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TOWN OF BARNSTABLE

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

Licensing Authority Minutes

DATE OF MEETING: August 19, 2019

Check below which one applies

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

This is a special meeting which has not been posted

TIME: 9:30 a.m.

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

A meeting of the Barnstable Licensing Authority was held on Monday, August 19, 2019. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced; Ron Semprini, Vice-Chairman, Larry Decker, Associate Commissioner, Nancy Karlson-Lidman, Associate Commissioner, Richard Scali, Licensing Director; Officer Therese Gallant; Lt. John Murphy and Maggie Flynn, Recording Secretary. David Nunheimer and David Hirsch were absent.

Vote to accept Minutes

1. Vote to accept minutes of the 07/08/19 meeting.

A motion was duly made by Mr. Semprini, seconded by Mr. Decker and a unanimous vote taken to accept the minutes of the 08/19/19 meeting.

New Business:

1. **Application for two One Day Beer and Wine Licenses:** Application of Dennis Marchant on behalf of the Barnstable Comedy Club for two One Day Beer and Wine Licenses for Jazz Concerts. The events are to take place at the Barnstable Comedy Club, 3171 Main St., Barnstable on August 18th and 25th. Both performances begin at 7:00 PM. The event on 8/18/19 is a retroactive approval.

Applicant did not appear.

A motion was duly made by Mr. Semprini, seconded by Mr. Decker and a unanimous vote taken to accept the One Day Retroactive Application dated 8/18/19.

A second motion was duly made by Mr. Semprini, seconded by Mr. Decker and a unanimous vote taken to deny the One day Application dated 8/25/19 due to applicants' failure to appear.

2. **Consent Agenda:**

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

Public Hearings:

1. **Application for a Change of Location an Annual Common Victualler License:** Application of BLMT Ventures LLC, d/b/a Five Guys Burgers and Fries, Cape Cod Mall, 793 Iyannough Rd., Hyannis, Mathew Baecker, Manager, for a change of location in the Cape Cod Mall. Interior seats will now be 70 and exterior seats will be 9 for a total of 79 seats. All approved by the Building Commissioner on 07/3/19. Hours of operation will be 11:00 am to 10:00 pm daily.

Matt Baeker appeared on behalf of the application. The new location has the same amount of square footage as in the current restaurant but we now have a patio for outdoor seating.

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

2. **Application for a New Annual Common Victualler and Non-Live Entertainment Licenses:** Application of S-L Snacks MA, LLC. d/b/a Cape Cod Potato Chips, 100 Breeds Hill Rd., Hyannis, Stephen Winters, Manager, for a

new Annual Common Victualler license. Hours of operation will be Monday - Friday 9:00 AM to 5:00 PM. Seating is for 8 picnic tables approved by the Building Commissioner on 02-21-19.

Non-Live Entertainment is for 3 TV's. Entertainment hours are the same as operational hours.

*Applicant did not appear. ****Continued to 9/16/19*****

3. **Application for a Change of Manager on An All Alcohol Common Victualler License:** Application of CC Entertainment Inc. d/b/a Flashback, 294 Main St, Hyannis on their Annual All Alcohol Common Victualler License, for a Change of Manager from Gregory Vayneris to Kelly Capossela. ****Postponed from 6/10/19****

Peter Kempton and Kelly Capossela appeared on behalf of the application. She stated that she over 27 years' experience in the industry. No one under 21 years can play the games after 9 PM.

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

4. **Application for a Change of Manager on An Annual Wine and Malt Retail Package Goods Store License:** Application of Super Target Liquor of Massachusetts, Inc. d/b/a Target, 769 Iyannough Rd., Hyannis on their Annual Wine and Malt Retail Package Goods Store License, for a Change of Manager from Puneet Mathur to Daron Holloway.

Daron Holloway appeared on behalf of the application. Mr. Holloway has extensive experience in Target stores. Mr. Scali asked about the monitoring process. Only certain registers and team members will be allowed to sell alcohol. We have 140 cameras. The systems will be in place. The cashiers will be over 21 years old. We will be monitoring the exterior as well.

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

5. **Application for an Alteration of Premises on an All Alcohol Retail Package Goods Store License:** Application of ANK Liquors Inc. d/b/a Hyannis Package Store, 775 Main St., Hyannis Nilesh Patel, Manager for an Alteration of Premises. Alteration of premise is for expansion and updating of retail sales area.

New Description: First floor retail store consisting of 1 room of approx. 3,441 sq. ft. 1 walk-in cooler with 27 doors that follows side wall of the store to the rear wall. Front and side entrance/exit, rear emergency exit and loading dock. Basement consists of 1 room storage of approx. 3,441 sq. ft. Liquor to be displayed on retail floor and excess product stored in basement.

All changes approved by the Building Commissioner on 7/01/19.

Nilesh Patel appeared on behalf of this application. The construction work is in process. Mr. Scali provided the history of what has occurred at the site. There were significant problems with the site from the Health and Building Departments. Expansion of the store has stopped until all permits and approvals have been finalized. The ABCC has to approve as well. The square footage is almost being doubled so the improvements must be permitted. Ms. Karlson-Lidman asked about square footage for shelving. Mr. Semprini reviewed the new layout; approximately 50% of the store is blocked off at present.

Mr. Scali asked why they are doubling the amount of square footage and as a result doubling the amount of alcohol. There was a need to make more secure and additional shelving. We do a tremendous amount of business; we need to buy in bulk which requires more storage. We are increasing our wine and soda selections. Mr. Semprini brought up the emphasis of selling nips. There is an increase in display. Mr. Scali asked about 8 AM lines. Mr. Scali asked if it was the homeless population. No it is not the homeless. We have an issue with storing the alcohol in the basement; very heavy. Mr. Scali commented that this is a huge increase in alcohol volume. There are 5 full time and part time employees. Mr. Scali asked about the tobacco regulation; we do not sell at all.

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

6. Application of a Change of Location and Manager on an All Alcohol Common Victualler License and a New Non-Live Entertainment License:

Application of Chipotle Mexican Grill of Colorado LLC., d/b/a Chipotle, 793 Iyannough Rd., Hyannis, David Jamieson, Manager, for a change of location and manager on an All Alcohol Common Victualler License and a new Non-Live Entertainment License. The change of location is within the Cape Cod Mall, the change of Manager is from David Jamieson to Jelani Allen.

Premise Description: Within one unit of the Cape Cod Mall with entrance from within the Mall; kitchen, office and dining area with seating for 39; seasonal outdoor patio (March to October) with seating for 20. Total seating is 59. All changes approved by the Building Commissioner on 6/27/19.

Hours of operation are 10:45 AM to 11:00 PM, Daily.

Non-Live Entertainment is for recorded music at below conversation level; same as operating hours.

Attorney Rashi Malnick and Jelani Allen appeared on behalf of the application. This application is for a change of location within the Mall and Change of Manager. Mr. Scali asked about the patio size and location. Alcohol is not allowed on the patio. We would like to approve the CV application first and then the alcohol will follow.

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

A second motion was duly made by Mr. Semprini, seconded by Mr. Decker and a unanimous vote taken to issue a Common Victualler License prior to the ABCC approval as requested.

7. Application for a Transfer of an Annual Wine and Malt Retail Package

Goods Store License: Application of KSMP Enterprises, Inc. d/b/a Sea Street Food Mart, 231 Sea Street, Hyannis., Pasang Diki Sherpa, Manager, for a transfer of an Annual Wine and Malt Retail Package Goods Store License from MA General Inc. d/b/a/ Sea Street Food Mart 231 Sea Street., Hyannis to. KSMP Enterprises, Inc. d/b/a Sea Street Food Mart, 231 Sea Street, Hyannis, Pasang Diki Sherpa, Manager.

Premise Description: The premise consists of 1800 sq. ft. of retail space on one floor with two entrances/exits. There is a cooler on the left wall that has beer and wine at one end. A smaller cooler on back wall holds beer. Wine is displayed on a rack in the center of the store. Beer and wine inventory is stored in the back storage room.

Hours of operation are 6:00 AM to 11:00 PM, daily.

Attorney John Kennan appeared on behalf of the applicants. The beer and wine license will be transferred. The POS system will have an ID system. They are also not selling any menthol products. The lease of the property will be for 10 years. The new applicants have 2 other stores in Falmouth. There are 2 benches outside no indoor seating. No food will be made only pre-packaged items.

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

8. Application for New Officers/Directors and Transfer of Stock and Change of Manager on an Annual All Alcohol General on Premise License:

Application of New Sedgewick Inc., d/b/a Puff the Magic, 649 Main Street, Hyannis. MA, James Spindler, Manager, for a change in corporate Officers/Directors and stock interest. Manager change is from James Spindler to Anil Diwan.

Attorney Kim Crowa and Anil Diwan appeared on behalf of the application. This is a business transaction. There are no changes to the hours, new scanner for ID's. Mr. Decker asked about Theresa and David that are referenced in the paperwork. The only David would have been David Wood as he was the previous owner from 6 years ago. James Spindler clarified such and stated that he and Paul Spindler are the corporate officers, Mr. Scali asked about the tobacco permit from the Health Dept. It is set up as stock transfer for that purpose.

Officer Gallant asked about the alcohol process. James Spindler is staying on as an employee through the end of the month. Mr. Spindler has been contracted. They have implemented a 3 drink maximum. Not interested in running a bar.

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

9. **Application for an Alteration of Premises of An Annual All Alcohol Common Victualler License and A Change of Manager:** Application of Not Your Average Joe's, Inc. d/b/a Not Your Average Joe's, 793 Lyannough Road (Cape Cod Mall, Route 132), Hyannis, Bruce Randon, Manager for an Alteration of Premises description of the existing premises. Alteration of premise is for change of location in the Mall.

New Description: One floor full service restaurant including bar area and outdoor patio. Indoor seating for 183 including 64 bar seats, 119 dining tables and standing waiting areas at host standing and bar area, and Outdoor seating for 38. Total square footage of 6493. There will also be a mezzanine with no public access for dry storage and a utility room.

All changes approved by the Building Department on 7/29/2019.

Change of Manager will be from Bruce Randon to Sean McDaniel.

Joe McGuire and Seth Kaplan appeared on behalf of the application. Sean McDaniel is on vacation. The restaurant is moving about 75 yards, a little larger with increased seating. Trying to update and refresh.

Mr. Decker asked about the menu, it will be the same with a few seasonal updates. Mr. Scali confirmed that the patio will be enclosed; as alcohol will be allowed.

Construction should be completed by the beginning of October, opening in early November. Ms. Karlson Lidman commented that your patio will abut Chipotle; they do not have alcohol.

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

Show Cause Hearing:

1. The Barnstable Licensing Authority has requested a Show Cause Hearing be called before them for Mlssako Bakery & Cafe, Matheus Tanaka, Manager at 357 Main St. Hyannis, for the following violation of MGL c. 140, s.2-9 and the Town of Barnstable, MA Code:

•**Section 504-2(a).** Common Victualler (Violation of MGLc140, s. 2): General Provisions-(a) Every food service establishment in the Town of Barnstable with

capabilities for cooking, preparing and serving food with seating and/or eating on premise is required to have a common victualler license.

•**Section 501-2(a).** Requirements for Licensure: No individual or establishment may conduct any business which requires a license without first obtaining a valid license.

Matheus Tanaka appeared on behalf of the establishment.

Mr. Scali stated that this is a 2 part situation. The applicants were informed in January that they needed to apply for a CV. There was an issue with the lease. The landlord gave them an extension. Mr. Tanaka was told to apply. After much assistance they were set up for a hearing. No one appeared at the hearing. Officer Gallant also fined them for lack of compliance.

Mr. Scali visited Mr. Tanaka last Friday, fine unpaid. Eight months and still no license has been issued.

Mr. Tanaka, in January they were thinking of buying, in February they agreed to buy business. Lorena and Roger were to assist in this process, they were absent. My mother and I have been lost. There was an email mis-communication.

Mr. Semprini reviewed the actual contract signing dates and asked what happened in the following 8 months. The lease was one of the issues. Many different things were happening at the same time; overwhelming at the time.

Mr. Decker asked if the Town of Barnstable has a pamphlet on opening a new business. Did he receive?

Officer Gallant commented that there was a great deal of time spent by Mr. Scali and Ms. Flynn. The failure to show up was an issue.

Mr. Hoxie asked about how the business is doing, very well. Mr. Scali asked about the abutter notification. The answers are very murky. Mr. Decker stated that this is unacceptable. We have allowed you to go on several months. All businesses in this Town are required.

Officer Gallant is requesting that he notify abutters and reappear on September 16th. Mr. Scali commented that they can remove the chairs. Mr. Hoxie commented that he is in favor of shutting them down.

******Continue to 9/16/19******

Public Hearing:

1. Application for a New Annual Common Victualler and Non-Live Entertainment Licenses: Application of Missako Hashimoto d/b/a Missako Bakery & Cafe, 357 Main St., Hyannis, Missako Hashimoto, Manager, for a new Annual Common Victualler license. Hours of operation will be 7:00 AM to 6:00

PM Monday-Saturday.. Seating is 34 in total, 20 interior and 14 exterior as approved by the Building Commissioner on 5/20/19.

Non-Live Entertainment is for recorded music and 1 TV..

Non-Live Entertainment hours are the same as operational hours.

******Postponed from 6/10/19******

******Continue to 9/16/19******

Licensing Division Updates:

1. **Licensing Department updates** – The Wednesday ABCC meeting is not necessary it is more operations focused.

2. **Police Department updates-** Lt. Murphy had nothing to report.

- **Matters not reasonably anticipated by the Chair**

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

Town of Barnstable

Licensing Authority

200 Main Street

Hyannis, MA 02601

www.town.barnstable.ma.us

Telephone: (508) 862-4674

Fax: (508) 778-2412

BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

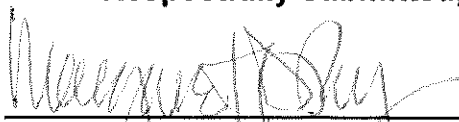
August 19, 2019

Renewals:

1. **Application for a One Day Extension of Licensed Premise:** Application of Brian P Mullins on behalf of Hyannis yacht club for a One Day Extension of Licensed premise. The extension is to include a bar on the Dock for the annual HYC Dock party. The event is scheduled for August 10, 2019 beginning at 6:00 PM. The address of the Hyannis Yacht Club is 490 Ocean Street, Hyannis. There will also be a 5 performer with 5 piece band at the event. ****This is a retroactive approval****

The meeting was adjourned at 10:47 AM

Respectfully submitted,



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



Ron Semprini, Vice-Chairman
Town of Barnstable Licensing