

BARNSTABLE
TOWN CLERK

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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

In accordance with the Governor's Order Prohibiting Gatherings of More Than 25 People, issued on March 15, 2020, and effective through April 5, 2020, unless further extended the March 23, 2020 public meeting of the Licensing Authority shall be physically closed to the public to avoid group congregation.

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 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.

Link: <https://zoom.us/j/289421680>

Telephone Number: 888-475-4499 US Toll-free, Meeting ID: 289 421 680

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.scali@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

DATE OF MEETING: March 23, 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: James H. Crocker Jr. Hearing Room, 2nd Floor, 367 Main Street, Hyannis, MA

A meeting of the Barnstable Licensing Authority was held on Monday, March 23, 2020. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced; Larry Decker, Associate Commissioner and David Hirsch (remote participant via telephone), Associate Commissioner, Richard Scali, Licensing Director, Officer Therese Gallant, and Lindsay Parvin, recording secretary. Ron Semprini, David Nunheimer and Nancy Karlson-Lidman were absent.

Richard Scali noted that with current restrictions in place limiting access to Town Buildings, all applicants will be participating remotely via Zoom or by telephone. An updated agenda was posted by the Town Clerks office which included instructions for viewing and/or participating remotely.

Vote to accept Minutes:

1. Vote to accept minutes of the 3/09/2020 meeting.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote taken to accept the minutes of the 3/9/2020 meeting.

New Business:

1. Consent Agenda:

Mr. Scali noted that all "One Day Events" scheduled to take place before the April 6, 2020 ban on gatherings expires will either be cancelled or postponed.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote taken to accept the Consent agenda as presented excluding the events set to take place within the current ban on social gatherings.

Public Hearings:

1. **APPLICATION OF A NEW ANNUAL ALL ALCOHOL COMMON VICTUALLER LICENSE AND NON-LIVE ENTERTAINMENT LICENSE**

Application of Hyannis Harbor Tours Inc. d/b/a The Landing Cafe, 230 Ocean Street, Hyannis, Kathleen M. Murray, manager for an Annual All Alcohol Common Victualler License and Non-live Entertainment license.

Premise Description: Two story building containing approximately 4396 sq. ft. The Landing Café will serve breakfast, lunch and dinner. Hours of operation will be 6:30am to 10:00pm. The Café customer area includes a first floor with interior seating for 32 and an outside brick patio that seats 26. The second floor deck seats 34, making the total customer seating for the Café 92 persons. A separate meeting room on the second floor containing 49 seats will be used exclusively for Hy-Line Administration and Operations. No alcohol will be served in this space. All approved by the Building Commissioner on 3/3/20.

Entertainment to include recorded music below conversation level and 2 TV's.
Hours of operation and entertainment are 6:30am to 10:00pm, Daily

Philip Scudder, Martin Riley and Kathleen Murray appeared on behalf of the application. They are renovating a building next to their ferry terminal which will include a café, food prep area for the vessels and retail sales. The hope is to have the facility open before Memorial Day.

Mr. Decker asked if there is an existing business in this location.

Philip Scudder explained that the space was leased by two different tenants; The Coffee Table Café and The Raw Bar. However, space was needed to expand their ticket offices and prep areas. They made an agreement with Licensees to remain until construction of the new facilities began. He noted that there has been an alcohol license on the property for 50 years.

Mr. Decker asked when they plan to open.

Phillip Scudder stated that they hope to open in May with the alcohol license in place. If not, they intend to open for food service and begin food preparation for the vessels until such time that the alcohol license is issued.

Mr. Hoxie asked if Ms. Murray (Manager) could explain her experience with alcohol sales.

Ms. Murray stated that she has been Food and Beverage Manager for Harbor Tours Inc. for six years. Previously, she worked for the Barnstable Market in Barnstable village, overseeing their alcohol and food sales. Prior to that, she worked at Fancy's Market in a similar capacity and previously worked for Hyline, managing their Nantucket operations.

Phillip Scudder noted that they currently have six alcohol licenses with the ABCC for their vessels, all of which are in good standing. They are not land-based, which is why they are not licensed through the town.

Ms. Murray stated that she will be responsible for compliance training and is very familiar with ABCC regulations and requirements.

Chairman Hoxie asked if there was anyone that wishes to speak to the application.

Attorney, Bruce Bierhans spoke on behalf of Skip Scudder who is a 50% shareholder.

Attorney Bierhans asked Mr. Scali if the Board has reviewed that matter of Skip Scudder's refusal to submit to a cori check as required by all owners.

Mr. Scali stated that normally when an applicant has had an issue with their cori submittal, they would appear before the Board to explain the circumstances. This case is unique in that a 50% shareholder is refusing to submit.

Mr. Scali explained that the applicant has filed for a cori exemption. In speaking with Ralph Sacremone of the ABCC, an exemption would not apply in this instance. The ABCC would likely require the cori submittal or request a hearing on the matter of refusal.

Attorney Bierhans explained that litigation has been filed by Skip Scudder against the minority shareholders contesting the legitimacy of the Board of Directors thus making the Corporate Vote invalid.

Attorney Bierhans explained that his client is not willing to sign off on the application because it contains inaccurate information.

Philip Scudder stated that it is a legitimate Board that has been in place for 45 years, details of which will be explained as part of ongoing litigation. In terms of this application, they have submitted an exemption (as allowed by the ABCC) for the cori check requirement. He stated that the project was agreed upon on two years ago with all parties in favor.

Attorney Bodamer, Corporate Council for Skip Scudder noted that Skip Scudder contests the implication that he was previously in favor of this project and maintains his belief that the Board of Directors did not meet the legal criteria required to attain a corporate vote.

Attorney Kelley spoke on behalf of the applicant. He advised that the Board approve the application as presented and it be forwarded to the ABCC where it may be thoroughly investigated and determine the validity of such exemption. He firmly

believes that the exemption request presented falls within the ABCC's exemption policy.

Mr. Decker asked if the Licensing Authority would be libel if they approve the application as presented and through pending litigation it is found to be invalid.

Mr. Kelley stated that it is his belief that the Board has the complete authority to proceed with the application as presented. He noted that they are just the first step in a multi-step review process. The ABCC may choose to hold a hearing on the matter so that they may question all parties.

Mr. Martin Riley, representative for the applicant, noted that such exemptions were created by the ABCC for instances where one party is creating an adverse hardship on a company.

Mr. Scali informed that Board that it has been past practice to require a cori check of all parties. If they choose to accept the application as complete, it would not be consistent with past practices. The Board must decide whether to approve the application as presented or deny the application with respect to the incomplete cori submittal.

Attorney Kelley urged the Board to forward the application to the ABCC so that they may conduct their review. With such uncertainty surrounding the economic climate at this time (pandemic), it is their hope to move the application forward.

Chairman Hoxie stated that he does not think the approval of this application would interfere with past practices as it is a unique situation. He would be in favor of approving the application as presented and allowing the ABCC to make a determination.

Commissioner Decker stated that he agrees with Chairman Hoxie's willingness to grant the approval so that the project the may move forward.

Commissioner Hirsch stated that such approval should be granted upon the determination of the action before the Superior Court. He does not agree with approving the application with litigation pending without conditions.

Attorney Bierhans stated that there is currently a Motion to Dismiss filed by the Defendant that was set to heard March 26, 2020. It was postponed to April. Procedural motions have been filed with the court. One is waiting to be heard, the other is awaiting a decision. He reiterated that his client's unwillingness to sign the application is because he contests the legitimacy of the Board of Directors and refuses to endorse an application which contains inaccurate information.

Mr. Scali stated that it is not for the Licensing Authority to determine the validity of the Board of Directors as the Court will make that determination.

A motion was duly made by Chairman Hoxie, seconded by Mr. Decker and a unanimous vote taken to approve the application subject to the Court determination of the validity of the Board of Directors vote and the ABCC's acceptance of the cori check exemption.

2. ALTERATION OF PREMISES ON AN ALL ALCOHOL COMMON VICTUALLER LICENSE

Application of Pain D'Avignon II Inc., d/b/a Pain D'Avignon Café - Boulangerie, 15 Hinckley Road, Hyannis, Mario Mariani, Manager for an Alteration of Premises description of the existing premises. Alteration of premise is to include a new dining area with 40 seats with one additional seat in patio area.

New Description: Single story building at 15 A, B, & C Hinckley Road, Hyannis. Approximately 8211 Sq. Ft. Café/Bakery serving breakfast, lunch, dinner and take out. 11 seat full bar, dining seats 80 and outdoor patio seats 20. Total inside seating 91; outside seating 20. Main entrance plus two French doors leading to outdoor patio and parking area, containing three exits. Additional exit into connecting bakery warehouse and several garage doors and side exits. All changes approved by the Building Department on 2/21/20.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote taken to continue the matter to April 6, 2020

3. NEW LODGING HOUSE LICENSE

Application of American Youth Hostels Inc. d/b/a/ HI- Hyannis Hostel, 111 Ocean Street, Hyannis. Javier Bujanda, Manager for a New Lodging House License for 3 Buildings with 13 bedrooms and 47 lodgers

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote taken to continue the Matter to April 6, 2020

4. NEW LODGING HOUSE LICENSE

Application of Karla Taylor LLC, d/b/a Lamb & Lion Inn, 2504 Main Street, West Barnstable, Lauren Wendelowski, Manager for a New Lodging House License for 10 units.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote taken to continue the matter to April 6, 2020

5. AMEND EXISTING CLASS II AUTO DEALER LICENSE

Application of Cape Cod Carz LLC. d/b/a/ Cape Cod Carz, 153 Corporation Road, Hyannis to amend a Class II Auto Dealer License to include the location of 740 Bearses Way, Hyannis, for a maximum of 19 total spaces, inclusive of 16 display

spaces, one Handicap space and 2 customer spaces per approval of the Building Commissioner 2/24/2020.

Richard Gravina appeared on behalf of the application. He is part owner of Cape Cod Carz along with his son. He stated that they have been in business for the past 6 years. They have been looking for additional space and the 740 Bearses Way location became available. There is an existing service bay on the property that they hope to utilize. He wants to ensure that he is permitted to do repairs in the service bay.

Mr. Scali clarified that parking space breakdown is as follows: 1 space in the repair bay, 2 employee spaces, 1 handicap space, and 15 display spaces.

Mr. Gravina wants to ensure that he is permitted to use the service bay for repairs.

Mr. Scali explained that the Licensing Authority does not have authority to issue repair permits. The determination of use would be made by the Building Commissioner, Fire Department and Health Department.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote taken to approve the application for a total of 19 spaces. 1 space in the service bay (use subject to Building Department and Fire Department approval), 2 employee spaces, 1 handicap space, and 15 display spaces.

Licensing Division Updates:

1. Licensing Department updates –

Mr. Scali noted that our offices are closed to the public but staff is still available by appointment. We have drop boxes set up for those wishing to submit applications. Most employees are working remotely.

2. Police Department updates-

Officer Gallant has nothing to report.

The meeting was adjourned at 10:30 AM

Respectfully submitted,



L. Parvin, Recorder
Town of Barnstable Licensing Authority



David Nunheimer, 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
March 23, 2020

1. Application (12) for One Day Beer and Wine License:

Application of Andrea Mcarthur on behalf of Puritan Cape Cod for (12) One Day Beer and Wine Licenses. The events are to take place at Puritan Cape Cod, 408 Main Street, Hyannis on the following dates: March 25, 2020, April 2, 2020, May 30, 2020, June 11, 2020, August 13, 2020, September 10, 2020, September 17, 2020, October 9, 2020, November 21, 2020, December 6, 2020 and December 16, 2020

Renewals:

Seasonal Common Victuallers Beer & Wine:

1. 290-100, Cape Cod Melody Tent, 41 West Main Street, Hyannis
2. 294-075, Cooke's Seafood, 1120 Route 132, Hyannis,

Seasonal Common Victuallers All Alcohol:

1. 326-121, The Dockside Restaurant, 110 School Street, Hyannis
2. 116-013, Chart Room at Crosby's. 330A West Bay Road, Osterville
3. 326-035-OEG, Blue Water Grille, 213 Ocean Street, Hyannis
4. 309-225, Fresh Ketch, 462 Main Street, Hyannis
5. 301-007, Mattakeese Wharf, 273 Millway, Barnstable
6. 326-066, Spanky's Clam Shack and Seaside Saloon, 273 Millway, Barnstable
7. 326-142, Trader Ed's, 1 Willow Street, Hyannis
8. 308-111-00A, Hyannis Oyster Bar, 561 Main Street, Hyannis

Seasonal Club License All Alcohol:

1. 325-050, Baxters Boatbouse Club Inc, 177 Pleasant Street, Hyannis
2. 206-016, The Beach Club, 27 Long Beach Road, Centerville
3. 020-097, Cotuit Highground Golf Club, Inc., 31 Crockers Neck Road, Cotuit

Junk Dealer/ Second Hand Good License:

1. 009-016, Cotuit Mercantile, 45 Main Street, Cotuit
2. 336-053, Sweet Pea's Nest, 4083 Main Street, Barnstable
3. 293-023, GameStop, 793 Iyannough Road, Hyannis
4. 293-023, Newbury Comics, 793 Iyannough Road, Hyannis
5. 308-073-001, Spinnaker Records, 596 Main Street Hyannis