



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.

September 21, 2009

A regular meeting of the Barnstable Licensing Authority was held on Monday, September 21, 2009. Acting Chairman Gene Burman called the meeting to order at 9:30 A.M. He introduced Paul Sullivan, Clerk; Dick Boy, Associate Commissioner, Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recorder. Chairman Martin Hoxie and Tom Geiler were absent.

Hearings:

7 One Day Beer & Wine Licenses and 7 One Day Entertainment Licenses:

Application of Pamela Brimmer on behalf of the German-American Club of Cape Cod, P.O. Box 187, Hyannis, for 7 One Day Beer & Wine and 7 One Day Entertainment Licenses for their non-profit dinner dances at the Fraternal Lodge, Route 28, Centerville, MA on the following dates, all from 5:30 pm to 10:30 pm: 10/10/09, 12/12/09, 1/9/10, 2/13/10, 4/10/10, 5/8/10 & 6/14/10.

Former President and Board Member Charles Fernhofer appeared for the applications. There are seven events. These have been held a number of years. Last year they could not have them. They cater to the mature set.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Pamela Brimmer on behalf of the German-American Club of Cape Cod, P.O. Box 187, Hyannis, for 7 One Day Beer & Wine and 7 One Day Entertainment Licenses for their non-profit dinner dances at the Fraternal Lodge, Route 28, Centerville, MA on the following dates, all from 5:30 pm to 10:30 pm: 10/10/09, 12/12/09, 1/9/10, 2/13/10, 4/10/10, 5/8/10 & 6/14/10. Mr. Burman added that they must obtain their alcohol from a licensed wholesaler.

They are hosting an international event in November in Yarmouth.

One Day Beer & Wine License: Application of Mary DeBartold, 30 Champlain Road, Orleans on behalf of Slow Food of Cape Cod, at Cape Cod Organic Farm, 3675 Main

St., Barnstable, for a One Day Beer & Wine License on Sunday, September 27, 2009 from 3 pm to 6 pm.

Mary Lynn Kilely appeared for the application. It is a celebration of harvest. On Sunday the closing element of the celebration is a farm to table dinner at which they want to serve beer and wine. It is a fund raising event. The dinner is \$75. for five courses (there are 7 chefs participating).

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Mary Lynn Kiley, 30 Champlain Road, Orleans on behalf of Slow Food of Cape Cod, at Cape Cod Organic Farm, 3675 Main St., Barnstable, for a One Day Beer & Wine License on Sunday, September 27, 2009 from 3 pm to 6 pm.

New Junk Dealer License: Application of Framco Inc., d/b/a Jewelcraft, 585 Main Street, Hyannis, Gary Framson, Manager, for a new Junk Dealer License, hours of operation to be 10 am to 6 pm.

Gary Framson appeared. He has been doing business as a retail jeweler for 34 years. He said that he will be buying gold. Mr. Burman asked about him being familiar with the regulations. The license should read until 9 pm 10 – 9 and it is 10-6 after summer ends. It is 7 days per week. Mr. Burman stated that the legislature names this license – it is the same license held by fine jewelers.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Framco Inc., d/b/a Jewelcraft, 585 Main Street, Hyannis, Gary Framson, Manager, for a new Junk Dealer License, hours of operation to be 10 am to 6 pm off season and 10-9 in season, all 7 days per week.

New Junk Dealer License: Application of Julie Fagin, d/b/a Goldfinger, 64 Enterprise Road, Hyannis, MA, Julie Fagin, Manager, for a Junk Dealer License, hours of operation 10 am to 5 pm, Monday to Saturday.

Julie Fagan appeared for Goldfinger – they have been in business since the early 70's. They have been on Enterprise Road for 8 years. They are now buying gold and want to be able to do so properly. Mr. Burman asked for comments. There were none.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Julie Fagin, d/b/a Goldfinger, 64 Enterprise Road, Hyannis, MA, Julie Fagin, Manager, for a Junk Dealer License, hours of operation 10 am to 5 pm, Monday to Saturday.

Change of Manager: Application of Pacific Bay, Inc., d/b/a Tiki Port, 712 Iyannough Road, Hyannis, MA, Dong P. Wong, Manager for a **Change of Manager on the All Alcohol Common Victualler License** to Wai Fai Mah.

Mrs. Wong appeared for the application. She is the widow of the prior manager. The new manager has been with the restaurant for over 30 years. Mr. Burman asked for comments. There were none.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Pacific Bay, Inc., d/b/a Tiki Port, 712 Iyannough Road, Hyannis, MA, Dong P. Wong, Manager for a **Change of Manager on the All Alcohol Common Victualler License** to Wai Fai Mah.

New Lodging House: Application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 80 Yarmouth Road, Hyannis with 8 rooms, 10 lodgers maximum.

Mr. Bourgeois appeared for his application. Ms. Ade confirmed that Building and Health have approved 8 rooms and 10 lodgers. Mr. Bourgeois stated he is putting his heart and soul into these properties. Mr. Sullivan asked about the 2 extra people for the lodging rooms. One of the rooms is two people. Mr. Sullivan confirmed with Ms. Ade that building and health have approved these. Ms. Ade added that

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 80 Yarmouth Road, Hyannis with 8 rooms, 10 lodgers maximum.

New Lodging House: Application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 18 Quaker Road, Hyannis with 6 rooms maximum.

Christine Ade informed the Board that according to Tim O'Connell, Health Inspector and Ralph Jones, Building Inspector, they have inspected the 6 rooms and would allow a maximum of 7 lodgers.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 18 Quaker Road, Hyannis with 6 rooms, 7 lodgers maximum.

New Lodging House: Application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 164 Main Street, Hyannis with 4 rooms maximum and 6 lodgers.

Christine Ade informed the Board that according to Tim O'Connell, Health Inspector and Ralph Jones, Building Inspector, they have inspected the rooms and there are existing only 4 rooms and they would allow 6 lodgers maximum.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 164 Main Street, Hyannis with 4 rooms and 6 lodgers maximum.

New Lodging House: Application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 156 Main Street, Hyannis with 15 units maximum and 24 lodgers.

Christine Ade informed the Board that according to Tim O'Connell, Health Inspector and Ralph Jones, Building Inspector, they have inspected the rooms and there are 15 units, not 10 and they would allow a maximum of 24 lodgers.

Lt. Jason asked about a manager being on premises; Mr. Bourgeois stated there is. Things are changing radically for the better according to Mr. Burman, whose office is next door.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Our Child LLC, d/b/a Bass River Properties, Ronald Bourgeois, Manager for a new Lodging House License at 156 Main Street, Hyannis with 15 units and 24 lodgers maximum.

New Junk Dealer License: Application of Marat Hunanyan, d/b/a More for Less, 640 Main Street (first floor middle), Hyannis, MA, Marat Hunanyan, Manager, for a Junk Dealer License, hours of operation 10 am to 6 pm.

Mr. Hunanyan appeared for the application for 7 days per week., 10 am to 6 pm. Marat is the owner of the store. They were open for 3 months and found out they needed a license to operate. It is a consignment shop. It is not just furniture. Mr. Sullivan stated this is a new operation and wanted to make sure they have the new regulations for junk dealers. He has no employees. He has been closed almost 2 months waiting for this hearing.

Sgt. John Murphy gave a brief background. On 8/12 they served a search warrant for receiving stolen property. Brewster and Yarmouth told them they were buying GPS, cell phones, video games, etc. and observed Marat purchasing a cell phone in a parking lot. Based on a search warrant lots of items were identified as stolen property. He stated the investigation is still active. He is not opposing the license; just wants to make sure he complies with the regulations and understands them. Det. Sgt. Murphy referred to a packet provided at the meeting to the commissioners about stolen goods. Selling 19 GPS units (a 19 year old) should have raised some red flags with the owner. They are being cooperative and assisting the BPD. Sgt. Murphy asked for a continuance to the next hearing so he can oppose it or approve it. By then the criminal matter should be resolved. Mr. Sullivan was not aware of the background – has not had a chance to look at the paperwork but agrees to the continuance until 10/5/09.

Sgt. Murphy stated that because of the Shriver and Kennedy funerals and the Pufferbellies shooting he would request the meeting be continued to 10/26. Mr. Sullivan stated in no way does he want to move forward without Sgt. Murphy's recommendations. Mr. Burman asked if it is his opinion that the problems were caused by lack of knowledge rather than intent? Sgt. Murphy stated that this place came to their attention because of a rash of breaking into cars and sales and advertising on Craigs List of similar items by More for Less.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to continue the application of Marat Hunanyan, d/b/a More for Less, 640 Main Street (first floor middle), Hyannis, MA, Marat Hunanyan, Manager, for a Junk Dealer License, hours of operation 10 am to 6 pm to October 26, 2009 so that the police department can make a recommendation.

Ms. Ade advised the board that this individual did pass the CORI check which is now being conducted on all new junk dealer applicants.

Pledge of Annual All Alcohol Common Victualler License & Change of Manager:

Application of Colombo's Café & Pastries, Inc., d/b/a Colombo's, 544 Main Street, Hyannis, David Colombo, Owner, for a Pledge of the Common Victualler All Alcohol License to The Community Bank, 1265 Belmont Street, Brockton, MA, and Change of Manager to Thomas J. Fantom.

Mr. Fantom and Mr. Colombo appeared for this application. Dave Colombo as owner stated he is here for the pledge to Community Bank and for change of Manager to Mr. Fantom, who has been with them since the day they opened. He works one day and five nights. He has shown professionalism and respect. He respects the law and plays by the rules. They are confident in his managing skills. He has been pouring a long time. He [personally serves about 70% of the alcohol in the restaurant.

No questions were posed to the applicant.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Colombo's Café & Pastries, Inc., d/b/a Colombo's, 544 Main Street, Hyannis, David Colombo, Owner, for a Pledge of the Common Victualler All Alcohol License to The Community Bank, 1265 Belmont Street, Brockton, MA.

A second motion made to approve the Change of Manager to Thomas J. Fantom, which was also duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the Change of Manager to Thomas J. Fantom.

New Annual All Alcohol Common Victualler, Daily Non-Live and Sunday

Entertainment Licenses: Application of New Barolo, Inc., d/b/a Barolo, 297 North Street #2, Hyannis, MA, Thomas J. Lapsley, Manager, for a New Annual All Alcohol

Common Victualler, Daily Non-Live and Sunday Entertainment Licenses. Continued from 8/17/09.

Attorney Ron Jansson appeared for this application. Gene Burman read the application. He stated that both he and Dick Boy served with Mr. Jansson on the Zoning Board and there is no collusion or conflict of interest. He asked the public to come forward if it believed there was a conflict. No-one came forward. Mr. Tom Lapsley appeared with his so he could answer any questions. Attorney Jansson stated he had presented the Board with a spiral notebook. Mr. Burman stated that with the advice of Town Counsel he wanted to continue this application as being confusing. He would like our Director of Regulatory Services present. Mr. Burman recommended it be continued to October 5. Attorney Jansson stated the original application was made by New Barolo. He would like to submit new hours to the Board of opening at 4 pm rather than noon until 1 am daily. He advised that nothing else had changed from the original application except that they amended question 14 on the ABCC form. Paul Sullivan stated that all entertainment, old and new, has been standardized to end at 12:45 not 1:00 am.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to continue the application of New Barolo, Inc., d/b/a Barolo, 297 North Street #2, Hyannis, MA, Thomas J. Lapsley, Manager, for a New Annual All Alcohol Common Victualler, Daily Non-Live and Sunday Entertainment Licenses to the October 5, 2009 Hearing to 10/5/09.

New Annual Common Victualler License: Application of Joe Jamiel – Celebrity Liquors, d/b/a Ardeo at the Rink, 141 Bassett Lane, Hyannis, MA, Marshall DiCarlo, Manager, for a **New Common Victualler License** at the skating rink, the hours of operation to be 2:00 pm to 8:00 pm.

Mr. Jamiel appeared for the application, which is a daily license. Saturdays and Sundays it is 6 am opening – Mr. Burman suggested it be changed on the license. Mr. Jamiel has stated he is very happy to be a part of the Community Center. Mr. Burman indicated his corporate name is Celebrity Liquors and wanted to make it clear this was not a license including alcohol. Mr. Jamiel stated that is his corporate name for 30 years and he does not want alcohol. Mr. Sullivan stated this is one off the most professional applications we have seen.

Lynne Poyant, Director of Community Services, stated that Mr. Jamiel participated in the RFP process for this concession. She stated this will be a spectacular addition to the new facility.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Joe Jamiel – Celebrity Liquors, d/b/a Ardeo at the Rink, 141 Bassett Lane, Hyannis, MA, Marshall DiCarlo, Manager, for a **New Common Victualler License** at the skating rink, the hours of operation to be 2:00 pm to 8:00 pm, and Saturday and Sunday from 6 am.

Alteration of Premises: Application of Tommy Doyle's of Hyannis LLC, d/b/a Tommy Doyle's, d/b/a Tommy Doyle's Irish Restaurant & Pub, 334 Main Street, Hyannis, MA, Jason Irving, Manager, for a change in license description to add the following: "Outside dining in front of the restaurant for 5 tables and 20 seats," and amendment of its Automatic Amusement Device License for 3 additional video games.

Jason Irving, Manager, appeared for the application. Christine Ade asked that the additional request be read into record for amendment to the Auto Amusement License to add 3 video games. Mr. Irving stated the outside dining will be contained. In addition to the video games he is asking for air hockey and a pool table.

Christine Ade stated they would have to request the pool table license at another hearing – it is a separate license.

Officer Maher asked what times the outside dining would operate – it will be until closing for the alcohol but 10 pm for food.

Officer Maher stated several other establishments go to 1 am with alcohol on Main Street.

Mr. Burman asked if they are a restaurant or a nightclub? Mr. Irving stated right now they are busier for alcohol but they are planning to improve the proportion of food sales. Mr. Sullivan asked the percentage of alcohol to food – he stated it is approximately 70% /30%. Officer Maher proposed an earlier alcohol closing time as there are so many people. Mr. Irving stated they monitor very heavily with cameras, etc.

Officer Maher stated there is a potential for misuse of this area late at night. Mr. Burman stated it is not easy to control the area late at night with so many people. Mr. Burman asked about the pool table he mentioned; Mr. Irving stated they might not even go forward with that application. The change of seating would also apply if the pool table was added – it would diminish the capacity for the restaurant. Their back outside area does serve until 1 am now. Mr. Sullivan stated that if they have the back one until 1 it would be a good idea to close the front one at 11. Mr. Irving stated the front one is more for dining anyways. He has no problem with 11 closing for this patio.

Mr. Burman is concerned with the capacity issue – the additional 20 seats outside would not be in addition to the seats inside...so the capacity remains the same. Officer Maher stated he needs to make sure in inclement weather that the inside stays small enough so the outside people could come in and not exceed the total. The jukebox shows videos as well.

A motion was duly made by Paul Sullivan, seconded by Dick Boy and a unanimous vote taken to approve the application of Tommy Doyle's of Hyannis LLC, d/b/a Tommy Doyle's, d/b/a Tommy Doyle's Irish Restaurant & Pub, 334 Main Street, Hyannis, MA, Jason Irving, Manager, for a change in license description to add the following:

“Outside dining in front of the restaurant for 5 tables and 20 seats to be from 11 am to 11 pm,” and 2 video games, a jukebox and an air hockey game.

Show Cause Hearing: 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 premises may be conducted in such a manner that the noise from the entertainment can be heard outside the boundaries of the premises.” Continued from 5/18/09.

Raymond and Steven Roy appeared for the continued Show Cause Hearing.

Officer Maher stated that there have been no problems with Fresh Ketch. Raymond Roy stated they did away with their bands – all they did was karaoke all season. They did this as that was what the board had asked in May. They requested the hearing be dismissed at this time.

Mr. Sullivan directs it to Steve; he had a long list ending October 2008. He had a different opinion on what he would do today until he heard testimony today. Officer Maher stated there have been no issues with Fresh Ketch. The hearing was continued in the first place just to see how it went during the summer.

A motion was made by Mr. Sullivan to dismiss this. Mr. Burman stated he would like to see us file the charges for now and take no action. Officer Maher stated that it was continued to date because there were so many charges he recommends findings of guilty but no penalties imposed as the restaurant has cooperated so well with the BPD.

Mr. Sullivan proposed findings of guilty on all of the above violations. That the police had made the manager aware of the complaints but they continued over that period of time. The motion was seconded by Dick Boy and a unanimous vote taken to find them guilty of the findings.

A motion was made by Paul Sullivan that the findings above be placed on file and no penalties be imposed on the findings. This was seconded by Dick Boy and a unanimous vote taken to issue no penalties and file the charges.

Business Meeting:

ABCC Seminars for Licensing Boards in October. Get count of attendees to register on-line. Lt. Jason, Officer Maher, Dick Boy and Christine Ade as well as Tom Geiler plan to attend. Martin Hoxie, Gene Burman and Paul Sullivan cannot attend.

A complaint was filed on a Class II Auto Dealer for a possible Show Cause Hearing. The BPD will look into it and the Board will read the paperwork – Lt. Jason stated this is a civil matter and perhaps the problems could be noted in the file and the license not automatically renewed for next year. Christine Ade represented that the complainant only wanted this known to the Authority so that if the dealer did not pay him as he promised to do that he could represent to him that he had made a formal complaint to the Authority - hoping that it would give him some leverage in getting satisfaction.

Motion by Paul Sullivan to adjourn at 10:48 am. Seconded by Dick Boy.

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority