash who presented the case on behalf of the Barnstable Police Department. He stated he got a call for loud music at 10:27 pm and was the shift commander. He responded with Officer Scott Ledger. They could clearly hear music from South Street. He explained to the Manager why he was there, and told them to turn the music down. Mrs. Roberts, the Manager, did not have the entertainment license posted as required. Music was clearly audible from 150 feet from the premises at approximately 10:35 PM at the location; no D.J. or band was present at the time. There were a total of 6-8 people in the establishment. He then forwarded his report to the Licensing Authority.

Officer Maher testified that police were there on the 27<sup>th</sup> and the 4<sup>th</sup>; there was music being played, and there were restrictions on the license. On the 27<sup>th</sup>, the windows facing the neighbor to the left and docks were closed but the music was still heard on South Street. That would mean it was very loud. He stated that when Mrs. Roberts originally requested entertainment, the Licensing Authority was very specific. She indicated she wanted only background music and indicated a 10 pm closing time for the entertainment license. He also indicated that no posted entertainment license, as required, speaks to lack of management.

Allen Goddard, the abutting neighbor to the east, then testified. He stated that they have used up all their good will. Noise is from next door; on one occasion he called the police. He stated he does not like calling but does not want to hear music. Also, the volume went down when the police were there but then went up again after Police left. He also stated that his windows are closed; he has an AC unit running as a white noise machine. This past Columbus Day it continued. The place was not being run during the day, no cars, no takeout. At 9:00 pm, however, lights would go on and cars would arrive. It was being run no longer as a restaurant but a bar. He asked that their licensing should be rescinded since they are abusing it.

Mr Roberts, husband of the Manager, apologized, saying it was a birthday party for his wife on the 27<sup>th</sup>. Officer Tamash asked him to check for open windows. He stated he was not disputing the officer, but said we are running a restaurant not a nightclub. Have been running this place for 5 years and entertainment helps, but we could do without it.

Officer Maher asked Mrs. Roberts if she remembered the visits on 27<sup>th</sup> of September, 4<sup>th</sup> of October, and she responded, "I think so." He then asked her if she remembered telling the board there will be no entertainment after 10pm when she applied. No reply was noted.

Testimony was concluded. Mr. Hoxie then asked for motions.

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken for findings that: 1) Sec. B – No entertainment at the licensed premises may be conducted in a manner such that the noise from the entertainment can be heard outside the boundaries of the premises, and you have allowed music to be heard beyond the property on two occasions; 2) On more than one occasion, entertainment was heard after the licensed hour of 10:00 pm; and 3) Lack of supervision – The licensee did not comply with the entertainment license and did not post the license as required.

A second motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken on the charges based upon testimony and lack thereof that the Licensee is guilty of all three charges.

Mr. Hoxie asked for a recommendation from Officer Maher as to sanctions.

Officer Maher recommended on counts 1 & 2 that the Licensee came to the board and made assurances, and that she was not paying attention to the restrictions. He suggested that the entertainment license be revoked. On the 3rd count, he stated that she made assurances, and showed a general lack of supervision. He stated that without punishment this may continue to happen. He also stated that Mr. Goddard has been more than fair. He recommended that on count 3 a 5 day suspension of the liquor license be imposed, with 3 days to be served, 2 days to be held in abeyance, and that they be served between Memorial Day and Labor Day.

A third motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to accept the recommendations of Officer Maher, stipulating the entertainment license be revoked and the Seasonal All Alcohol Common Victualler License be suspended for 5 days with 3 days to serve on May 12, 13 and 14, 2014 and that the additional two days be held in abeyance for one year from the date of the hearing, March 24, 2015.

**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 Ferreira's. Request that the Board vote to postpone this suspension until the appeal is finalized or to a date certain.

Attorney Houghton extended the time of the suspension to today. He stated the case in Superior Court is on track. He suggests extending suspension until April 18<sup>th</sup> and update at the hearing on the 14<sup>th</sup> as the suspension is under appeal. Attorney Nunheimer made the motion, Mr. Hoxie seconded the motion and Mr. Burman abstained. Motion carried 2-0.

**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, seconded by Mr. Nunheimer and a unanimous vote taken to approve the Seasonal Common Victualler All Alcohol Licenses below:

**Seasonal Common Victualler All Alcohol:**

Blue Water Grille, 213 Ocean Street, Hyannis  
Kian n Rylee's Pub and Patio, 561 Main Street, Hyannis  
Spanky's Clam Shack & Seaside Saloon, 138 Ocean Street, Hyannis  
The Black Cat Harbor Shack, 159 Ocean Street, Hyannis  
The Paddock, 20 Scudder Ave, Hyannis  
Harbor Point Restaurant, 156 Harbor Point Rd, Cummaquid  
Mattakeese Wharf Restaurant, 271 Mill Way, Barnstable  
Fresh Ketch, 462 Main Street, Hyannis  
The Dockside Restaurant, 110 School Street, Hyannis  
Gringo's, 577 Main Street, Hyannis  
Trader Ed's, 11 Willow Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the Seasonal Common Victualler Wine & Malt Licenses below:

**Seasonal Common Victualler Wine & Malt:**

Cooke's, 1120 Iyannough Rd, Hyannis  
Cape Cod Melody Tent, 21-41 West Main Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the Seasonal Innholder All Alcohol License below:

**Seasonal Innholder All Alcohol:**

Hyannis Inn Motor Hotel, 473 Main Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the Seasonal Club All Alcohol Licenses below:

**Seasonal Club All Alcohol:**

Cotuit Highground, 31 Crocker's Neck Road, Cotuit  
The Beach Club, 27 Long Beach Road, Centerville  
Baxter's Boathouse Club, Inc., 177 Pleasant Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the Daily Live Entertainment Licenses below:

**Daily Live Entertainment:**

Blue Water Grille, 213 Ocean Street, Hyannis  
The Beach Club, 27 Long Beach Road, Centerville  
Kian n Rylee's Pub and Patio, 561 Main Street, Hyannis  
Spanky's Clam Shack & Seaside Saloon, 138 Ocean Street, Hyannis  
The Black Cat Harbor Shack, 159 Ocean Street, Hyannis  
The Paddock, 20 Scudder Ave, Hyannis  
Harbor Point Restaurant, 156 Harbor Point Rd, Cummaquid  
Mattakeese Wharf Restaurant, 271 Mill Way, Barnstable  
Fresh Ketch, 462 Main Street, Hyannis  
Baxter's Boathouse Club, Inc., 177 Pleasant Street, Hyannis  
Trader Ed's, 11 Willow Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the Daily Non- Live Entertainment Licenses below:

**Daily Non-Live Entertainment:**

Blue Water Grille, 213 Ocean Street, Hyannis  
The Beach Club, 27 Long Beach Road, Centerville  
Spanky's Clam Shack & Seaside Saloon, 138 Ocean Street, Hyannis  
The Black Cat Harbor Shack, 159 Ocean Street, Hyannis  
Fresh Ketch, 462 Main Street, Hyannis  
The Dockside Restaurant, 110 School Street, Hyannis  
Gringo's, 577 Main Street, Hyannis  
Trader Ed's, 11 Willow Street, Hyannis  
Hyannis Inn Motor Hotel, 473 Main Street, Hyannis

A motion was duly made by Mr. Burman, seconded by Mr. Nunheimer and a unanimous vote taken to approve the Karaoke Licenses below:

**Karaoke:**

Blue Water Grille, 213 Ocean Street, Hyannis  
The Beach Club, 27 Long Beach Road, Centerville  
Fresh Ketch, 462 Main Street, Hyannis  
Trader Ed's, 11 Willow Street, Hyannis

**Business Meeting:**

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

Discussion on Security Plan submitted by International Inn per Licensing Authority sanction imposed on 2/10/14.

Lt. Murphy had a meeting with the General Mgr that was in front of the Licensing Authority. He has since left the employ of the International Inn. Mr. Hoxie asked should we bring the licensee back. Lt. Murphy agreed with that, Lt. Murphy to bring the International Inn into the Licensing Authority for the non notification of the board of the change of manager and to review the security plan.

Discussion took place on the logistics since Paul Sullivan has retired as clerk. A motion was made by Attorney Nunheimer, seconded by Mr. Hoxie, to appoint Gene Burman as Temporary Clerk of the Licensing Authority. It was a unanimous vote to approve.

Update: Security Plan filed by Shanghai Chinese Restaurant as ordered. Lt. Murphy stated the Shanghai is in full compliance. Lt. Murphy also met with Attorney Mills to review/improve lighting at the restaurant he stated he is satisfied.

The meeting was adjourned at 12:15 PM

Respectfully submitted,

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Margaret D. Flynn, Recorder  
Town of Barnstable Licensing Authority

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Eugene Burman, Temporary Clerk  
Town of Barnstable Licensing Authority