



Town of Barnstable

Regulatory Services

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Licensing Authority

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BARNSTABLE LICENSING AUTHORITY LICENSING HEARING MINUTES

Town Hall Building, 367 Main Street, 2nd Floor Hearing Room, Hyannis, MA – 9:30 a.m.
December 8, 2008

A regular meeting of the Barnstable Licensing Authority was held on Monday, December 8, 2008. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Paul Sullivan, Clerk; Thomas Geiler, Director of Regulatory Services and Licensing Agent, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary.

Hearings:

Request to Extend Hours for One Day: A request has been made by SPSS Enterprises, LLC d/b/a Asa Grill and Reputation, 415 Main Street, Hyannis, Mollie Lehane, Manager, holding an All Alcohol Common Victualler License, for a **Change of Hours** on New Year's Eve, to close at 2:00 am. Alcohol service would terminate at 1:00 am as is presently authorized.

The applicant did not appear as they were informed prior to this hearing by Licensing that there is a Town ordinance disallowing businesses to be open from 1 am to 3 am for food sales; and alcohol and entertainment are not allowed after the hour of closing of the entertainment on their current licenses.

One Day Entertainment and Sunday Entertainment License: Application of Tanya Vincent on behalf of Coastal Dance Co., 49 John Maki Road, W. Barnstable, MA, for a **One Day Entertainment License and Sunday Entertainment License** for its 23rd annual Nutcracker Gala Ballet to be held at the Barnstable High School Performing Arts Center, West Main Street, Hyannis on Saturday, December 13, 2008 at 4 pm and Sunday, December 14, 2008 at 2 pm.

Mr. Vincent appeared for the application. This is the 23rd annual event held at the high school. Mr. Hoxie asked the admission – it is \$15 - \$25.

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the application of Tanya Vincent on behalf of Coastal Dance Co., 49 John Maki Road, W. Barnstable, MA, for a **One Day Entertainment**

License and Sunday Entertainment License for its 23rd annual Nutcracker Gala Ballet to be held at the Barnstable High School Performing Arts Center, West Main Street, Hyannis on Saturday, December 13, 2008 at 4 pm and Sunday, December 14, 2008 at 2 pm.

One Day All Alcohol Permit: Application of Michael Robinson, Cape Cod Young Professionals, P.O. Box 1302, Centerville, MA on for a **One Day All Alcohol License and a One Day Entertainment License** for a fundraiser event with a steel drum band on September 17, 2009 from 5:30 pm to 8:30 pm at Rectrix Aerodrome, Hyannis, MA. Continued from 11/17/08 to obtain State Fire Safety Certificate.

The applicant withdrew their application until which time the venue at which they want to have this event can obtain a State Safety Certificate (Rectrix Aerodrome).

New Annual Wine & Malt General on Premises License: Ryan Family Amusements, Inc., d/b/a Ryan Family Amusements, has filed an application for a **new Annual Wine & Malt General On Premise License**, 441 Main Street, Hyannis, MA, Peter A. Campbell, Manager. Alcohol service to be from 9 a.m. to 10 p.m.; noon on Sundays.

Attorney Paul Tardif of Yarmouth Port appeared with the applicants, Peter Campbell and Rob Nichols. They are seeking a General on Premises license. Notice of Abutters proof was submitted prior to the application. Hours are now being requested from 9 am to 12 am and noon to 12 am Sundays. Mr. Campbell is the Manager at the Yarmouth facility for some years. There was a nice article in the paper recently about bowling establishments being more popular again. The Yarmouth venue has run with beer and wine along with its bowling. The alcohol will be limited only where indicated at the tables on the plan – right near the service desk; not at the lanes. All are TIPS trained. The abutter mailing did go to churches and schools which are noted on the application – they have had no notice of any problems with the school or churches in the area.

Mr. Hoxie asked how it works – is there a bar? Attorney Tardif said there are 9 tables at which the alcohol could be served. You cannot sit at a bar. All employees are already TIPS trained. The Yarmouth license has existed for 7-8 years. Mr. Sullivan asked about the 20 seats at the tables – can the clientele walk through that area? You can go to the left or right and yes, you do have to walk through the area. Mr. Sullivan asked who could oversee the area. Mr. Campbell said there is a three person team overseeing the area. He said it has been almost 8 years in the Yarmouth facility with no problems.

Officer Maher asked the question as to “absentee” manager; Mr. Campbell said there is a three management person team. What delineation will there be from the shoe sales area, etc. and the area with alcohol as to the under 18 employees? Mr. Campbell said those under 18 people will not be in the area with the alcohol. Lt. Jason presented a letter from Lt. Rooney in Yarmouth. The Yarmouth hours are until 1 am but they only use that in summer. The letter states 10 pm. What will it be in Hyannis? They stated 12 is when they close. Lt. Jason stated 1 is a problem as that is when the clubs let out.

Mr. Hoxie asked if they would serve a person just walking in an not bowling? Mr. Campbell stated he does not anticipate that happening. Mr. Sullivan asked the Yarmouth percentage of alcohol in its revenue. He thought maybe 10%. Mr. Burman asked how they would handle the underage situation? Mr. Campbell is referring back to Yarmouth – they have a strict service policy – one drink per driver’s license – served in a translucent cup; no other type cups, so it is easy to see who has it. Mr. Campbell stated they need to be vigilant to watch who is drinking. The only issue they have had in Yarmouth is that a person came to the counter, bought a drink, took it to the table. If they see another person who has not been ID’d, they go to the table and tell them they cannot consume it. Mr. Hoxie asked if they would accept 9 am to 10 pm. Attorney Tardif stated they would prefer midnight. This site is smaller and has better sight lines than Yarmouth. Lt. Jason stated there is another license right next-door – she is not sure it needs it based on need. Attorney Tardif stated this is not a bar – it is entertainment first; they do not see if happening that people will come in just to drink. There is no outside signage. Mr. Geiler does not have a problem with even midnight; 1 he would. He stated we have several places with alcohol being a very small part of the business – like Cooke’s for example. He does not think this would draw the young people trying to get alcohol; those people would be more interested in a club venue. Mr. Sullivan states we do have something from Yarmouth stating they have no problems with their operation. Mr. Geiler wanted to get the description clarified – the game room is non-alcohol; the event rooms at the discretion of the management but not as wander in and out area for alcohol. He asked the Board to identify the serving area and the other rooms. Mr. Hoxie stated the concourse seating area is where the beer and wine will be restricted to and they agreed.

A motion was duly made by Gene Burman and seconded by Paul Sullivan. and a unanimous vote taken to approve the application of Ryan Family Amusements, Inc., d/b/a Ryan Family Amusements, for a **new Annual Wine & Malt General On Premise License**, 441 Main Street, Hyannis, MA, Peter A. Campbell, Manager. Alcohol service to be from 9 a.m. to 10 pm; noon on Sundays for alcohol service 9 am to 10 pm, noon to 10 on Sundays with alcohol located only in the concourse area and function rooms when there is an event, and no alcohol in the game room only.

Mr. Sullivan made a motion at the request of counsel to amend the motion to approve the application of Ryan Family Amusements, Inc., d/b/a Ryan Family Amusements, for a **new Annual Wine & Malt General On Premise License**, 441 Main Street, Hyannis, MA, Peter A. Campbell, Manager. Alcohol service to be from 9 a.m. to 10 pm; noon on Sundays for alcohol service 9 am to 10 pm, noon to 10 on Sundays with alcohol located only in the concourse area and function rooms when there is an event, and no alcohol in the game room or bowling lanes area.

A second motion was duly made by Gene Burman at counsel’s request that schools and churches within 500 feet have been notified and no objection has been filed.

Attorney Tardif requested the Board to look at a possible new fee for Beer and Wine only for a General on Premise License for the future; as it stands now there is only a full alcohol license for General on Premise licensees.

Mr. Hoxie stated it will be noted.

Amendment to Class II Auto Dealer License to add second property: Application of Zinov Business Enterprises, Inc., d/b/a MBM Auto Sales, Irena Zinov, Manager, 115 Iyannough Road and 500 Yarmouth Road, Hyannis, for an **Amended Class II Auto Dealer License** to include a second property at 115 Iyannough Road, the hours of operation to be 9 am – 7 pm. Total vehicles on the lot at 115 Iyannough Road – 46. Total vehicles on the lot at 500 Yarmouth Road – 23.

Mrs. Zinov appeared to advise this is a new location for the license with a total of 46 vehicles; the same as the current license at that property.

Mr. Geiler stated this should be treated as a second license at a new property – we have no objection to having the 2 locations, but how can she handle both? She stated she will be at one and her husband at the other – she will be the manager of record at both locations.

Officer Maher stated he recently checked the Yarmouth Road location and found they are storing vehicles off location – this was about 3 weeks ago. There are vehicles stored somewhere else – not at either of these locations. He wondered if they would now keep all vehicles at the new and existing licensed locations. Mrs. Zinov said yes, they would. Officer Maher asked that they not be kept at any other location.

Mr. Geiler stated the notice was sufficient as it ran even though it referenced amendment rather than a new license.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to issue a new Class II Auto Dealer License with total vehicles on the lot to be 46 subject to approval by the Building Commissioner and no off-site storage.

Amendment to Class I Auto Dealer License: Application of Yarmouth Road, Inc., d/b/a Premier Cape Cod, Joseph Laham, Manager, 460 Yarmouth Road, Hyannis, for an **Amended Class I Auto Dealer License** to change the corporate name from Yarmouth Road, Inc. to 499 Route 6A, Inc. Everything else is to remain the same as the current license.

Mr. Laham stated this hopefully is the last change. The corporate name needs to be changed as they have two corporations and are consolidating them into one. Chrysler, Dodge and Jeep are all at 460 Yarmouth Road now. He stated they are doing well.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Yarmouth Road, Inc., d/b/a Premier

Cape Cod, Joseph Laham, Manager, 460 Yarmouth Road, Hyannis, for an **Amended Class I Auto Dealer License** to change the corporate name from Yarmouth Road, Inc. to 499 Route 6A, Inc.

New Lodging House License: Application of Sandra Lee Walker and James M. Walker for a new Lodging House License at 511 Ocean Street, Hyannis MA, Sandra Lee Walker, Manager.

Attorney Princi appeared for the applicants. He explained that back in 1996-97 this had a lodging house license. A special permit was granted allowing the 3 buildings there to be used. This permit passed on from owner to owner. A condition to the permit was that a lodging house license must continue there. For whatever reason the license discontinued for a number of years; however, building and health inspected it yearly but the lodging house license lapsed. It came to light this year that the property might have a violation. Charlie McLaughlin dealt with the case in the District Court with a stipulation that Attorney Princi come in and obtain a lodging house license for this property. The 4 units as indicated are being requested with the parking in front. There are sinks but no kitchens. There is a “common kitchen” in the basement. At present the owner resides there with 2 boarders – the 4th bedroom is not occupied at present.

Mr. Burman, while reading the ZBA regulation, wondered if it is not shared parking; Attorney Princi stated the parking is in front and they are instructed to back in so they can pull out frontward.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the application of Sandra Lee Walker and James M. Walker for a new Lodging House License at 511 Ocean Street, Hyannis MA, Sandra Lee Walker, Manager for a new Lodging House License.

Attorney Princi stated they have also filed a renewal of this license for 2009.

Change of Hours: Application has been made to the Barnstable Licensing Authority by O’Charley’s, Inc., d/b/a **99 Restaurants/Pubs**, 1600 Falmouth Road, Centerville, Thomas Hann, Manager, for a **Change of Hours** for their Annual, All Alcohol Common Victualler License. The hours proposed are Sunday 11 am – 10 pm, Monday – Thursday 11 am – 11 pm, Friday & Saturday 11 am – 12 am.

Christine Ade reported that this application was withdrawn at the request of the corporation.

New Annual Common Victualler Wine & Malt License: Application of Pain D’Avignon II, Inc., d/b/a Pain D’Avignon, 15 Hinckley Road, Hyannis, Mario Mariani, Manager, for a new Annual Common Victualler Wine & Malt License, the hours of operation to be 6am to 10 pm, alcohol service from 8 am to 10 pm, for a total of 40 seats (including up to 16 outside on a patio in front of the building).

Attorney David Lawler appeared with Mario Mariani and two other principals. They have operated the bakery for some years – 16. A few years ago they had a fire and have rebuilt. The bread is very fine – produced for New England wholesale and restaurants. They recently opened a café. Attorney Lawler stated they were shut down for 6-7 months and paid their whole staff while being closed. The food is very good. They have 40 seats – 24 inside and 16 outside. The request here is for a beer and wine license – they had requested cordials but know we do not have that. They have asked for 8 am to 10 pm. There is a need in this area – it is upscale with excellent food. They believe the alcohol would complement the license. There are no other restaurants close by with alcohol. Mr. Mariani has been in the business 20-30 years. He has been at Abbicci, Mickey Mantle's Sports Bar in New York. All will be TIPS trained prior to serving the 1st drink and they are Serv Safe certified. There is easy control with respect to the alcohol. Mr. Hoxie asked if there was food to go there? Attorney Lawler stated there is to go. Mr. Burman asked if they are requesting a 2009 license? They stated they are. The café has been open since July. Mr. Burman asked about entertainment license.....it is checked off "yes." However, Attorney Lawler stated they are not looking for it in the immediate future but he advised them to at least let the Board know they may want to have it in the future. There are no residential abutters. Mr. Burman asked if we need Town Manager approval for the outside area and Mr. Geiler stated we do not; it is on private property.

A motion was duly made by Gene Burman and seconded by Paul Sullivan and a unanimous vote taken to approve the new wine and malt license for 2009 for alcohol 8 am to 10 pm with a total of 40 seats including 16 outside on the patio.

Change of Location: Application has been filed by Hyannis Blanchards, Inc., d/b/a Hyannis Blanchards, 226 Falmouth Road, Hyannis, holding an All Alcohol Retail Package Store License, Donald J. Corey, Jr., Manager, for a change of location to 167 Corporation Street, Hyannis.

Attorney Lawler appeared with Mr. Corey for this application. They have an excellent record but one small blemish. They have to move their location. With respect to the new location – it has been advertised and there is not a church, school or hospital within 500 feet. The customers they have now would be served well here as it is just ¼ mile down the road. They believe the new location provides easy access, and would be a good location for their new operation. Mr. Hoxie asked how long the lease is for. Attorney Lawler stated 15 years.

A motion was duly made by Mr. Burman, seconded by Paul Sullivan and a unanimous vote made to approve the application of Hyannis Blanchards, Inc., d/b/a Hyannis Blanchards, 226 Falmouth Road, Hyannis, holding an All Alcohol Retail Package Store License, Donald J. Corey, Jr., Manager, for a change of location to 167 Corporation Street, Hyannis for a 2009 license.

Change of Hours: Application of I.G.A.P. Lima Corp., d/b/a Village Landing Restaurant, Gary Lima, Manager, 3226 Main Street, Barnstable MA, has petitioned the

Barnstable Licensing Authority for a **Change of Hours** for their Common Victualler License. The extended hours proposed are daily from 7:00 am to 9:00 pm, rather than from 6 am to 6 pm as originally approved by the Licensing Authority. Continued from 11/17/08.

No-one appeared for the application. Mr. Hoxie continued it to 12/29/08. After hearing it was learned that the applicant wishes to withdraw the application.

Change from Seasonal to Annual All Alcohol Club License: Application of Cotuit Highground Golf Club, Inc., Paul Heher, Manager, 31 Crocker Neck Road, Cotuit for a **Change from a Seasonal All Alcohol Club License to an Annual All Alcohol Club License.** Continued from 11/17/08.

The applicant has requested continuance to 3/16/09, which was granted by the Board.

Request to Close: Request of VN Management Corporation, d/b/a Cape Cod Inn, 447 Main Street. Johnny Vo, Manager, to close its premises from January 4, 2009 to March 19, 2009 for general maintenance, repairs and renovations.

Johnny Vo appeared to request closing from 1/4/09 to 3/19/09. He will be doing some repairs and installing a new beer cooler – no interior changes requiring alteration of premises application.

Mr. Burman asked if they will be doing this every year. His thinking is that maybe they should change to a seasonal license? Mr. Vo does not want to request that yet.

A motion was duly made by Mr. Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the request to close as submitted.

Show Cause Hearing: Show Cause Hearing for Rollback of Hours for Shanghai Chinese Restaurant, Inc., 11 Ridgewood Avenue, Hyannis, Henry Yang, Manager, at the request of the Licensing Authority to hear comments relative to the public need to decrease the hours for the sale of alcoholic beverages at the premises due to testimony provided by officers of the Barnstable Police Department at a public hearing held by the Licensing Authority on October 27, 2008, raising concerns with respect to late night activities at the premises and the impact on the neighborhood and welfare of the community.

This hearing was announced by Chairman Hoxie as being held because at the hearing October 27th concerns were expressed about late night activity and the welfare and safety of the community which might necessitate a rollback of the closing hours. He swore in the witnesses for the hearing.

The Barnstable Police Department, through Officer Steven Maher, presented the case for the Barnstable Police Department. He referenced problems starting 12/07:

12/4/07: A&B with a dangerous weapon (9:24)

12/12/07: sale of drugs inside the establishment (8:21)

12/25/07: disturbance and altercation in parking lot (10:12)

2/8/08: drug activity in the parking lot (9:57)

5/10/08: mother reported underage drinking (11:19)

5/11/08: subjects going in and out, in and out (12:14)

6/5/08: Noise in parking lot (10:30)

7/11/08: intoxicated person in bar (10:56)

8/16/08: Fight in bar (12:02) 911 call but when police arrived everyone refused to speak to the police officers

8/22/08: suspicious activity (1:00) argument

Attorney Robert Mills did not ask Officer Maher any questions at this point after being asked if he had any questions by Chairman Hoxie.

Mr. Hoxie asked for their response to the allegations. Attorney Mills stated he unfortunately was unable to attend the church meeting held a few weeks ago and suggested by Mr. Hoxie that they attend. There have been problems in the neighborhood and there are a lot of homeless, transient people in the area. Mr. Yang is there 7 days per week; will now be there more hours than he has been in the past – will now be there until 12-12:30 am. Lucy has now come to understand that people going in and out so often may mean drug problems – she was not so in tune with this or with the concept of the restrooms being for patrons only. They themselves have found it difficult on Friday nights more than any other time. They are proposing to cut back if we see fit to Monday - Thursday midnight and Friday & Saturday 12:30; summer hours 12:30 every night. Given the economy, it is challenging to make it in any case after having the rent and the trying to keep the low cost of the food. They are aware of the situation and Henry is committed to spending more time there particularly Friday and Saturday nights when it is busiest and to keeping the peace in the area.

Mr. Hoxie asked if any of the calls are before 11 pm? Officer Maher stated most are after 10 pm; and also none are the homeless or transients as indicated by the attorney; he stated he respectfully disagreed. From personal experience and interviews he has had with other officers responding to that location, the crowd is very young and are people known to the police department and many are drug dealers/users. They go from there to other establishments on Main Street. He inferred that they are taking

advantage of these people (the restaurant owners/workers) as they are seen to not be so savvy as to the drug business.

Mr. Hoxie asked Attorney Mills for comments; he stated it is not so much the homeless but transiency; he said he goes there every once in a while for lunch and to him there is a sense of transiency there as well.

Mr. Hoxie stated it is up to the Board to determine what best serves the community. Based on the number of arrests and number of calls to the police which are numerous, in his opinion some type of decrease needs to be implemented. We are allowed to decrease the hours to 11 pm by law; it is presently 1 am. He asked for a recommendation from the police. Officer Maher stated a rollback to 11 pm would be their recommendation at present.

Mr. Burman asked about the hearing a few weeks ago; he asked Mr. Mills if in the consultation with his clients, did he get through to these applicants because of the language barrier? He stated he knew Mr. Yang operated a successful business in Mashpee as he has been in there many times. He said he is disappointed we are facing this situation. Attorney Mills said he feels he HAS gotten through; Mr. Yang wasn't there but is a better communicator, and Lucy has become quite good herself and is now not so naïve as she had been in the past and appreciates the significance of this action. He asked for more consideration than 11 pm stating it is a busy time for Chinese food after 11 pm. They cannot afford to hire a doorman. Henry will have to spend more time there. If there is a way to separate the food from the beverage that might work, but he stated we have not gotten into that separation yet. The food is critical to their business.

Mr. Hoxie asked for public comment. Cynthia Cole wanted to comment that while this business is not in the BID, and she has respect for Mr. Mills, but there have been many comments and complaints within the BID about this establishment and its problems including drugs. She thinks the Board should be very careful in its decision making. Officer Maher stated that in observation of this establishment, even for compliance checks, the people are NOT there to eat – most are local, young people hanging out in the bar area and outside.

Mr. Hoxie stated from the basis of the evidence heard it is his opinion this establishment needs to change direction, change the clientele. He stated it is his opinion the license should be modified to 11 pm closing. Whether or not it is deserving of increased hours in the future remains to be seen.

Mr. Burman asked if the motion should be for the alcohol sales only or the total restaurant; Mr. Hoxie stated the whole restaurant; it is an All Alcohol Common Victualler's License. Talking about drug sales, etc., he believes the whole place should close earlier.

A motion was duly made by Mr. Burman with respect to the Show Cause Hearing on for Rollback of Hours for Shanghai Chinese Restaurant, Inc., 11 Ridgewood Avenue, Hyannis, Henry Yang, Manager, at the request of the Licensing Authority to hear comments relative to the public need to decrease the hours for the sale of alcoholic beverages at the premises due to testimony provided by officers of the Barnstable Police Department at a public hearing held by the Licensing Authority on October 27, 2008 as to findings that the BPD has found the following situations:

1. The rules and regulations of the town were not readily available and the employees had not read the regulations
2. Posting and signs were not complied with
3. The premises allowed children in the kitchen behind the bar 505-5 g
4. Chapter 501-7b no drink price list was available
5. Chapter 501-8 a & c lack of supervision; allowing patrons loitering inside and outside in the parking lot
6. Chapter 501-12; illegal activities - failure to pay attention to activities of known drug users, dealers, due diligence of stopping patrons from making unusually frequent trips in and out of the restrooms.

Mr. Sullivan seconded the findings and a unanimous vote was taken to adopt these guilty findings.

A motion was duly made by Mr. Burman and seconded by Paul Sullivan to decrease the hours of operation to 11 pm. A unanimous vote was taken to decrease the hour of closing to 11 pm.

Show Cause Hearing: A Show Cause hearing will be held at the request of the Barnstable Police Department for RCSJ Group, Inc., d/b/a Fresh Ketch, 460 Main Street, Hyannis, Raymond C. Roy, Manager, for violation of the Town of Barnstable Code Chapter 501-8 to wit: "It shall be the obligation of licensees to ensure that a high degree of supervision is exercised over the conduct of the licensed establishment at all times." The Police Department will provide testimony as to May 24, 2008, June 1, 2008, July 5, 2008 and August 22, 2008. A violation was also reported for October 9, 2008 with regard to Town of Barnstable Code Chapter 501-10B to wit: "No entertainment at the licensed premise may be conducted in such a manner that the noise from the entertainment can be heard outside the boundaries of the premises." Continued from 11/17/08.

Mr. Hoxie read the hearing notice for this establishment and he then swore in the witnesses. Officer Steven Maher presented the case for the Barnstable Police Department. He listed the following calls:

- 6/20/07 (11:57 pm) noise complaint
- 6/22/07 (12:15 am) drinks on patio (agreement had been made for no drinks on that patio after 11:30)
- 7/10/07 (12:31 am) fight in front of the establishment

7/27/07 (1:16 am) groups exiting establishment were not moved along by staff (who were inside the building). This is a violation of Town rules and regulations
7/28/07 (12:51 am) fight between 2 females
8/3/07 (12:40 am) band still playing after 12:30
8/17/07 (1:33 am) Intoxicated male at the establishment
9/22/07 (10:33 pm) loud music coming from the establishment; S. Roy was told to turn down the music
9/29/07 (1 am) disturbance when an intoxicated male threw a beer bottle at the bar
5/24/08 (12:16 am) noise complaint called in by a hotel
5/24/08 (1:38 am) patrons in the bar after 1:30 curfew
5/25/08 (11:43 pm) loud music
6/1/08 (1:37 am) disturbance at bar
6/28 (12:31 am) loud music – Officer Maher spoke with Stephen Roy who said the band didn't listen to him in which conversation he asked Officer Maher to talk to the band as they "didn't listen to me"
7/5/08 (12:13 am) another disturbance – the officer who responded said it was hard to hear what was being said by the people involved because the music was so loud
7/20/08 (5 pm) music outside on the patio without license for outside entertainment
8/14/08 (1:00 am) fight
8/22/08 (10 pm) 2 intoxicated persons arrested outside
9/24/08 (11:38 pm) loud music again
10/9/08 (12:34 am) loud music again coming from the establishment.

Officer Maher said the noise complaints were from a hotel or officers cruising by (himself included on 3 particular occasions). He said he starts to hear the music around Pearl Street and because there are several establishments in the small area, as he gets closer he establishes where it is coming from. The Manager of record has never been there after 11 pm – all conversations were with Steven Roy. He has a problem with that as this person does not seem to be able to or want to control the situation.

Jeremy Carter appeared for Fresh Ketch. He stated he is glad we are dealing only with the dates in the notice and the noise as if we were going to make a decision on all the dates brought forth he would have to ask for a continuance.

Mr. Hoxie asked to focus on the dates in the hearing notice specifically. Officer Maher stated the noise is the issue with this establishment. Raymond Roy is in from 6 am to 4 pm, his son coming in later as well as another manager. Everyone is serv safe and TIPS trained every year. They were not involved in the sting this past summer. He advised that yes, Officer Maher has spoken to Steven Roy several times and Mr. Roy has tried to work very hard with this neighbor at the hotel to address his concerns. Attorney Carter did advise that Mr. Roy addressed the noise problems the last time by closing the windows, having the band turn it down and it is his understanding since July there has been no problem. They have made every effort to curtail the noise since these incidents. They are vigilant wit the exterior and all in all are trying to be a good neighbor.

Mr. Hoxie asked Officer Maher about the charges on not having a high degree of supervision – the manager of record is never there at the times the problems are occurring. The second charge each date is the noise. Attorney Carter represented that the manager IS Steven Roy later at night, but Mr. Hoxie stated that it is the father, whose name is on the license, who is ultimately responsible.

Mr. Hoxie asked for public comment. Mr. Eaton came forward from the Hyannis Inn Motel. He stated he has called 11 times this year about the noise. He does grant that they have made improvements. His feeling is that even one complaint is one too many. He stated they are trying to communicate but having so many complaints from hotel guests is not acceptable. Mr. Eaton did not protest the increase in number of entertainers by trying to be a good neighbor himself when they recently requested that change, but now has second thoughts. The last complaint was 9/24 – South Street and High School Road. The noise was the worst of the season.

It was represented that bands were stopped Thursday through Sunday, just karaoke recently. April to October is the entertainment season for the live bands. Attorney Carter stated the opening of the windows when it gets hot seems to be a problem.

Officer Maher stated that time and time again they have spoken with Steven Roy about the windows and keeping the noise down. One weekend in particular they had a band from out of town they were concerned about and even that night the manager of record on the license was not there to control it. He also stated the problems outside the establishment ARE problems for this establishment – they need to pay attention to keep moving the people along after they exit. Attorney Carter told the board he does not think they should be responsible for traffic on Main Street. Mr. Hoxie stated he thinks perhaps the manager of record should change his hours and cover the later periods as it is not working the way it is. Mr. Hoxie is not satisfied as to anything he has heard with respect to control after he leaves. Attorney Carter stated they will keep the windows closed and Mr. Raymond Roy will speak to each entertainment group prior to their performing about noise issues. They will look into more soundproofing. Officer Maher stated that in the past they have not looked at capacity for each room – the one with all the windows has a capacity of 35-38 and they are well OVER that on many nights. If the capacity is enforced maybe that room would not get so warm and need the windows to be opened.

Steven Roy came forward saying he graduated BHS 1999; he is the manager at night. He has tried very hard whenever the police have brought up issues. He said his dad also owns Salty's in Yarmouth. He and the other manager are in 7 days per week. He is trained; he stated the one time the windows were open he was unaware of it – regarding the sound situation, he has come to understand the bands do create noise – he has told them they can be fined \$100 per band member by the police. They stopped the bands Friday nights which has affected their business. He further stated that nothing has fallen on deaf ears – he stated he is very aware of the problems. He stated he is all about food – the food is first and the rest second. He feels he is doing a very good job. He does not drink while at work and is aware of who is coming in and out.

His customers had requested the band which caused the problems and they have now stopped inviting that band.

Raymond Roy spoke up because he felt this is a personal attack. He has been in the business for 30 years. He is very proud of his management team. They have all been certified more than any other team in the area. He stated 40 of his total employees go to specialized training. Raymond Roy thinks it is unfair for him to be targeted because his hours are different than Officer Maher's hours. There IS a manager on duty at all times. He remembers last year Officer Maher commended Steven Roy as trying to work closely with the police. The entertainment once went over by 5 minutes and they were issued a warning. They were in support of the 12:45 closing of entertainment to help the police department. They will be open next year but feels the Town restrictions are very strict. He does not understand why we would want the manager on the license changed; Yarmouth has PIC's – "persons in charge."

Mr. Hoxie stated the noise violations are the responsibility of the licensee. The problem is noise and the problem of lack of supervision is that the noise still continues after they have been spoken to over and over again.

Mr. Hoxie stated he would like to continue this hearing at present. Attorney Carter said they will take the time to address the noise issues prior to the next hearing. Mr. Burman states this seems like a recording of the last time Mr. Eaton complained and had noise problems. Yet it continues. Mr. Burman thinks the problems are magnified as the location is run as a nightclub later in the evenings. Mr. Sullivan stated it bothers him that Mr. Roy would think Officer Maher is singling them out or treating them unfairly. He also said it is key for them to pay attention to what type of entertainment has caused the problems.

The season starts up in April so Chairman Hoxie asked that they communicate with the police department in the interim. Mr. Hoxie asked to continue this for a date specific to address at that time. Mr. Hoxie continued the hearing until May 18, 2009. Mr. Burman made the motion and Mr. Sullivan seconded it and there was a unanimous vote to continue the hearing to May 18, 2009.

Renewals:

The following renewals have been submitted without any changes from the previous year for Licensing Authority approval.

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Common Victualler All Alcohol renewals as submitted below:

Common Victualler All Alcohol:

Alberto's Ristorante

Jack's Lounge
Wimpy's
Hyannis Golf Club
The Dolphin
Barnstable Restaurant and Tavern
Outback Steakhouse
The Dragonlite
Fazio's
The Dolphin
Kobi House
The Olive Garden
Shanghai Chinese Restaurant
Wianno Grill

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Common Victualler Wine & Malt renewals as submitted below:

Common Victualler Beer & Wine:

Craigville Pizza & Mexican
Café at the Airport
Golden Fountain
New England Pizza House #1
The Original Gourmet Brunch
Ying's

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Club All Alcohol renewals as submitted below:

Club All Alcohol:

Oyster Harbors Club
Hyannis Yacht Club

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Innholder All Alcohol renewals as submitted below:

Innholder All Alcohol

Cape Cod Inn
Cape Codder
Heritage House Restaurant
International Inn

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the General on Premises All Alcohol renewals as submitted below:

General on Premises:

Dennis F. Thomas Post #2578 VFW

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Package Store All Alcohol renewals as submitted below:

Package Store All Alcohol:

Barnstable Bottle Shoppe
Barnstable News Store
Blanchard Liquors
Cape Cod Package Store
Cotuit Grocery
Cotuit Liquors
Craigville Package Store
Fancy's Farm Market
Hyannis Package Store
Luke's Super Liquors
Osterville Package Store
Parker's Discount Liquors
Seven G's Liquor Shoppe
Willow Package

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Package Store Wine & Malt renewals as submitted below:

Package Store Wine & Malt:

Big Daddy's Pizza
Christy's of Cape Cod
Mini Food Mart
Sea Street Market
The Wine List
Willow Tree Market

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Daily Live Entertainment renewals as submitted below:

Daily Live Entertainment:

Alberto's Ristorante
Border's
Oyster Harbors Club
Hyannis Golf Club
Barnstable Restaurant & Tavern
Cape Cod Inn
Cape Codder
Hyannis Yacht Club
Heritage House Restaurant
International Inn
Dennis F. Thomas Post #2578 VFW

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the **Daily Non-Live Entertainment renewals** as submitted below:

Daily Non-Live Entertainment:

Alberto's Ristorante
Jack's Lounge
Regal Cape Cod Cinema 12
Craigville Pizza & Mexican
Hyannis Golf Club
Barnstable Restaurant & Tavern
Cape Codder
Dennis F. Thomas Post #2578 VFW
New England Pizza House #1

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the **Sunday Entertainment renewals** as submitted below:

Sunday Entertainment:

Alberto's Ristorante
Jack's Lounge
Regal Cape Cod Cinema 12
Border's
Craigville Pizza & Mexican
Oyster Harbors Club
Hyannis Golf Club
Barnstable Restaurant & Tavern
Cape Cod Inn
Caper Codder
Hyannis Yacht Club

Heritage House Restaurant
International Inn
Dennis F. Thomas Post #2578 VFW

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the **Automatic Amusement/Video Games renewals** as submitted below:

Automatic Amusement/Video Games

Jack's Lounge
Regal Cape Cod Cinema 12
Craigville Pizza & Mexican
Cape Codder
New England Pizza House #1

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Class I Auto Dealer renewals as submitted below:

Class I Auto Dealers:

Ford of Hyannis
Land Rover Cape Cod
Hyannis Honda

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Class II Auto Dealer renewals as submitted below:

Class II Auto Dealers:

Capewide Auto & Marine II
Willow Street Motors
Harbor Auto Sales
Brico Autoworks
Capewide Auto & Marine II
Willow Street Motors
Harbor Auto Sales
Cape Motors
Jack Ellis Foreign Auto
Cars for Kindness
Hyannis Honda Body Shop
Liberty Motors

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to continue the Class III Auto Dealer renewal as submitted below to its 12/29/08 hearing:

Class III Auto Dealer

Blackburn's Auto Salvage

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

Lodging Houses:

Green Mountain Inn B&B
Beechwood Inn
Acworth Inn
Lamb & Lion
Bursley Manor
High Pointe Inn
The Hillcrest B&B
Yarmouth Road Lodging House
Edmund J. Flynn
Craigville Beach House
Walker Lodging House (on for approval today as well)

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Common Victualler renewals as submitted below:

Common Victuallers:

The Mills Restaurant
Noah's Wrap
Willow Tree Market
Katie's Ice Cream
Aegean Pizza
Ship's Belle
Panera Bread
Egg & I
Border's
Craigville Beach Grill
Casual Gourmet
Casual Gourmet Express
Barnes & Noble
Craigville Beach Assn Snack Bar
McDonald's – 654 Route 132
McDonald's – CC Mall Unit F111

McDonald's – 175 North Street
White Hen Pantry – 2946 Falmouth Road
Sunnyside Restaurant
Wendy's
Cape Cod Chocolatier
Little Sandwich Shop
Kennedy Rink Snack Bar
Cape Cod Chicken
Village Landing Restaurant
The Barnacle
Hot Diggity Dogs
Common Ground
Spiritus Pizza
Brown Bag Bagels
Amandine

A motion was duly made by Mr. Burman and seconded by Mr. Sullivan and a unanimous vote taken to approve the Cinema/Theatre renewal as submitted below:

Cinema/Theatre:

Regal Cape Cod Cinema 12

Business Meeting:

Junk Dealer Regs changes – advertise and put on for 1/12/09.

Show Cause Hearings to be put on 1/12/09 for Class II Auto dealers with too many vehicles.

Discussion of Board on 12/29/08 as to suspension penalties.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority