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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

The October 5, 2020 public meeting of the Licensing Authority shall be physically closed to the public to avoid group congregation.

Remote Participation Instructions

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed via the Channel 18 website at:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Licensing Authority utilizing the Zoom link or telephone number and access code for remote access below.

<https://zoom.us/j/98257805850>

Telephone Number: 888-475-4499 US Toll-free, Meeting ID: 982 5780 5850

3. Applicants, their representatives and individuals required or entitled to appear before the Licensing Authority may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provide above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Richard.Scall@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

DATE OF MEETING: **October 5, 2020**

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: Via Zoom

A meeting of the Barnstable Licensing Authority was held on Monday, October 5, 2020. Chairman Martin Hoxie called the meeting in order at 9:30 am. He introduced Mr. Richard Scali, Director of Licensing to explain how this zoom meeting will work and introduced all the participants. Mr. Scali introduced Mr. Martin Hoxie, Chairman, Mr. David Nunheimer, Associate Commissioner, Mr. Larry Decker, Associate Commissioner, Nancy Karlson-Lidman, Associate Commissioner, and Mr. David Hirsch, Associate Commissioner. Also, in attendance were Officer Therese Gallant and Licensing Assistant (temp), Golda Hadfield. Lt. John Murphy was absent.

Vote to accept Minutes:

1. Vote to accept minutes of the September 14, 2020 hearing.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to accept the minutes of the 9/14/2020 meeting as printed.

New Business:

1. **Extension of allowance of outdoor dining expansion** – Local Licensing Authority may approve requests for expansion of outdoor table service or extensions of earlier granted approvals issued pursuant to Section 4 of COVID-19 Order No. 35¹, beyond November 1, 2020, for any period up to and until sixty days after the end of the state of emergency or any other date determined by the Board.

Mr. Scali stated that he submitted to the Board the information from the ABCC regarding outdoor expansion allowance being extended. There have been numerous discussions between the Business Improvement District (BID) and Planning & Development to extend the expansion to continue to the Christmas Stroll or it could be up to January 2, 2021. But due to numerous retailers' requests on parking availability on Main Street, BID and the Planning & Development are leaning to extend towards the Friday before Thanksgiving. No final decisions have been made. Temporary outdoor dining expansion expires on November 1st, the Licensing Authority could grant an extension after the November 1st deadline.

Mr. Hoxie and Ms. Karlson-Lidman are in favor of extending the outside expansion deadline.

Mr. Nunheimer suggested allowing the extension to be guided in coordination with the Town Manager's Sidewalk Café agreements decision to extend expansion.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to allow the Licensing Authority's grants and permissions for the extension of the temporary outdoor expansion to coincide with the Town Manager's Sidewalk Café Agreement decision to extend.

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2. **Informational Inquiry** - Ronny's Pizza, Inc. d/b/a Ronny's Pizza, 11 Ridgewood Ave. Hyannis, holder of a Wine and Malt Restaurant license, on an update with regards to the change of ownership and failure to apply.

Mr. Ronny Fraga and Mr. Jefferson Palhares were present. Attorney Gary Blank is representing both Mr. Jefferson of Simone's Pizza Burger, Inc. and Ronny's Pizza, Inc. Mr. Blank started to explain that Mr. Fraga is attempting to sell Ronny's Pizza to Mr. Palhares's new corporation today – Simone's Pizza Burger, Inc. Mr. Blank also stated that he has been informed that Mr. Fraga is a 51% stockholder of Simone's Pizza as of today. Mr. Jefferson, a permanent US resident has been running the food operation while Mr. Fraga remains as the manager. Mr. Palhares has some language barrier that led to a misinterpretation to immediately apply for the transfer of the liquor license to Simone's Pizza Burger, Inc. The liquor license application was not submitted due to Mr. Palhares's status as a permanent US resident with pending status to become a US citizen. Mr. Blank further explained that the plan is to apply to transfer the liquor license from Ronny's Pizza, Inc. to Simone's Burger Pizza, Inc.

Mr. Scali gave some background that led to this inquiry. In March, the Licensing Department has been notified of Mr. Fraga's insurance policy was not renewed. The Licensing Department then notified Mr. Fraga that his insurance policy was canceled and needs to be renewed. In May, the Licensing Department found out that there was a discussion to transfer the liquor license from Mr. Fraga to Mr. Palhares. Mr. Scali emphasized that the insurance policy has to be renewed and the only recognized owner of Ronny's Pizza, Inc. is Mr. Fraga. In June, the insurance policy was renewed. Mr. Scali and Mr. Palhares discussed in May and June that there will be a transfer of ownership from Mr. Fraga to Mr. Palhares. The transfer of ownership was discussed throughout the summer and finally in September, Mr. Scali reiterated without this transfer, the only recognized owner and manager of Ronny's Pizza, Inc. is Mr. Fraga. Mr. Scali further explained that Mr. Blank has brought up different scenarios to resolve this issue and it has been known that Mr. Palhares is not a US citizen ergo he cannot act as a manager or a majority holder of the corporation. Mr. Scali has sent a warning to the Licensee regarding the ownership. Mr. Scali is concerned if Mr. Fraga's 51% shareholder will resolve the issue, it has to be a majority of shareholders, if there are two shareholders both of them should be a US citizen or three shareholders should have at least two US citizens. As long as there is no approved transfer of liquor application, Mr. Fraga is the only one who can operate and manage Ronny's Pizza, Inc.

Mr. Fraga acknowledged that he understands what is being discussed. Officer Gallant's concern is the alcohol license, and Mr. Fraga is very familiar with the Town's Rules and Regulations regarding compliance. Officer Gallant's other concern is – there should be somebody in charge that can convey the guidelines to the customers.

Mr. Blank responded that Mr. Fraga is at Ronny's Pizza regularly.

Mr. Scali questioned Mr. Fraga if everything is operating through Ronny's Pizza, Inc. or if it operating under Simone's Pizza Burger, Inc. Mr. Scali explained if this is the case a violation of the liquor rules is being committed. Mr. Fraga responded that everything is operating under Ronny's Pizza, Inc., and if something is not properly being done correctly he is assuring the Board that correction will be made immediately. Mr. Scali needs another clarification from Mr. Fraga that all taxes, ordering, payroll, or any information that is being reported to the State is under

Ronny's Pizza, Inc. at this point. Mr. Scali made a point that Simone's Pizza Burger is not authorized to operate a business in the Town of Barnstable. Application to transfer ownership can be heard on the November 9th hearing if all paperwork submitted is complete and in order.

Mr. Blank stated that sales and meal taxes and payroll that is run by both Simone's Pizza Burger and Ronny's Pizza will be reverted to Ronny's Pizza, Inc. Mr. Blank also suggested that a new corporation can be created with possibly a third owner in place.

- 3. Application for a One Day Beer and Wine License** - Application of Clifford Harris on behalf of House of Hatchets, Inc. for a One Day Beer and Wine License for the Halloween & Hatchets Grand Opening. The event is to take place at the House of Hatchets, 489 Bearnse's Way, Hyannis from 5 PM to 11 PM on October 30, 2020. No other entertainment is being requested.

Mr. Clifford Harris represented the House of Hatchets. Mr. Harris explained that Halloween night is the grand opening, and customers are invited to wear customs while throwing their hatchets. At the end of the event, Mr. Harris will be picking a winner, and the winner will get a cash prize and another round of hatchet throwing. Most of the lanes rent by the hour, and within that time frame, Mr. Harris would like to offer their customers beer or wine.

Mr. Scali raised a question if customers will be drinking beer or wine while throwing hatchets. Mr. Harris responded that one of the rules is the hatchets never leave the lane, no beverage is allowed in the hatchet lane. The hatchet lane is where the customer will be sitting, and as part of the social distancing, customers take turns. There is an area in the establishment that they can sit when customers are not throwing, and this will be the area where they can consume their alcohol.

Mr. Decker raised the concern that as part of the COVID-19 regulations that alcohol is not allowed outside. Mr. Scali acknowledged that alcohol could not be allowed and served unless the food is prepared on-site. Mr. Harris asked if a food truck could be a part of this event will alcohol be permitted. Mr. Harris assured the Board that he could secure a food truck for this upcoming event.

Mr. Harris stated that his insurance agent is currently working to amend his policy to include beer and wine, and he will provide the amended insurance as soon as possible.

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to approve the one day beer and wine license in contingent with the health department food service permit and insurance policy.

4. Consent Agenda:

A motion was duly made by Mr. Nunheimer, seconded by Mr. Decker and a unanimous vote was taken to approve the consent agenda as printed.

Public Hearings: None

Licensing Division Updates:

1. Licensing Department updates

Mr. Scali informed the Commissioners on the upcoming Conflict of Interest/Ethics Training that is required to be completed. An email will be sent for further instruction. This will be a zoom meeting for approximately 90 minutes.

Mr. Scali emailed the latest advisory from the ABCC to the Commissioners on October 2, 2020 regarding indoor events held by hotels and other on-premises licensees and indoor table and bar service. Mr. Scali also sent an email to all alcohol licenses regarding these advisories.

Mr. Scali mentioned that Maggie and Golda are working on renewals and re-calculating the fees for licensees that are eligible for the credit that was approved by the Licensing Authority. Mr. Scali also brought up one category that will be discussed on the November 9th hearing concerning bars, clubs or restaurants that did not open at all this year. The last vote was that an establishment does not have to pay the fee until they could open. The matter that will be discussed on the next hearing is whether a credit of 9 months will be given or a full year fee with a 3-month credit for 2021.

2. Police Department updates

Officer Therese Gallant stated that there is no update as of this time.

The meeting was adjourned at 10:19 A.M.

Respectfully submitted,

Golda Hadfield

Larry Decker

Golda Hadfield, Recorder
Town of Barnstable Licensing Authority

Mr. Larry Decker, Clerk
Town of Barnstable Licensing Authority

- 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

October 5, 2020

1. Application for One Day Extension of Licensed Premise:

Application of Michael Crowley on behalf of Ten Pin Eatery for a One Day Extension of Licensed Premises for Corn Hole Tournaments. The Event is to take place in the corridor between Macy's Men's Department and Ten Pin Eatery, Cape Cod Mall, 793 Lyannough Road, Hyannis from 7:00 pm to 9:30 pm on 10/11/2020. No other entertainment is being requested.

2. Amended Application of Annual Common Victualler License:

MPG Corporation d/b/a Garrett' Family Market, 1617 Falmouth Road, Centerville - outside patio seating includes 3 tables with 3 chairs, totaling 9 seats and 4 Adirondack chairs with a total of 13 outside patio seating.