



Town of Barnstable

Regulatory Services

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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.

January 10, 2011

A regular meeting of the Barnstable Licensing Authority was held on Monday, January 10, 2011. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Lt. JoEllen Jason and Patrolman Steve Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary. Paul Sullivan, Clerk was absent. Thomas Geiler, Director of Regulatory Services and Licensing Agent, was delayed; Ed Maroney from the Barnstable Patriot advised that he was stuck in the elevator. Luckily, he appeared moments later safe and sound.

Hearings:

One Day All Alcohol License and One Day Entertainment License: Application of William H. Sykes on behalf of Best Buddies International, 100 SE 2nd St., Suite 2200, Miami, FL for its annual Best Buddies charitable event to be held in a structured tent at 1014 Craigville Beach Road, Centerville, MA on June 4, 2011 from 12 pm to 9 pm, requiring a One Day All Alcohol License and a One Day Entertainment License for a band for

Mr. Sykes appeared for Best Buddies application. This event has been very successful in past years – raised millions of dollars for charity & hopes to do even better this coming year. It is named Eunice Kennedy Shriver Ocean Park now. The alcohol will be only at the Kennedy lot. They have private security preventing people from carrying alcohol across the street .

Mr. Burman suggested it be changed to 11 am so they have some setup time.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken to approve the application of William H. Sykes on behalf of Best Buddies International, 100 SE 2nd St., Suite 2200, Miami, FL for its annual Best Buddies charitable event to be held in a structured tent at 1014 Craigville Beach Road, Centerville, MA on June 4, 2011 from 11 am to 9 pm, requiring a One Day All Alcohol License and a One Day Entertainment License for a band.

One Day Entertainment License: Application of Diane Wood-Bielski on behalf the Highland Light Scottish Pipe Band, 56 Holly Tree Lane, Middleboro, MA for a One Day Entertainment License for a bagpipes, fiddles, Irish Step Dancers performance on Saturday, March 12, 2011 at the West Villages Elementary School from 7 pm to 9:30 pm with set up at 5 pm and cleanup to 10 pm.

Ms. Wood-Bielski appeared for the Highland Light Scottish Pipe Band. It is a Cape Cod Band; she lives in Middleborough. This is their largest fundraiser – they are a non-profit providing for education and lessons in music and the Celtic arts. \$10 in advance, \$13 at the door.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken to approve the application of Diane Wood-Bielski on behalf the Highland Light Scottish Pipe Band, 56 Holly Tree Lane, Middleboro, MA for a One Day Entertainment License for a bagpipes, fiddles, Irish Step Dancers performance on Saturday, March 12, 2011 at the West Villages Elementary School from 7 pm to 9:30 pm with set up at 5 pm and cleanup to 10 pm.

Common Victualler License: Application of H&S Entertainment, LLC, d/b/a Sally & Harry's, 350 Stevens Street, Hyannis, for permission to open as a restaurant without alcohol (already approved by the Licensing Authority for a Common Victualler All Alcohol License (which was resubmitted to the ABCC January 3, 2011) during the timeframe between this hearing and the approval of the ABCC.

Mr. Mitrokostas appeared for this application. They at least want to get open after extensive renovations – get the kitchen running and cover some costs.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken to approve the application of H&S Entertainment, LLC, d/b/a Sally & Harry's, 350 Stevens Street, Hyannis, for permission to open as a restaurant without alcohol (already approved by the Licensing Authority for a Common Victualler All Alcohol License which was resubmitted to the ABCC January 3, 2011) during the timeframe between this hearing and the approval of the ABCC.

He advised that he also wishes to change its d/b/a to Dina's. Mr. Geiler stated he must file an application, get the new business certificate, etc. He can go ahead with that but there should be no reason not to approve it in the interim. It is only with the liquor licenses that they require approval ahead. Mr. Mitrokostas stated they have signs and the name is on the awning, and said he did not think it was a big process to do this but now has been told it requires advertising and approvals. Mr. Hoxie asked that it be scheduled for 1/31/11. Mr. Geiler asked him if he had the Health Dept. approval – he stated it is in process and should be wrapped up today or tomorrow. Then he will be all set to go. There were some plumbing issues.

New Location – Junk Dealer License: Application of Cape Abilities, Maggi Tyson, Manager, for a change of location of its Annual Junk Dealer License from 3284 Route 6A to 3239 Main Street, Barnstable, MA (continued from 12/6/10).

They did not appear for the third hearing. It will be put on again for 1/31/11 and they will be told they MUST appear and in fact do not have a license at present.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken to continue the application of Cape Abilities, Maggi Tyson, Manager, for a change of location of its Annual Junk Dealer License from 3284 Route 6A to 3239 Main Street, Barnstable, MA to 1/31/11.

Correction to Class II Auto Dealer License: Xiaphias Enterprises, Inc, d/b/a Hyannis Honda Annex, approved on 12./6/10 for a Class II Auto Dealer License, at 405 West Main Street, Hyannis, for 52 vehicles maximum, to change the number of vehicles allowed to 43 and remove 67 Shady Lane from the licensed premises.

Mr. Geiler stated that the lot is divided by the zoning boundary – it has the benefit of non-conforming status for sale of autos. Everyone needs to be aware that the back lot if not used for 3 years reverts to residential. Mr. Goodwin stated they will move quickly on it. As a condition of the license there will be planters in front to keep the sidewalk from being blocked. No pedestrians should have to go into the street because the sidewalk is blocked. Mr. Goodwin agreed.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken approve the changes to the original approved plan to 43 vehicles and removal of 67 Shady Lane from the license description.

Show Cause Hearing: A Show Cause Hearing has been called at the request of the Barnstable Police Department which has reported to the Licensing Authority that Pufferbellies, 183 Rear Iyannough Road, Hyannis, Michael Travers, Manager, violated the Rules and Regulations of the Licensing Authority, Chapter 501, Sections 501-8A and 501-8C between December 9, 2009 and December 9, 2010 on numerous occasions.

Mr. Travers, Manager, appeared to represent the licensee.

Ptl. Steve Maher presented the case for BPD. He stated that he has been assigned to investigate problems with Licensing Authority licenses for the past 3 years. This restaurant has had problems – over 103 calls logged since 2009; JUST the calls relating to the establishment. 53 were initiated by the police department; as security checks. 46 resulted in police interaction. Vandalism, disruptive behavior, fights, B&E's, assaults with and without weapons, etc. This establishment has become a problem for the police department – over 100 man hours spent at that property. Officer Maher suggested a suspension of the entertainment license for a period of time.

Mr. Hoxie asked if they have been cooperative. Officer Maher stated they have been cooperative. He wants to send a message to the patrons at this location and other licensees that there will be repercussions for this type of behavior.

Mr. Burman asked what has or is being planned to rectify the situation.

Mr. Travers, Manager of Pufferbellies, said they are constantly adapting and changing their security to suit the situations they may have each night. They are a diverse club. They do take patron and staff safety very seriously. He stated they have maintained good communication with BPD.

Mr. Burman asked how much of the exterior parking area they control – Mr. Travers stated they control either side and if patrons are across the street, they patrol that also. Mr. Burman asked what they do to control the crowds. Mr. Travers stated if it is a large crowd they try to let them out a few at a time, not all at once. Lighting was installed in the parking lot also; they have regular patrols on nights they think there may be an issue – looking for loitering, weapons, etc. The patrol people have security badges & jackets to identify themselves.

Mr. Hoxie asked if the type of events (music) contribute to the problems – Mr. Travers said he thinks it does; they try to stay away from the worst types of crowd draws. They are open Fridays and Saturdays with the entertainment. Mr. Hoxie asked if it is advertised off the Cape? Mr. Travers stated sometimes it is; they try to monitor where the advertising will be but have run into issues when the club is rented out as a hall – advertising may happen off the Cape.

Mr. Hoxie asked how many security people they have on a typical Friday or Saturday night? Mr. Travers said anywhere from 4 to 20 depending on the type of entertainment. The security force are mostly local people.

Mr. Burman stated this club has been a bit of a problem since it opened, a great source of police calls. He stated that when Mr. Travers took over it looked like it would be better...

Mr. Travers stated they will continue to try to improve their security and always cooperate with the police. Because it is a main traffic area and large lot, there tend to be some people who may or may not even come in the club, yet they show up at the end of the night outdoors and cause problems. It is usually 1-2 people causing the problems, but the severity of what they are doing raises a big concern.

Mr. Burman would like them to have some meetings with Steve (Maher of BPD) to improve this situation – how the security people are working, etc. He was hoping it could be handled. In the past Officer Maher stated they have met with them and are willing to meet with them at any time. But so many calls to this location are too much. Mr. Hoxie asked if any violations have to do with alcohol violations – they do

not stated Officer Maher. He stated they do a great job in the building; the problem is the numbers and the young people outside just don't care. He stated it is the hip-hop rap entertainment drawing the bad people. BPD asks for an immediate 7 day suspension.

Mr. Geiler asked how often they rent the hall out? Mr. Travers stated once or twice a month. He then asked whose staff is on duty – it is the Pufferbellies staff stated Mr. Travers. They aren't renting anything to do with the alcohol or policing; just the premises and providing the entertainment. Mr. Geiler stated it sounds like what they are doing is illegal – clearly his corporation is the only one authorized to conduct activities at this site. Mr. Geiler asked if there are still underage nights – Mr. Travers stated teen nights are still held but do not have any problems. They do have some 21 plus shows.

Mr. Burman commented that we are taking this very seriously. It has nothing to do now with capacity, but were this to come back before the Board, he would consider cutting back capacity and a much harsher punishment. Mr. Hoxie stated that the entertainment and frequency of incidents involving police, this Authority would perhaps hold a hearing to decrease hours of operation to 11 pm alcohol service if these incidents continue and wants to see an ongoing dialog with BPD.

Mr. Geiler stated they might work out changes to their business plan to eliminate the need for so much police response. There are ways of doing that so this place can have a future. Maybe the Licensing Authority could then look at that plan so they do not have to be back before it. It is the largest facility in Town and draws people from all over year around. There is a reason to improve it to keep it viable but is the licensee's responsibility.

Mr. Burman asked if possibly a list of the entertainers could be presented to the Licensing Authority – Mr. Travers stated it goes to BPD. Mr. Geiler stated we do not need it. A lot of it is last minute and would not be feasible. How would our offices be able to judge an act in the first place? The BPD can look at it and judge. He knows there is dialog going on between this licensee and BPD and is sure if we work together we can make it a place that can continue. Just a 7 day suspension may not fix it. We need to put more on paper.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken for findings that: regarding the charge of violation of the Code of the Town of Barnstable Licensing Authority, Chapter 501-8A & 8C between 12/9/09 and 12/9/10 and the other violations listed, that there is specific notice that there have been violations.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken that the licensee is guilty as charged.

Mr. Geiler asked if they have games...they do not. So the live entertainment is the entertainment suspended. Officer Maher asked for suspension of both live and non-live entertainment. Mr. Travers stated they have a DJ. Mr. Geiler asked if they have games...they do not.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken for the following sanctions: that the entertainment licenses (live and non-live) be suspended for seven days starting today, January 10, 2011.

Renewals:

The following late-filed 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. Hoxie and a unanimous vote taken to approve the Class II Auto Dealer renewals as submitted below:

Class II Auto Dealers:

Davis Auto Sales
Brico Autoworks
Auto Wholesalers of Cape Cod

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

Common Victuallers:

Acai Berry Juice Bar (licensee requested approval be rescinded from 12/27 hearing; now not renewing). Mr. Geiler stated it is a corporation with two parties – one agreed to renew and one did not. The business is in limbo and is not eligible to be renewed. We have spoken to their attorneys and told them what needs to be done to fix it.

Burger King #17712
Maria Preta Cafe
Ardeo at the Rink
Common Ground
Freshens of Cape Cod
The Egg & I
Box Lunch

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

Lodging House:

Walker Lodging House
Yarmouth Road Lodging House
Saltwinds B&B

Business Meeting:

Discussion of Board regarding Annual Common Victualler All Alcohol license not paid for or picked up prior to 12/31/10. Mr. Geiler stated they need to be notified that (a) Have not paid license fee and (b) have closed without permission – an annual licensee.

A motion was duly made by Mr. Burman and seconded by Mr. Hoxie and a unanimous vote taken to advise the licensee that they need to pay for the licenses renewed, and explain why they did not request to be closed at a hearing as required.

It was brought up that Pavilion Indian Cuisine bounced a check on Common Victualler All Alcohol License for real estate taxes to bring within 1 year of current – notification by Tax Collector 1/4/11 of bounced check. Our license cannot be issued if taxes more than 1 year in arrears. Mr. Geiler asked BPD to stop there and advise them their license is not valid until good funds are received by the Tax Collector's office.

Ptl. Maher request from BPD to bring Ying's Sushi Bar & Lounge in for a Show Cause Hearing on 2/14/11.

The meeting was adjourned by Mr. Hoxie at 10:20 until the next scheduled hearing of 1/31/11.

Respectfully submitted,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Gene Burman, Vice-Chairman
Town of Barnstable Licensing Authority