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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: August 22, 2016

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

A meeting of the Barnstable Licensing Authority was held on Monday, August 22, 2016. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Ron Semprini, Clerk; David Nunheimer, Associate Commissioner, Larry Decker, Associate Commissioner; Richard Scali, Director of Regulatory Services; Elizabeth G. Hartsgrove, Consumer Affairs Supervisor; CAO Officer Therese Gallant, and Maggie Flynn, Recording Secretary. Lt. John Murphy absent.

Vote to accept Minutes

1. Vote to accept minutes of the 07/18/16 meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 07/18/16 meeting.

New Business:

1. 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. Town of Barnstable Rules and Regulations:** The Barnstable Licensing Authority will hold a public hearing in accordance with Chapter 138 and 140 of the General Laws, and Barnstable Town Code, to hear the merits of adopting proposed amendments to Part V of the Town Code: Licensing Rules and Regulations.

Elizabeth Hartsgrove presented the Rules and Regulations. This has been an ongoing goal for the Licensing Authority since last July. Multiple work sessions were held and were open to the public; all comments were added and updated rules and regulations were posted to the website. Ms. Hartsgrove updated the Board that there are 2 amendments to 509-4B (copies attached). Mr. Hoxie asked for Public Comment

Tina Carey: Gringos- Been in business for 37 years, no liquor violations feels these rules and regulations are anti-business. Collection of fees is out of control.

John Polmeroy- Luke's Liquors- Attended all four work sessions. 502-6 ABCC stated delivery the Monday after Christmas is allowed. 502-6 B2- possible typo. Mr. Hoxie asked how he came to all the meetings. He responded that he reads and follows all Town material and Agenda's.

Attorney Steven Pizzuti – He stated that he has already expressed his concerns over these Rules and Regulations. The regulations are arbitrary in his opinion- for example: maintain proper management is not defined. He posed the question- Do you think the surrounding communities are enforcing the same as Barnstable?

Gilbert Wood – Regarding 509-4B, last sentence. New, amended or transferred licenses must comply with paved requirements. To pave: site plan review is required, drainage etc.; should be new premises only not for pre-existing non-conforming property.

Public Comment completed.

Elizabeth Hartsgrove: Ms. Hartsgrove responded to all the public comment as follows: April, 2016 mandatory compliance meetings were held for all licensees; all were notified at this time. TIP certification was amended from 2 weeks to 3 weeks. The issue of calling the BPD at 1:30 AM was a request from the Police Department. Maintaining proper management is in the existing Rules and

Regulations; the Board has the ability to reduce. Closing notification is required in writing; the Board presently acts on these requests on a frequent basis. Class I and Class II the paving requirement is up to the Building codes which are already in existence.

*****Mr. Hoxie stated these public amendments will be addressed at the September 19, 2016 meeting.*****

2. Application for a Change of Manager for Annual All Alcohol License:

Application of Beech Tree Cantina LLC d/b/a Beech Tree Cantina, 599 Main St., Hyannis on their Annual All Alcohol Common Victualler License, for a Change of Manager from Jared Pane to Benjamin Surro.

Benjamin Surro appeared on behalf of this application. Mr. Scali stated that this is a good change. A number of questions are arising regarding the old coffee shop and its use in relation to the occupancy issue; this is for your information.

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

3. Application to Amend a Seasonal All Alcohol Live Entertainment License:

Application of Lobster Girl Lobster Boy, Inc. , d/b/a Raw Bar on Ocean Street, Elizabeth Westwater, Manager, 230 Ocean Street, Hyannis. Amend request is to include live music on the upstairs deck. Request is for 1 performer with 1 piece. Hours of live music are Thursday-Sunday 5:00 PM to 8:00 PM.

****Continued to September 19, 2016****

4. Application to Amend Annual Fortune Tellers License for an Additional Location and (3) New Licensees:

Applications of Dino Eli, Deborah Metlow and Donna Eli d/b/a Crystal's Psychic Gallery, 120 West Main Street, Hyannis, Gina Crystal Eli Metlow, Manager, for (3) New Annual Fortune Teller's Licenses, to be operated Sunday through Saturday 9 am to 10 pm.

An additional seasonal location is also being requested at 541 Main Street, Hyannis. Hours of operation at the Main Street location are Monday through Sunday 10:00 AM – 12:00 PM.

Attorney Mark Boudreau represented this application. The Eli's are all family members and would like to add three licensees and an additional location at the Wackenhammer Arcade. They will be set up in the tent; May-October. Mr. Scali reminded them that this is for entertainment purposes. They will be operating at both locations.

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

5. Application to Amend Class II Auto Dealer and add Additional Location:

Application of Cape Cod Carz LLC, for amendments to an existing Class II Auto Dealer License at 153 Corporation Road, Hyannis. Amendments include increasing the number of vehicles from 37 to 45 at 153 Corporation Road as follows: 40 display, 2 employee, 2 customer and 1 handicap all approved by the Interim Building Commissioner on 7/19/16. Additional location at 158 Corporation Road, Hyannis for offsite storage only of 15 vehicles was also approved on 7/19/16.

Rick Gravina appeared on behalf of this application. Mr. Scali stated that you are an example of what all other car dealers should be doing.

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

Show Cause Hearings:

1. Continuation of Show Cause Hearing for Brito's Auto Sales:

The Licensing Authority held a continued show cause hearing update, on April 11, 2016 and July 18, 2016 from December 14, 2015 for violating Code of the Town of Barnstable, Massachusetts, §228-1, Town of Barnstable's Class I & II Regulations and M.G.L. c.140 §59 as cited in letter dated October 20, 2015, at the Brito's Auto Sales located at 657 Yarmouth Road, Hyannis and on Town property located at 629 Yarmouth Road.

Officer Gallant updated the Board. The Brito's are cooperating. There has been trash removed, they have obtained an engineered plan. The plans were delivered to Regulatory Services for review. There will be continued monitoring and communication with the Brito's. Mr. Scali stated that Officer Gallant has done a great job; site plan review needs to be done.

*****Continued to 9/19/16*****

2. Show Cause Hearing for The Car Guys Annual Class II License: The Barnstable Licensing Authority will hold a Show Cause Hearing for The Car Guys, Inc. d.b.a. The Car Guys, 551 Yarmouth Road, Hyannis, MA, Ryan DeVincent, Mgr., for violations of M.G.L. c.140 §58 and the Town of Barnstable's Class I&II Regulations: parking vehicles on the licensed premise not in accordance with the floor plan approved by the Building Commissioner and the Licensing Authority.

Officer Gallant reviewed the history of the Car Guys. Their existing plan does not accommodate cars to be in back row. The timeline was reviewed by Officer Gallant. A follow-up visit was conducted on June 15, 2016. The reason was a violation of the plan. The DeVincent's stated that the Railroad did not have issues parking cars close to the railroad. A cease and desist order was issued relative to non-adherence to the floor plan. Repeated conversations revolved around

needing to go to site plan to get into compliance. Tree removal was also discussed. The Town of Barnstable did have a survey conducted. Advised the boundaries of the railroad, airport etc. The DeVincent's were advised to speak to the Town before cutting down trees. The DeVincent's felt that they were under scrutiny. Slowly the cars were being removed from the back portion of the lot. On August 19, the cars were off the back row. August 20, many trees were cut down; the cars had been moved into that section; still not in compliance.

Attorney Pizzuti questioned Officer Gallant: were you aware of prior inspections of the property. Did you ever speak to Officer Estey, he stated that he told them to remove cars. Ms. Anderson had an issue with the American flags. They were told to remove and given an excerpt from the Town Code. The same flags are across the street at the new Car Dealership. The flags were removed.

Enforcement and scrutiny has been un-paralleled. Attorney Pizzuti asked when the last new Car Dealer you visited was; the Audi Dealership in August. Officer Gallant reviewed all the car dealers that she has visited. Mr. Hoxie asked if you just respond to complaints or will you be doing annual inspection. Officer Gallant will be doing annual inspections. Ryan and Officer Gallant reviewed plans at the podium. Attorney Pizzuti stated that moving cars around is conducting business.

Deputy Chief Melansen stated there was a 22 foot turn radius recommended by the applicant. The parking spaces need to be scale. Hyannis Fire confirmed that the plan is not being followed. Need to follow state code for a fire lane. Fire access is necessary; we can work with the applicant. We need to get a plan. Attorney Pizzuti is going to recommend to his clients to get a new plan. Mr. Hoxie would like this to work similar to the Brito's compliance with Officer Gallant.

*****Continued to 9/19/16*****

- 3. Show Cause Hearing for The Dockside Restaurant Seasonal All Alcohol Common Victualler License:** The Barnstable Licensing Authority will hold a Show Cause Hearing for the Mitchell's Café Corporation d.b.a. Dockside Restaurant, 110 South Street, Hyannis, MA, Velma Roberts, Mgr., for violations of § 501-5 of the Town of Barnstable's Licensing Authority's Rules and Regulations by conducting a private parking lot by accepting payment for 43 vehicles and one school bus to park at 53 South Street without Zoning approval and a private parking lot license issued by the Town Manager (44 counts).

Velma Roberts appeared at the hearing. Elizabeth Hartsgrove reviewed her timeline of her site visit. She further described what she observed and discussions she had with various individuals. Confirmed that an unlicensed private parking lot operation was being conducted, tickets and a cease and desist order were issued. This activity did continue. The lot is not part of the licensed premise. This location is not zoned or licensed for a private parking lot license.

Ornel Roberts admitted accepting money for parking vehicles at 53 South Street. Ornel stated that only 3 cars have his receipts the rest are from Nantucket Sound fishing.

Ornel sold 2 cups of coffee for \$15.00 each. A receipt was produced documenting such. Mr. Scali asked why you think you can charge anyone to park. Officer Gallant stated her concern that this activity has been ongoing. The issue of overflow is moot. The tenant lease states that the lot can be used for overflow parking. It cannot be used. Mr. Burman relayed a personal experience with the lot. The landlord was advised in 2014 that no parking was allowed on that lot.

Mr. Scali stated that the issue in front of this Board is over the illegality in relation to the liquor license. Violation of 501-5; operation of an illegal parking lot.

After testimony from Elizabeth Hartsgrove, Consumer Affairs Officer Therese Gallant, Velma and Ornel Roberts, the following motions were voted 3-0 by the Licensing Authority:

- **FINDINGS:** To move that the Licensing Authority determine violation of Section § 501-5 of the Barnstable Licensing Authority Rules and Regulations was found;
- **VERDICT:** To move that the Licensing Authority find The Dockside Restaurant at 110 School Street, Hyannis guilty in violating Section § 501-5 of the Barnstable Licensing Authority Rules and Regulations by accepting money for an unlicensed operation of a private parking lot at 53 South Street;
- **ACTION:** To move that the Licensing Authority suspend the Seasonal All Alcohol Common Victualler License and Entertainment Licenses for seven consecutive days which you will serve the suspension September 12-18, 2016, and hold an additional seven days in abeyance for one year from the date of the hearing. Cease and desist operation of illegal parking lot effective immediately.

Executive Session: Litigation Strategy and updates for ABCC Appeals:

1. **New England Clambake Inc., d/b/a Wimpy's**, 752 Main Street, Osterville, MA. 02655
2. **Venditti Enterprises Inc., d/b/a Mattakeese Wharf**, 271 Millway, Barnstable, MA. 02360
3. **Tap City Grille LLC, d/b/a Tap City Grille**, 586 Main Street, Hyannis, Ma 02601
4. **International Inn Bar & Grill Inc., d/b/a International Inn**, 662 Main Street, Hyannis, MA 02601
5. **MacFraga Inc., d/b/a Scottie's Famous Pizza**, 11 Ridgewood Ave., Hyannis, MA 02601

Licensing Division Updates:

1. **Licensing Department updates:** A summer intern assisted with compliance check lists. Attorney Nunheimer stated that there is an inconsistency between licensing and zoning.

2. **Police Department updates:**
No updates at this time.

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

The meeting was adjourned at 11:25

Respectfully submitted,

Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority

Ron Semprini, Clerk
Town of Barnstable 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

Town of Barnstable

Consumer Affairs

Elizabeth G. Hartsgrove, Supervisor

Licensing Authority

200 Main Street

Hyannis, MA 02601

www.town.barnstable.ma.us

Telephone: (508) 862-4674

Fax: (508) 778-2412

BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

August 22, 2016

Renewals:

1. **Application for a One Day Entertainment and One Day Malt License:**
Application of Sarah Mayo on behalf of the Barnstable Land Trust for the Annual Yellow Dog Music Fest. The Fest is to take place on September 17, 2016 from 1 pm to 7 pm and Entertainment is to include 6 bands from five to nine pieces. The location of the Fest will be at the Craigville Beach Association, Craigville Beach Road, Centerville. One Day Alcohol license is for Beer only.
2. **Application for a One Day Entertainment and One Day Malt License:**
Application of Stephen Hemberger on behalf of the Historical Society of Santuit and Cotuit for the Annual Autumn in Cotuit Fall Festival. The festival will be held at the Historical Dottridge Homestead, 1148 Main Street, Cotuit on September 24, 2016 from 11:00 Am to 3:00 PM. Entertainment to include recorded music and the One Day Alcohol license is for beer only.