



**Town of Barnstable
Regulatory Services
Thomas F. Geiler, Director
Licensing Authority
200 Main Street
Hyannis, MA 02601
www.town.barnstable.ma.us**

Telephone: (508) 862 - 4674

Fax: (508) 778 - 2412

**BARNSTABLE LICENSING AUTHORITY
LICENSING HEARING MINUTES
Town Hall Building, 367 Main Street, 2nd Floor Hearing Room, Hyannis, MA –
May 2, 2011 - 9:30 a.m.**

A regular meeting of the Barnstable Licensing Authority was held on Monday, May 2, 2011. 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 Katie Donahue, Recording Secretary.

Hearings:

One Day Beer & Wine License and One Day Entertainment License: Application of Irina MacPhee on behalf of West Barnstable Civic Association, P.O. Box 243, West Barnstable, for a One Day Beer & Wine License and a One Day Entertainment License for a Wine Tasting & Social to be held at Pastiche, 1595 Main Street, West Barnstable, on June 18, 2011 from 5 pm to 8 pm, with a jazz ensemble for entertainment. The event will be all outdoors under a tent, and is a fundraiser for the civic association and a scholarship for college/post secondary education, donation to grounds and structure or educational programs at Barnstable-West Barnstable Elementary School and to finance and support some recycling efforts at the Community Building and surrounding yard.

Fred Manzelli, the Treasurer of West Barnstable Civic Association, and Katrina Hannagan from the Association's Wine Tasting Committee appeared before the board. The event is held to raise money for scholarships they sponsor. There is a \$25.00 fee for the entire day's events to be held at Pastiche in West Barnstable. Phil Simms of Grape Expectations will be dispensing the wine.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Irina MacPhee on behalf of West Barnstable Civic Association, P.O. Box 243, West Barnstable, for a One Day Beer & Wine License and a One Day Entertainment License for a Wine Tasting & Social to be held at Pastiche, 1595 Main Street, West Barnstable, on June 18, 2011 from 5 pm to 8 pm, with a jazz ensemble for entertainment.

One Day Wine & Malt & One Day Entertainment License: Application of M-J Carpenter on behalf of Cape Cod Beer, 1336 Phinney's Lane, Barnstable, for a One Day Beer & Wine and a One Day Entertainment License for its Last Gasp/Cape Cod Beer Bash to be held on August 19, 2011 from 5 pm to 9 pm. This is a fundraising event for six charities, with food, beer, wine, soft drinks and the Jeff Lowe Band performing.

Beth Marcus, owner of Cape Cod Beer appeared for the 2nd annual Last Gasp Cape Cod Beer Bash. The event will take place at the Cape Cod Beer facility on Phinney's Lane in Barnstable. There is a set fee of \$25, which will cover food and 5 tickets for sampling. There will be wristbands and the organizers have hired a police detail from the Barnstable Police Department. The building's occupancy is 150 but Beth Marcus made note the event (last year) took place mostly outside in the back of the building.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of M-J Carpenter on behalf of Cape Cod Beer, 1336 Phinney's Lane, Barnstable, for a One Day Beer & Wine and a One Day Entertainment License for its Last Gasp/Cape Cod Beer Bash to be held on August 19, 2011 from 5 pm to 9 pm.

Carnival: Application of Harold Fera, Rockwell Amusements, Inc., 10 Red Oak Drive, Johnston, RI, for a Special Permit for a Carnival with 18 rides for Monday, June 13, 2011 through Sunday, June 19, 2011, Dave Bertozzi, Manager, to be held at the Cape Cod Mall rear parking lot, 769 Hyannis Road, Hyannis for set up on 6/13 and 6/14/2011, from 6 pm to 10 pm Wednesday & Thursday, 6 pm – 11 pm Friday, 1 pm to 10 pm Saturday and 1 pm to 10 pm Sunday.

Harold Fera appeared for Rockwell Amusements for the Carnival's application. Officer Maher testified that there were no problems last year and the Police Dept. is o.k. with the application.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Harold Fera, Rockwell Amusements, Inc., 10 Red Oak Drive, Johnston, RI, for a Special Permit for a Carnival with 18 rides for Monday, June 13, 2011 through Sunday, June 19, 2011, Dave Bertozzi, Manager, to be held at the Cape Cod Mall rear parking lot, 769 Hyannis Road, Hyannis for set up on 6/13 and 6/14/2011, from 6 pm to 10 pm Wednesday & Thursday, 6 pm – 11 pm Friday, 1 pm to 10 pm Saturday and 1 pm to 10 pm Sunday.

New Class II Auto Dealer License: Application of GWRT Corporation, d/b/a Cape Cod Auto Auction, 700 Barse's Way, Hyannis, Robert Trapp, Manager, for a new Class II Automobile Dealer's License for a dealer only auction. There are to be a maximum of 360 total vehicles on the premises.

Robert Trapp appeared for the application of Cape Cod Auto Auction to be at the former location of the Mid-Cape Home Center on Bearse's Way in Hyannis. The auction will be held weekly on a scheduled day, which is yet to be determined. Parking plan submitted with was with the help of the Town's GIS department. It will be 99% dealer to dealer transactions; however there is a small chance auctions in certain instances will be open to the general public.

Gene Burman questioned the procedures beyond the regular required bond if there was to be forged documentation from a third party. Tom Geiler explained if someone attempts to mislead a consumer, there is recourse.

Paul Sullivan asked about attendance, Robert Trapp said that off cape there are approx. 5000 to 6000 cars off Cape with 1000 or so dealers, but an auction of this size will have about 25 to 30 cars. Robert Trapp is well aware of the limitations of the number of vehicles allowed at one time in the lot including the attendees.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of GWRT Corporation, d/b/a Cape Cod Auto Auction, 700 Bearse's Way, Hyannis, Robert Trapp, Manager, for a new Class II Auto Dealer License unrestricted as to dealer or public bidding. There are to be a maximum of 360 total vehicles on the premises, no auto repair on site, a State Auctioneer License required for each auctioneer and the licensee must comply with Site Plan Review #011-11 conditions.

New Common Victualler License: Application of Diggity Dogs, Inc., d/b/a Hot Diggity Dogs 'n' More, 569 Main Street, Unit 11, Hyannis, Tracy L. Pavlas, Manager, for a New Common Victualler License, hours to be 10 am to 8 pm (spring/fall) and 9 am to 12 am (summer).

Tracey L Pavlas appeared for the new license. She is the new owner. Ms. Pavlas said they will be keeping the same menu and will be adding a few additional items of pizza slices and salads. She stated nothing else will be changing.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of Diggity Dogs, Inc., d/b/a Hot Diggity Dogs 'n' More, 569 Main Street, Unit 11, Hyannis, Tracy L. Pavlas, Manager, for a New Common Victualler License, hours to be 10 am to 8 pm (spring/fall) and 9 am to 12 am (summer).

New Seasonal Common Victualler License: Application of 13 Lives Corp., d/b/a Black Cat Summer Shack, 159 Ocean Street, Hyannis, David Colombo, Manager, for a New Seasonal Common Victualler License, hours to be 11 am to 12 am, with seating for 50 on the porch and patio.

Dave Colombo represented Black Cat Summer Shack. Mr. Colombo stated there will be no alcohol served. The Black Cast Summer Shack will be a fast food Cape Cod

Style exterior counter service only. He stated he had been doing renovations (new farmer's porch and renovating an existing patio) to the newly acquired building in anticipation of the season.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the Application 13 Lives Corp., d/b/a Black Cat Summer Shack, 159 Ocean Street, Hyannis, David Colombo, Manager, for a New Seasonal Common Victualler License, hours to be 11 am to 12 am, with seating for 50 on the porch and patio.

New Lodging House License: Application of Ed Couture, d/b/a Cape Cod Yoga Retreat & Bed & Breakfast, 2415 Meetinghouse Way, West Barnstable, Ed Couture, Manager, for a new Lodging House License for a maximum of 4 lodgers (2 lodging rooms) and 2 parking spaces dedicated to the business.

Ed Couture appeared for the application. The house will be used for lodging only and the lodgers will be recommended to do yoga at different studios. He stated the home was not a lodging house previously. Richard Scali asked about the use of only two of the home's bedrooms for lodgers, Mr. Couture stated the other two bedrooms are for his personal use not for business, he is clear only two bedrooms are to be used for the Cape Cod Yoga Retreat & Bed & Breakfast.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the Application of Ed Couture, d/b/a Cape Cod Yoga Retreat & Bed & Breakfast, 2415 Meetinghouse Way, West Barnstable, Ed Couture, Manager, for a new Lodging House License for a maximum of 4 lodgers (2 lodging rooms) and 2 parking spaces dedicated to the business.

Alteration of Premises: Application of International Inn Bar & Grill, Inc., d/b/a International Inn, 662 Main Street, Hyannis, Ravi K. Ahuja, Manager, for an alteration in the premises description, to add the outdoor patio which is approx. 75 ft. x 11 ft. and seats 48.

Ravi K. Ahuja appeared for the application. The applicant wanted to add the open patio across the front of the lounge and restaurant onto their liquor license. Ptl. Maher cautioned the applicant of the increase in responsibility due to the changes. Mr. Ahuja stated he is aware of the additional responsibility. Mr. Ahuja, also stated they have approvals from Historic regarding the outside furniture. There will be no music outside.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the Application of International Inn Bar & Grill, Inc., d/b/a International Inn, 662 Main Street, Hyannis, Ravi K. Ahuja, Manager, for an alteration in the premises description, to add the outdoor patio which is approx. 75 ft. x 11 ft. and seats 48 with no music outside.

Show Cause Hearing: Show Cause Hearing for H&P Capital Management, Inc., d/b/a Route 66 Auto Sales, 362A Yarmouth Road, Hyannis, William Gasson, Manager, as a result of a report from the Barnstable Police Department that on February 2, February 7, and March 21, 2011 it had more vehicles on the property than allowed by its Class II Auto Dealer License (18 total vehicles on the licensed premises).

Ptl. Steve Maher with the BPD testified for the Police Department. He stated that in part of working with the Town's Licensing Authority, he checks on Class II Auto dealerships to see if they're in compliance with the number of vehicles they're allotted on their town issued licenses. He stated that on Route 66 Auto Sales lot, 362A Yarmouth Road, which has a maximum number of 18 vehicles, they had more vehicles on at least three different instances on the following dates: February 2, February 7, and March 21, 2011. He also testified that after he submitted his show cause request and even after service was made on Mr. Gasson, there continued to be more than 18 vehicles on the property.

William Gasson appeared before the board. He agreed with Ptl. Maher's findings for the instances before he was served with the papers, but stated he has not had more than allowed since that time. He stated because of the success he has had, he has applied for an amended application for 42 vehicles to utilize the rest of the lot on which the dealership is located. He said he has been running the operation by himself and there were cars dropped off to get stickers, etc. besides the vehicles he had for sale – making the number too high. They started up with only 18 to see how their business went. He said the only place the vehicles were insured was on the lot, so he felt he had to keep them there. He apologized to the Town, the Police Department and the community for the overage. He said he then rented and insured a new spot for the storage of the "overflow" of vehicles – this is a temporary location and only rented until May 2, 2011 and insured only for 10 vehicles. The location the vehicles are at is the old Town Taxi building on Yarmouth Road owned by Mr. Cutler. He could not leave himself exposed with those vehicles uninsured. The plan at hand will put a stop to the problem.

Mr. Burman asked whom he is renting the rear lot from; Mr. Gasson said they have been renting it all this while from Mr. Tivey – they just did not utilize it at first because they needed to see how the business would go first before expanding the inventory, especially with only one person running it. All sales and customer service have been up to him alone. He will be getting another person in to help if we approve the extra number of vehicles. He again stated he had started to move towards expanding the lot [prior to this all happening. He had gone to Site Plan and Mr. Perry had signed off on the larger numbers. He did not want to use that property before asking to use that part of the property.

Mr. Burman asked about the internet article provided to the Licensing Board regarding a stolen dinghy in Falmouth; he questioned Mr. Gasson about it. Mr. Gasson stated the man across the street from him worked for the Stoughton Fire Dept. and is retired. His son used to sell boats from the front of his yard for about 5 years. One day a man

pulled into his yard asking to sell a boat. He took it and put it out there for sale again; used to do that with 2-3 at a time. Mr. Burman asked what the disposition of the case was. Mr. Gasson stated to make a long story short he was found totally innocent of the charges against him for having a boat alleged to be stolen with knowledge of it being stolen. He stated you don't get a bond with any record of theft.

Mr. Boy asked when he presented his plan for Site Plan Review, was he told he had a license for 18 vehicles for the front lot, a number in the rear and the total of 42? Mr. Gasson stated there are two inside the building. There are 40 outside but 2 in. The garage is an oblong building. He got the number from Mr. Benoit in GIS and Ellen In SPR.

Findings were proposed by Gene Burman on the Show Cause Hearing of H&P Capital Management, Inc., d/b/a Route 66 Auto Sales, 362A Yarmouth Road, Hyannis, William Gasson, Manager, as a result of a report from the Barnstable Police Department that on February 2, February 7, and March 21, 2011 it had more vehicles on the property than allowed by its Class II Auto Dealer License (18 total vehicles on the licensed premises), seconded by Paul Sullivan and a unanimous vote taken that those findings adopted were that the Licensee admitted to the overage of vehicles on the three occasions and is willing to accept penalties offered.

A finding of guilty was proposed by Gene Burman, seconded by Paul Sullivan, and a unanimous vote taken for a guilty finding.

Mr. Hoxie asked for a recommendation from BPD for sanctions. Ptl. Maher said that this is his first offense but it seems like there has been a shell game played with the number of cars & storing cars at someone else's property is not technically within the bounds of the law, so he recommended Route 66 Auto Sales' application for more vehicles be granted but that the license be held at the 18 vehicles (current) for 14 days for the sanction for the guilty decision of their show cause hearing.

Mr. Hoxie asked Ptl. Maher if he had a problem with a warning on this charge; he said he did not.

A motion was duly made by Mr. Burman that a warning be issued and placed in the file for future reference. Mr. Sullivan seconded the motion and a unanimous vote was taken to issue a warning.

Amended Class II Auto Dealer License: Application of H&P Capital Management, Inc., d/b/a Route 66 Auto Sales, 362A Yarmouth Road, Hyannis, William Gasson, Manager, for an amended Class II Automobile Dealer's License to increase the total vehicles on the premises to 42.

Officer Maher came forward and stated that traditionally the number assigned to the license was the number of vehicles you could see with a count outside. The inside

vehicles were not counted. He recommended the number on the license be dropped to 40. He can put two inside but the license will state 40.

Mr Scali stated that the plan shows four inside; with 38 outside. Mr. Gasson stated those other two are under a carport and can be seen. He is choosing to have the extra two inside but there is actually room for 42 outside. Can he put the two inside? He thinks he should not be charged for those two cars. Officer Maher explained to him that when they go out and there is no-one there (at night usually), they basically count the vehicles they see on the lot. All the vehicles they see. It doesn't matter to them how many cars are inside the building. He advised if he looks at the property and sees 41, they will be back before the board.

Mr. Burman clarified that the 40 includes employee vehicles, customer vehicles and the cars he is selling. Mr. Gasson stated he has it all laid out that he can have 42; Mr. Boy stated SPR did not grant him 42 OUTSIDE, that is what we care about for the license. There is not room outside for 42, only 40.

Officer Maher stated an issue came up about a Route 66 Auto business card that the Barnstable Police Department had received stating they have auto repair. He cautioned the licensee as he is in a watershed area there is to be NO auto repair there. Mr. Gasson stated he knows there is to be no auto repair.

Mr. Hoxie then brought up the suggestion of Officer Maher that this license for 40 vehicles not go into effect for 2 weeks; Mr. Gasson stated that the Police's recommended two week hold on the limit of vehicles to 18 on his lot would be an extra expense to him and a great hardship. He stated he has admitted he was wrong, will never be over his limit again. He has too much out there – autos at service facilities and on the rented property that are insured; he cannot afford to pay all that any further. He asked the board if they would accept a fine in lieu of the 2 week limit of 18 vehicles? Mr. Gasson offered a \$1,000.00 fine should he ever be found over his limit again. Mr. Sullivan reiterated he is in a watershed area which is very very sensitive. The Board would not tolerate more issues. He wants to make it clear if the Board gives him a break he must clearly know he can do no repairs and cannot go over his limit. Mr. Hoxie asked Officer Maher if he would rescind his recommendation for holding off on the 40 vehicles for two weeks; Ptl. Maher stated he doesn't want to impose a hardship on the licensee, however he wanted it on the public record that there is a shell game going on with the cars. Mr. Hoxie stated this should put an end to the overage if he is given 40 vehicles and the board can monitor him closely.

Mr. Geiler asked Mr. Gasson since they were here a year ago, what they've done to improve the appearance of the lot and recommended if anything could be done to improve the appearance and beautification of the lot they should take the opportunity to do so. Mr. Gasson stated they will be taking the fence down in the back to make the cars more user friendly. He said they painted the front. The building was in good shape. They put rocks down so no-one should walk into a pothole. Ptl. Maher stated there has never been an issue with their appearance; everything looks fine. Mr. Hoxie

asked if he did say he was going to do some planting...Officer Maher stated again that everything looks fine. Mr. Hoxie asked if he had any plans to do any planting; he said he does not remember mentioning any plantings. Mr. Geiler said he thinks it's a small lot in terms of frontage on Yarmouth Road but anything he can do to beautify it so it is not sheet metal from Old Yarmouth to Yarmouth Road to Route 28 would help. Mr. Gasson stated he told R.F. Morse who is leaving that they have to get that out of there. Mr. Geiler said if there is no requirement he put something in that would be a way of giving back to the community to beautify it. Mr. Gasson stated he can't afford to pave it but the grass will be mowed; the tree on the end will go; trailers taken out of the re by R.F. Morse as well as other broken things on that lot and the dirt pile in back will be taken down in time. The lot will also be weed whacked. Mr. Sullivan asked about signs for repairs? Officer Maher stated that it was on a business card only – no sign. He reiterated there are no repairs allowed on this lot.

A motion was duly made by Gene Burman, seconded by Paul Sullivan and a unanimous vote taken to approve the application of H&P Capital Management, Inc., d/b/a Route 66 Auto Sales, 362A Yarmouth Road, Hyannis, William Gasson, Manager, for an amended Class II Automobile Dealer's License to increase the total vehicles on the premises to 40 including customer and employee vehicles (starting May 2, 2011).

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 Junk Dealer renewals as submitted below:

Thrift Shop, 217 Main Street, Hyannis
Simple Elegance, 845 Main Street, Osterville
Silva Jewelers, 863 Main Street, Osterville
Thrift Shop, 217 Main Street, Hyannis
Simple Elegance, 845 Main Street, Osterville
Cape Cod Jewelers, 366 Main Street, Hyannis
Gamestop 4225, Cape Cod Mall, Hyannis
Best For Less, 235-239 Iyannough Road, Hyannis
Second Time Around, 631 Main Street, Hyannis
Spinnaker Records, 596 Main Street, Hyannis
Newbury Comics, Cape Cod Mall, Hyannis
Trade Secret Antiques, 803 Main Street, Osterville
Jewelcraft, 585 Main Street, Hyannis

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

Non-Live Entertainment:

Courtyard Marketplace, 541 Main Street, Hyannis

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

Automatic Amusement:

Courtyard Marketplace, 541 Main Street, Hyannis

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

Carousel:

Courtyard Marketplace, 541 Main Street, Hyannis

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

Sunday Entertainment:

Courtyard Marketplace, 541 Main Street, Hyannis

Business Meeting:

Julie Fagin, Manager of Goldfinger, whose Junk Dealer License was revoked at the Licensing Authority's April 11, 2011 meeting, wrote to the Licensing Authority to appear again in front of them with new information to present in consideration of the revocation of her Junk Dealer's License. The Licensing Authority granted her the right to appear on the hearing to be held on Monday May 16, 2011. They stipulated that she may only present new evidence and clarification.

Mr. Burman made a motion that we should double their salaries.

Election of Officers handout was provided; it was decided that the elections will take place in July, 2011.

The meeting was adjourned at 10:39 a.m.

Respectfully submitted after review and minor additions to the minutes taken by Katie Donahue,

Christine P. Ade, Recorder
Town of Barnstable Licensing Authority

Paul Sullivan, Clerk
Town of Barnstable Licensing Authority