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TOWN OF BARNSTABLE

NOTICE OF MEETINGS OF TOWN DEPARTMENT AND ALL TOWN BOARDS
As Required by Chapter 28 of the Acts of 2009 which amends MGL Chapter 30 A

Licensing Authority Minutes

DATE OF MEETING: November 16, 2015

Check below which one applies

The Clerk's office has this meeting date already posted X

This is a special meeting which has not been posted _____

TIME: 9:30 a.m.

PLACE: 2nd Floor Hearing Room, 367 Main Street, Hyannis, MA

Vote to accept Minutes

1. Vote to accept minutes of the 9/21/15 Meeting

New Business

1. **Application for a New One Day Entertainment License:** Application of Peter Czymbor on behalf of Boston Boxing Promotions for an All Star Boxing Event to be held at the Barnstable High School Gym, 744 West Main Street, Hyannis on November 28, 2015 at 7:00 PM.

Peter Czymbor appeared on behalf of the application. On November 28 the event will be at the Barnstable High School. Tickets are available at Cape Cod Boxing.com. Joe Izzo also appeared. Mr. Scali stated that there is concern with security and parking due to being at the school. The school is ok with the parking issues we attract a good healthy audience. General concerns about the clientele that this event will attract. Lt. Murphy did attend August

event. The Police Department does have concerns as long as you run the event as you did in August it will be fine.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

- 2. Application for (7) New One Day Beer and Wine Licenses:** Application of Jeff Marcotte on behalf the Cape Cod Community College for 7 one day beer and wine licenses for Cape Cod Young Professional events to be held on November 16, 2015, December 14, 2015, January 25, 2016, February 26, 2016, March 21, 2016, April 25, 2016 and May 23, 2016. All events will be held in the Commons Building at the College from 6:00 to 7:30 PM.

Paul McCormick appeared on behalf of the application. We are coordinating with CCYP for mentor Mondays. We expect at least 75 -150 people to attend the events. Service of wine and beer is for an hour to an hour and a half.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

- 3. Request to close Annual All Alcohol Common Victualler License:** Request received from Gary and Elaine Roy to close the Nor'Easter Restaurant effective November 16, 2015 through May 15, 2016.

****Postponed until 12/14/2015****

4. Consent Agenda

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the Consent Agenda as presented.

Public Hearings

- 1. Amendment of an Annual Common Victualler License:** Application of Centerville Pie Co. Inc. d/b/a Centerville Pie Co., 1671 Falmouth Rd., Centerville, Kristin Broadley, Manager, for an amendment to an existing Annual Common Victualler License to correct indoor seating to 22 interior seats as approved by the Building Commissioner on 9/24/2015. Hours of operation are 8:00 AM to 6:00 PM; Daily.

Kristin Broadley appeared on behalf of the application. This was to correct issues with seating. There were discrepancies with town and premise records, this is a formality to correct the licenses.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the application as presented.

2. **Application of a New Annual Fortune Teller's License:** Application of Gina Crystal Eli Metlow, d/b/a Crystal's Psychic Gallery, 120 West Main Street, Hyannis, Gina Crystal Eli Metlow, Manager, for a New Annual Fortune Teller's License, to be operated Sunday through Saturday 9 am to 10 pm.

Mark Boudreau and Gina Metlow appeared on behalf of the application; located on 120 West Main Street in Hyannis. Elizabeth Hartsgrove stated that there were fees for this license however none on file. This was to clean up the files. This is in line with the Rules and Regulations work session. Mr. Scali stated that this is for entertainment purposes only. Also, how do you charge? Yes, this is for entertainment, usually charge by time. The price ranges are \$50-\$100, certain services are timed differently. Mr. Scali requested that the prices are put in writing. The workman's compensation needs to be revised since the mother and sister are also working at the location. Mass General Law specifically states that the Licensing Authority must license. Ms. Hartsgrove stated that there is a regulation to have a license. Attorney Boudreau stated that this has evolved over the last 12 months.

A motion was duly made by Mr. Hoxie, seconded by Mr. Semprini and a 2-1 vote taken to accept the application as presented. Mr. Burman voted against.

3. **Application of a New Annual Fortune Teller's License:** Application of Rachel Perry d/b/a Rachel Perry Psychic and Medium, 901 Main St., Osterville, MA for a New Annual Fortune Teller's License, to be operated daily from 10:00 AM to 6:00 PM.

Rachel Perry appeared she is a spiritualist medium. The journey within church, do not consider myself a fortune teller. My prices are online. She has worked with law enforcement in the past. Serve the spirit world and how to listen to our soul, meditation. This is not entertainment per se. This is an honor.

A motion was duly made by Mr. Hoxie, seconded by Mr. Semprini and a 2-1 vote taken to accept the application as presented. Mr. Burman voted against.

4. **Application for Transfer of Annual All Alcohol Restaurant, Live and Non-Live Entertainment Licenses, Alteration of Premises Description and Pledge of License:** Application has been filed to transfer the Annual All Alcohol Restaurant, Live and Non-Live Entertainment Licenses from GELS LLC d/b/a The Nor'Easter, Andrew Glassman, mgr, 20 Scudder Ave., Hyannis to West End Rotary Restaurants Inc., Ruth A Barrett, mgr, d/b/a Barrett's at the Paddock, 20 Scudder Ave., Hyannis, and to Alter the Premise Description and pledge license to Clare Holmgren. Description of Premise: 6153 sq. foot building, dining room with 104 seats, 2 bathrooms. Kitchen with rear exit, front lounge area with 28

seats, bar with 12 stools, pub area with 84 seats and a bathroom, back bar with 20 seats, 1152 sq. foot outside seating area with 64 seats. Basement storage and attic office. Total seating of 312, 38 standees, 20 employees for total occupancy of 370 on first floor, as approved by the Building Commissioner on 10/14/2015. Hours of alcohol sales: 11am – 12:45am M-Sun.

Live Entertainment to include: Dancing by Patrons, Karaoke and amplified music by up to 3 performers. Non-Live Entertainment to include: 46 televisions; 5 of which are to be outside and recorded music at conversation level. Hours of both Live and Non-Live Entertainment: 11am – 12:45 am

****Withdrawn****

Show Cause Hearings

1. **Show Cause Hearing for Speedway:** The Barnstable Police Department have requested a Show Cause Hearing be called before the Licensing Authority for Speedway, LLC., d/b/a Speedway, Mark Barbi, Manager, 50 Ocean Street, Hyannis for the following violations of the Town of Barnstable, MA Code:Section § 501-7I. Alcoholic Beverages Sales and Laws. (1 count – sale or delivery of an alcoholic beverage to a person under 21 years of age)

****Postponed from 9/21/2015 Hearing****

Attorney Andrew Upton, Mark Barbi, Wayne Bartley all appeared. Officer Estey reviewed the Police report and the sting guidelines. The decoy purchased a six pack of beer.

Attorney Upton, were the employees cooperative? The employee was mis-informed of the laws. Has this been a problem area; the store itself. Not to my knowledge according to CAO Estey. Speedway has over a 1000 liquor licenses, we take full responsibility. This is a teaching moment. We have a written operations manual. In July we installed ID checking software. The clerk thought she knew the decoy and thought she was 21. Shortly after this incident she was asked to leave her job. We have policies to prevent this from happening again. Wayne Bartley thanked the Board for their time. You have my full commitment and from the top level of Speedway. Mr. Hoxie reiterated that the employee stated 18 was the age. Mr. Scali stated that there is much newer technology available, suggest Speedway look into these systems. We have scanner and age verifications systems in place with matching protocols. Mr. Semprini asked how long the employee was there, 2 weeks. Is it policy to read the manual? CAO Estey stated that the sanction should be as in the past. Lt Murphy stated the police would like sooner than later.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Speedway located at 50 Ocean Street, Hyannis guilty in violating Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual Wine & Malt Package Store License for 2 days: of which you will serve a one day suspension on December 5th, 2015 and have one day suspension held in abeyance for one year from date of this hearing.

2. **Show Cause Hearing for International Inn:** The Barnstable Licensing Authority will hold a Show Cause Hearing for the International Inn Bar & Grill d.b.a. International Inn, 662 Main Street, Hyannis, MA, Ravi Ahuja, Mgr., for violation of Code of the Town of Barnstable, Massachusetts, §501-14A1, Other causes for revocation, suspension and modification due to various Health Code violations found during an on-site inspection conducted on July 16, 2015 resulting in the closure of the operation.
****Continued from 8/12/2015 Hearing**** **** Continued to December 14, 2015****
3. **Show Cause Hearing for Quality for Less:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Maria & Segundo Calle, d/b/a Quality For Less, 235-237 Iyannough Road, Hyannis for the following violations of the Code of the Town of Barnstable, Massachusetts and Massachusetts General Laws: **§501-1D** Availability of Rules and Regulations: Operating a business without a valid license posted on the premise. **§501-19** Activity without valid license displayed prohibited: allowing activity on premise that requires a license without a valid license on display at premise. **§502-2B(9)** Issuance, Renewal and Revocation of Licenses Required: such other grounds as the Authority determines to be in the public interest or in violation of the conditions of the license or any law or regulations of the Commonwealth or the Town of Barnstable. **§502-10B** Violations and Penalties: violations to Town Code provisions shall be fined not more than \$300 per offense, and shall be subject to a fine of \$250 for each violation of MGL. **MGL c.140 §57, §58, §59 and §62:** For displaying secondhand vehicles without being properly licensed by the Local Licensing Authority.

Ms. Hartsgrove reviewed the details of the Show Cause. This has been an ongoing issue for almost a year regarding vehicles being offered for sale. Officer Maher did inform the licensees that this is not allowed. You must have a Class II license issued by the local Licensing Authority. There have been 4 vehicles offered for sale.

The first 2 cars were from customers, the last car was my own, needed to sell. The first and last vehicles all had the same phone numbers. Mr. Scali suggested a warning with a 1 year date to hold in abeyance.

After testimony from Ms. Hartsgrove, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of all 8 cited sections were found;

VERDICT: To move that the Licensing Authority find Quality for Less located at 237-239 Iyannough Road, Hyannis guilty in violating all 8 sections of the cited regulations;

ACTION: To move that the Licensing Authority issue a warning to be held for one year from the date of the hearing, November 16, 2015.

4. **Show Cause Hearing for the Egg & I:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Kefaloniyes, Inc. d.b.a. Egg & I, 521 Main Street, Hyannis, MA, Panagis Kappatos, Mgr., for violation of Code of the Town of Barnstable, Massachusetts, **§501-14A1**, Other causes for revocation, suspension and modification: due to a number of Health violations, as cited in the attached Public Health Division Notice dated October 5, 2015, observed at the Egg & I located at 521 Main Street, Hyannis. **§501-5C**, Physical Premise: Portions of premise covered by the license was found unsanitary. **§501-5A**, Physical Premise: License is considered not in good standing due to failure to comply with statutory Health codes.

Donna Miorandi of the Barnstable Health Department reviewed the documentation. A refrigerated truck was in the back of the Egg & I where the refrigeration was not working, this is a delivery truck. Subsequently, the restaurant was inspected after the food was embargoed. Officer Estey aided in the embargoed truck. The restaurant was closed due to the poor condition. There was fish from an unknown source in the restaurant, not dated. Records were not maintained. Debris on the stove, hand sinks not in working condition.

Attorney Lawler stated that the food was purchased at a cash and carry place the day before, the truck was working in the morning when they picked up the food, and the refrigeration did break on the way down. Some of the food was still frozen but approximately \$2000 worth of eggs had to be thrown away. Some other food was also lost. The restaurant was just closed for business a half hour previous to the inspection; no time to clean as of yet.

The fish did belong to an employee. There will be a separate refrigerator for employees. There has been a food consultant hired to create a plan to meet all guidelines. The Board of Health has dealt with this client. The matter is still open at the Board of Health. Mr. Scali issued a 3 day suspension to be held in abeyance and must hire a consultant. The licensees need to call Donna to meet with her and the consultant.

Mr. Burman asked why Donna checked the truck. The truck itself was filthy. Mr. Semprini asked how long have you been in the business, over 20 years was the answer. The Board of Health has stipulated the process for the licensees to

follow. Mr. Scali suggested that the sentence remain the same as the Board of Health.

After testimony from Health Inspector Donna Miorandi, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of §501-5A, §501-5C and §501-14A1 of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Egg & I located at 521 Main Street, Hyannis guilty in violating §501-5A, §501-5C and §501-14A1 of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend Common Victualler License for 3 days, in conjunction with the October 13, 2015 Board of Health show cause hearing decision (Upon a motion duly made by Dr. Miller, seconded by Mr. Sawayanagi, the Board voted to issue a three (3) day suspension but will hold off implementing it unless there is another critical violation during the summer of 2016 which the staff believes is significant enough to impose the suspension. Also, the Board voted to continue this item until the March 2016 meeting with the condition their consultant assists the restaurant in pre-op preparations and the consultant meet with the Health Division on status prior to Board meeting March 2016) and to be held in abeyance for one year from date of this hearing.

Show Cause Hearing for Various Licensees: 501-7 Section I. Alcoholic beverages sales and laws: for the sale or delivery of an alcoholic beverage to a person under 21 years of age. All violations occurred on either September 26 or September 27, 2015.

5. The Mill Street Tavern Inc. **D/B/A Cape Cod Inn/Duck Inn Pub**, 447 Main St, Hyannis, John Greene, mgr. (Annual All Alcohol Common Victualler, Live and Non-Live Entertainment)

Attorney Charles Sabbatt and John Green appeared on behalf of the Show Cause. CAO Officer reviewed the sting guidelines for all of the establishments listed below. A detail of the decoy and his behavior was reviewed by Officer Estey. The decoy was checked before and after entering the establishment. Attorney Sabbatt stated that Mr. Greene has been in this restaurant business for over 30 years. He cannot recall ever been brought before the Licensing Authority. There is a process in place for the doorman to check the ID's of patrons. The bartenders are instructed to double check; the process failed that night. Mr. Greene watched the video tape of the evening; the decoy was not carded at the door or by the fill in bartender. The doorman is no longer employed. Mr. Greene has brought in a TIPS trainer, all were re-trained or re-certified. Mr. Sabbatt asked for discretion; consider holding any suspension in abeyance. Lt. Murphy confirmed that Mr. Greene did reach out to him to assist in training.

Mr. Hoxie stated that extenuating circumstances are required to change sanctions for this licensee. Mr. Semprini stated that we need to show some consistency.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Duck Inn Pub located at 447 Main Street Hyannis guilty in violating Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License, the Common Victualler and Entertainment Licenses for 2 days: of which you will serve a one day suspension on January 9th, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

6. J & T food service Inc. **D/B/A Five Bays Bistro**, 825 Main St Osterville, James Suprenant, mgr.
(Annual All Alcohol Common Victualler)
******Postponed to December 14, 2015 Hearing******
7. Ling& K Inc. **D/B/A Saga Fusion Restaurant**, 1560 Old Post Rd Unit C, Marstons Mills, Hui Ling Chen, mgr.
(Annual All Alcohol Common Victualler)

The manager appeared. CAO Estey reviewed guidelines. The manager was in NY that day and the assistant manager was on duty. The bartender was not responsible that evening, this is the only problem we have had since being open. My name is Peter Yung, he is her uncle to help with translation.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Saga Fusion located at 1560 Old Post Road located in Marstons Mills is guilty in violating Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License for 2 days: of which you will serve a one day suspension on December 12, 2015 and have one day suspension held in abeyance for one year from date of this hearing.

8. New England Clambake Inc. **D/B/A Wimpy's**, 752 Main St Osterville, Danielle Sisco, mgr.
(Annual All Alcohol Common Victualler)

Jason Siscoe and Jean Fahey appeared on behalf of the Show Cause. There were 43 stings and you hit us at our peak operating hour. Mr. Siscoe read a 2 page statement. The bartender gave the decoy a beer as he stood behind an empty beer. A manager was never requested. We have been a licensee for over 20 years. The bartender has done so over 30 years. Mr. Hoxie asked if the Licensee was aware of the sting operation. Lt. Murphy stated that this is really a compliance check not a sting operation. Last year this operation was conducted at 52 operations without one violation. This is done on a statewide basis. The Barnstable Police department did not target you specifically; it could not be further from the truth. Underage drinkers do go to restaurants and out of the way places, we need to go everywhere. This has been done for the last 6 years.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Wimpy's located at 752 Main Street in Osterville, guilty in violating Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License for 2 days: of which you will serve a one day suspension on January 16th, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

9. Venditti Enterprises **D/B/A Mattakeese Wharf Restaurant**, 271 Mill Way, Barnstable, Paul Venditti, mgr.
(Seasonal All Alcohol Common Victualler and Live Entertainment)

Attorney Stephen Pizzuti and Paul Venditti appeared at the hearing. CAO Estey clarified that all of these were listed as compliance checks; stings are how the grant money is obtained. Attorney Pizzuti asked was there a receipt given, how were the licensees notified. Notification was given in writing, on the website and in the letter. The Barnstable Police force is cooperative. Seasonal licenses are supposed to be open April 1st not May 1st. They need to request a later date by coming before the Board. The ABCC requests that you do not make exceptions to this rule.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Mattakeese Wharf located at 271 Mill Way in Barnstable guilty in violating Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Seasonal All Alcohol Common Victualler and Entertainment Licenses for 2 days: of which you will serve a one day suspension on September 24, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

10. Mad Hatter LLC. **D/B/A Greenhouse Restaurant**, 1127 Rte 132 Hyannis, Christopher Connolly, mgr.
(Annual All Alcohol Innholder)

Stu Bornstein and Christopher Connolly appeared for the Show Cause hearing. Mr. Bornstein said this license has been in effect for over 20 years, we are embarrassed. All employees and management have gone through TIPS training.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Greenhouse located at 1127 Route 132, Hyannis guilty in violating Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Innholder License for 2 days: of which you will serve a one day suspension on January 9th, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

11. Hyannis El Rodeo LLC. **D/B/A El Rodeo** 1070 Iyannough Rd Hyannis, Raul Huerta, mgr.
(Annual All Alcohol Common Victualler, Live and Non-Live Entertainment)

Efraim stated that their family has been in the business for the past 30 years, 15 years for him.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find El Rodeo located at 1070 Iyannough Road, Hyannis guilty in violating Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License, the Common Victualler and Entertainment Licenses for 2 days: of which you will serve a one day suspension on January 30th, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

12. GMRI Inc. **D/B/A Olive Garden Italian Restaurant #1523**, 1095 Iyannough Rd, Hyannis, Traci Kenpaner, mgr.
(Annual All Alcohol Common Victualler)

Timothy Perry and Nicole Lopes appeared on behalf of the Show Cause. Mr. Don Diehl also appeared. This is a national chain, 850 plus stores throughout the country. This is for family dining, not a bar atmosphere at the restaurant. There is an extensive policy manual for each employee. The bartender was terminated; zero tolerance. Nicole Lopes is the new General Manager. Employees go through a 7 day training process, 5 sessions out of the 7 deal with alcohol service. Drastic measures were done very swiftly.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Olive Garden located at 1095 Iyannough Road, Hyannis guilty in violating Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License for 2 days: of which you will serve a one day suspension on February 6th, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

13. Not Your Average Joe's Inc. **D/B/A Not Your Average Joes**, 794 Iyannough Road, Hyannis, Bruce Radon, mgr.
(Annual All Alcohol Common Victualler and Non-Live Entertainment)

Bruce Randon is the manager. Have been the manager for over 7 years. Extensive training program in place.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Not Your Average Joe's located at 794 Iyannough Road, Hyannis guilty in violating Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License, the Common Victualler and Entertainment Licenses for 2 days: of which you will serve a one day suspension on January 30th, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

14. Tap City Grill LLC. **D/B/A Tap City Grill**, 586 Main St Hyannis, Timothy White, mgr.
(Annual All Alcohol Common Victualler, Live and Non-Live Entertainment)

Benjamin Surro and Timothy White appeared for the Show Cause. Officer Estey reviewed the facts. Mr. Surro stated that the system broke down that evening. The doorman left early and did not notify the bartender. We are 100% TIP certified. Both the doorman and the bartender are no longer employed.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Tap City Grille located at 586-586A Main Street, Hyannis guilty in violating Section § 501-7I of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License, the Common Victualler and Entertainment Licenses for 2 days: of which you will serve a one day suspension on January 9th, 2016 and have one day suspension held in abeyance for one year from date of this hearing.

15. **Show Cause Hearing for Beech Tree Cantina:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Beech Tree Cantina LLC. D/B/A Beech Tree Cantina 599 Main St Hyannis, Jared Pane, mgr. for violation of Code of the Town of Barnstable, Massachusetts 501-7 Section I. Alcoholic beverages sales and laws: for the sale or delivery of an alcoholic beverage to a person under 21 years of age.

Jared Pane appeared for the Show Cause hearing. CAO Estey reviewed the facts of the evening. Mr. Pane stated that he is fully aware of these compliance checks; we did have a private party. All ID's were checked. We had not had a customer enter the building after 10:30. Our last call was 12:00. The bartender

was caught off guard and thought the decoy was part of the private party. Mr. Scali stated that Mr. Pane is not there when the violations occurred. Mr. Scali stated that there are 3 days already being held in abeyance. My recommendation is to serve the 3 days and then 2 additional days.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Beech Tree Cantina at 599 Main Street Hyannis guilty in violating Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License, the Common Victualler and Entertainment Licenses for five consecutive days (3 days are associated with action taken by the Licensing Authority on August 12, 2015, and 2 days are associated with this hearing) which you will serve the suspension January 2, 3, 4, 5 and 6th, 2016.

- 16. Show Cause Hearing for Seaside Pub:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Seaside Pub on Main LLC, d/b/a Seaside Pub on Main, Uy Gia Phu, mgr. 615 Main St Hyannis, for violation of Code of the Town of Barnstable, Massachusetts 501-7 Section I. Alcoholic beverages sales and laws: for the sale or delivery of an alcoholic beverage to a person under 21 years of age.

Uy Phu appeared. CAO Estey reviewed the process. There was a doorman. The bartender was thinking that this was a joke. Lt. Murphy has a strong working relationship with the Seaside Pub. Their door staff and employees are always professional. Recommendations were made to Seaside to improve procedures and they have been compliant. We have a doorman 7 days per week. Mr. Scali this is a second offense, recommend 5 day suspension, 2 to serve and 3 to be held.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Seaside Pub on Main located at 615 Main Street Hyannis guilty in violating Section § 501-71 of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License, the Common Victualler and Entertainment Licenses for five days: of which you will serve a two day

suspension on January 2nd and 3rd, 2016 and have three day suspension held in abeyance for one year from date of this hearing.

17. Show Cause Hearing for Yings: The Barnstable Licensing Authority will hold a Show Cause Hearing for R&Y Enterprises Inc D/B/A Ying's Sushi Bar and Lounge, 59 Center St Hyannis, Tanida Sunyawong, mgr. for the following violations:**501-7 Section I.** Alcoholic beverages sales and laws: for the sale or delivery of an alcoholic beverage to a person under 21 years of age.**501-7 Section B.** Alcoholic beverages sales and laws: failure to maintain a schedule of the prices charged for all drinks be served and drunk on the licensed premise or any room or part thereof. Such prices shall be effective for not less than one calendar week. Charged \$14.50 for a Bud Light and price not posted.

CAO Estey reviewed the process. There was a doorman. The decoy was told that it was Brazilian night. The bartender was new and she is Spanish and she made a mistake. The price was \$4.50 not \$14.50. Mr. Scali asked for a drinks list. There is a drinks menu. The bartender is still working at the restaurant. Mr. Scali reviewed previous history of violations.

Lt. Murphy has stated that the Police Department has a positive working relationship with Ying's. This is a 4th and 5th violation; recommend a 30-60 day suspension. Lt. Murphy cannot support this length of suspension.

After testimony from Consumer Affairs Officer Steven Estey, the following motions were voted 3-0 by the Licensing Authority:

FINDINGS: To move that the Licensing Authority determine violation of Section § 501-7I and § 501-7B of the Barnstable Licensing Authority Rules and Regulations was found;

VERDICT: To move that the Licensing Authority find Ying's Sushi Bar & Lounge at 59 Center Street Hyannis guilty in violating Section § 501-7I and § 501-7B of the Barnstable Licensing Authority Rules and Regulations;

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License, the Common Victualler and Entertainment Licenses for fourteen consecutive days which you will serve the suspension February 1st through the 14th, 2016.

Licensing Division Updates

1. **Licensing Department updates** – In the process of renewals, working on rules and regulations; work session in 2016. Pedi-cab program will be heard December 10, 2015. Review 2016 meetings.
2. **Police Department updates** – Lt. Murphy stated that he echo's CAO Estey's statement that we are disheartened about the compliance findings. Looking forward to strengthening up the regulations regarding notifying the police.

Release of Executive Session Minutes, if any (0).And any other new business to come before the Licensing Authority.

- **Matters not reasonably anticipated by the Chair**

The list of matters, are those reasonably anticipated by the president/chair, which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. It is possible that if it so votes, the sub-committee may go into executive session. For your information the section of the M.G.L. that pertains to postings of meetings is as follows: Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain: the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. Meetings of a local public body, notice shall be filed with the municipal clerk, and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

The meeting was adjourned at 12:45

Respectfully submitted,

Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority

Ron Semprini, Clerk
Town of Barnstable Licensing Authority

Town of Barnstable

Consumer Affairs

Elizabeth G. Hartsgrove, Supervisor

Licensing Authority

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BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

November 16, 2015

1. **Application for (7) One Day Entertainment Licenses:** Application of Susan Luelsen on behalf of the German American Club for 7 One Day Entertainment licenses for their monthly events social calendar. All Barnstable events will take place at the St. Mary's Church Parish Hall, Route 6A, Barnstable from 6:00 to 10:00 PM. The one exception is for a February event which will take place at the College. Following is a list of the monthly events: December 12, 2015, February 13, 2016, February 27, 2016, March 13, 2016, April 9, 2016, May 14, 2016 and June 11, 2016. Entertainment to include Dancing by patrons to a 2 piece, 2 performer band.