

**BARNSTABLE LICENSING AUTHORITY  
EXECUTIVE SESSION MINUTES**

Town Hall Building, 367 Main Street, 2<sup>nd</sup> Floor Selectmen's Conference Room,  
Hyannis, MA – 10:50 a.m.

**May 16, 2011**

A special meeting of the Barnstable Licensing Authority was held on Monday, May 16, 2011 after the scheduled Licensing Authority Hearing. Chairman Martin Hoxie called the meeting to order at 10:50 A.M. He introduced Gene Burman, Vice Chairman; Richard V. Scali, Consumer Affairs Supervisor and Licensing Agent, Lt. JoEllen Jason and Patrolman Steven Maher, Liaison Officers from the Barnstable Police Department, and Christine Ade, Recording Secretary and David Houghton, Town Attorney.

Executive Session called to order at 10:50 a.m.

Attorney Houghton stated the Licensing Authority held a Show Cause Hearing in March alleging there was noise which could be heard off premises; there was not proper supervision; and

30 day suspension was imposed for failure to cooperate with police and lack of supervision and a rollback of hours imposed on the noise violation to 11 pm.

Ying's filed 2 separate appeals – one for the alcohol suspension continued from April 18th to June 22<sup>nd</sup> at the ABCC (at our request as Attorney Houghton was away) and one in Court for the rollback of entertainment hours.

He stated that they are interested in resolving the matters short of both appeals.

Attorney Houghton suggests we make them an offer because:

- 1) The charge of non-cooperation with the police hinges on two things – the DJ stating Ying told him not to cooperate with the police; to the extent that the sanction will resolve on that, the DJ will need to testify. He may not be pleased about having to go to Boston – we might have to subpoena him and then how cooperative would he be?
- 2) We could present the other case without the DJ; but based on Attorney Houghton's experience with the Kendrick's case, he believes the ABCC takes a fairly liberal view – the shooting inside Kendricks was not supported – it was remanded back to us for further hearing. They ultimately supported us only because Kendrick's did not comply with the Fire Sprinkler regulations.

Mr. Hoxie stated the ABCC policy has not changed for 21 years – they are very liberal.

Mrs. Scali stated this is a second offense; but Attorney Houghton states that the 30 day suspension is very strict even for a second offense; since the incident, that DJ & entertainment has not been back; he said he gets the sense in speaking with the

attorneys that she (Tanida Suriyawong, the Manager), has learned her lesson. He suggests we keep the 30 day suspension for now but using the sanctions as “probation” – if there are no further incidents then reduce it to a 10 day suspension with waiver of any and all appeals. On the entertainment part, the attorneys for Ying’s tell him they claim she gets a significant bar crowd; the wait service crowd. They go for top 40 music and Hispanic music which is popular; and they suggest 2-3 days a week having entertainment until 1 am. Allow the rollback for some days but let them be open (Friday, Saturday?)

Adam Dupuis and Mike Stusse are representing Ying’s. Mr. Hoxie stated in the past we were not very successful in limiting the entertainment at court. Mr. Scali suggests we consider the 30 day suspension be served now rather than a year from now, and coincide with the 30 days for the entertainment to be rolled back.

Mr. Hoxie stated he is positive they would not accept the suspension now. Officer Maher is not opposed to a change in the suspension but is against the change in rollback of hours for entertainment. He suggests we rescind the rollback on August 1<sup>st</sup>. Officer Maher stated he has witnessed what is going on there now – it is not as it has been represented in their appeal. He said he thinks the 30 days should be lessened to 10 if no further incidents between now and the date of suspension (one year from incident date) but 30 days to be served immediately if there are infractions between now and the suspension date. He thinks we should offer to change the roll back of hours starting August 1, so they get the penalty of not being able to utilize that timeframe in the summer.

If we propose this to Ying’s counsel and it is accepted, we would put it on the following agenda for approval.

Mr. Hoxie stated he wants Attorney Houghton to tell the attorneys for Ying’s we think we are being very generous with our offers. He also stated we want both to have the contingency of no appeal if they accept the offers. These offers will be presented together as one package.

The Board was in consensus on what to offer.

These Minutes are not available for anyone to view until the subject matter is disposed of and the Board votes to release them.

Respectfully submitted,

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Christine P. Ade, Recorder  
Barnstable Licensing Authority

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Eugene Burman, Vice Chairman  
Barnstable Licensing Authority