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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: April 24, 2017

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 Wednesday, March 20, 2017. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Ron Semprini, Clerk; Attorney David Nunheimer, Associate Commissioner, Larry Decker, Associate Commissioner; Richard Scali, Director of Regulatory Services; Elizabeth Hartsgrove, Consumer Affairs Officer; CAO Officer Therese Gallant, Lt. John Murphy and Maggie Flynn, Recording Secretary.

Vote to accept Minutes

1. Vote to accept minutes of the 4/10/17 meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 4/10/17 meeting.

New Business:

1. **Closure Request for a Wine and Malt Retail Package Goods Store License:**
Licensee is Speedway Inc., d/b/a Speedway, 50 Ocean St., Hyannis. The store will be closing on April 1, 2017. Disposition of the license is under discussion.

Attorney Andrew Upton appeared on behalf of the closure request. Speedway closed due to a dispute with the Landlord. Their preference is to retain the license and transfer the license to a new location. The Corporation is examining 2 locations. The license has significant value. The package stores are under a quota system. Mr. Scali stated the Board should give a limited time as there are others that have expressed interest. Tenancy has terminated. Mr. Semprini asked if they are only fixed on the two locations or are they looking elsewhere; concerned about high traffic volume. Attorney Upton is

not aware of any other plans for an additional location. This is not a destination area, this is a convenience for existing customers.

Lt. Murphy, expressed concern about North Street, Rte. 28/Bearse's Way we did discuss background and neighborhood. Additionally the other location is in the area of other package stores.

Mr. Scali suggested 6 months for a continuance and determination of the transfer. Mr. Burman is requesting clarification from Mr. Scali regarding seasonal and annual package store licenses. Are we over by 4 or 3 licenses? This is a separate issue as this is an annual license.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to keep the licenses in full force and effect as inactive until October 24, 2017.

2. Application for a One Day Extension of Live Entertainment Hours:

Application of Michael Gannon on behalf of Kelly's on Main, 644 Main St., Hyannis to extend their Live Entertainment hours to Midnight on Sunday May 28, 2017 from currently licensed 8:00 PM. licensed performers and pieces will remain at 3.

Applicant did not appear at hearing. Agenda item continued to 5/8/17

3. Consent Agenda:

a) Application for (2) One Day All Alcohol License: Application of Scott Swaylik on behalf of the Joe Cronin Memorial Jimmy Fund Fishing Tournament for a One Day All Alcohol license for the Annual Event. The event will be held at the Nauticus Marina, 339 West Bay Rd., Osterville, MA on August 3rd and 4th from 4:00 PM to 10:00 PM.

b) Application for a One Day All Alcohol License and One Day Entertainment License: Application of Linda Arnowitt on behalf of Cape Cod Synagogue for a One Day All Alcohol and Entertainment License for the Annual Raffle Party to be held at the Cape Cod Synagogue, 145 Winter Street, Hyannis. The event is to be held on 5/13/17 beginning at 7:00 PM. Entertainment to include the Band, Hot Soup.

c) Application for (2) One Day Entertainment Licenses: Application of Carol Saunders on behalf of the Hyannis Public Library for (2) One Day Entertainment Licenses for the 41st Annual Antiques Show and Sale. The event is to be held on May 20th from 10:00 am to 5:00 pm and May 21st from 11:00 AM to 4:00 PM. The event will be held at The Barnstable Intermediate School, 895 Falmouth RD., Hyannis.

d) Application for a One Day Entertainment License: Application of Thalia Haseotes on behalf of the Cold Noses Foundation Inc. for a one day Entertainment license for the annual Paws at the Beach Pet Festival and Walk. The event is set to take place on September 23, 2017 from 10 AM to 4:00 PM at Craigville Beach, 997 Craigville Beach Rd., Centerville.

e) Junk Dealer License: Cotuit Mercantile, 45 Main St., Cotuit

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. **Application for an Amend of a Class I Auto Dealer License:** Application of 141 Stevens Street Inc. d/b/a/ Premier Mazda, 141 Stevens Street, Hyannis, for amendments to an existing Class I Auto Dealer License. Amendment is to change the corporate name from 500 Colony Place Inc. to 141 Stevens Street Inc. No other changes are requested at this time.

Attorney Jeffrey Ford appeared on behalf of this application. Filed to change the corporate name; Joe Laham remains all of the corporate officers; he is 100% of the Corporation.

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 a New Class II Auto Dealer License:** Application of Auto Cape Inc., for a new Class II Auto Dealer License at 61 Falmouth Road, Hyannis, for a maximum of 34 used vehicles to be parked outside per approval of the Building Commissioner and Fire Chief on 03/21/17. Breakdown of vehicles is as follows: 31 Display, 2 Customer, 0 Employee and 1 Handicap.

Mikayel Hakobyan appeared on behalf of this application. This is an ownership change; he was presently the manager at the location. There is a decrease of 1 vehicle from the previous owner and employees will be driving display vehicles to and from their homes to work.

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 for Amendments on an Annual Entertainment License:** Application of Beech Tree Cantina LLC d/b/a Beech Tree Cantina, 599 Main Street, Hyannis on their Annual All Alcohol Common Victualler License, for amendments to their current Entertainment licenses. Amendments include: Add Karaoke, one Pool Table, Juke Box and Ping Pong Table to existing licenses. Interior Live and Non-Live Entertainment hours will be 11:00 am to 12:45 am; Daily. Currently licensed from 4:00 pm to 12 am. Exterior Live and Non-Live entertainment has not changed.

Bill Pane and Shawn Jeffries appeared for the application. Bill Pane wants to carry out his plan to be a family place. We will have a children's movie playing in the alley at 7pm every day. Also extend the hours to 12:45 from 12:00 inside. We want people to have fun. Mr. Hoxie brought up the issue of earlier noise complaints. These were many years ago, we bought the condo where complaints were being generated from. We are asking for inside not outside change in entertainment. Mr. Burman expressed concern over the noise. Mr. Pane said he could get a decibel machine to test. Mr. Semprini has some concerns about adult and children having entertainment together. He does not see this as a family place. In terms of families, we are a restaurant. We have several different types of food. We have an 8 week season.

Lt. Murphy stated that all the other restaurants have the later time. The BPD is responsible for making sure that all is being done correctly. Attorney Nunheimer stated that consistency is key element in this situation.

Mike Murphy is a resident and the President of the Condominium Board who stated they are in favor of the business and not against the pool table etc. The residents asked Mr. Murphy to represent their concerns.

Mr. Hoxie did state that a letter from a resident in opposition was received. Mr. Hoxie stated that the Authority can reduce the entertainment hours to as low as 11:00 PM.

Mr. Pane was offering 12:20 PM or 12:15 PM; he does not want to offend anyone.

Lt. Murphy prefers the consistency of 12:45; if there are any problems they will be addressed. Mr. Scali says that it is a matter of monitoring.

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

4. Application of a New Wine And Malt Common Victualler License and a new Non-Live Entertainment License:

Application of Ricciardelli Enterprises LLC d/b/a Ricciardelli's, 575 Main Street, Hyannis, Chris S. Ricciardelli manager for a new Annual Wine and Malt Common Victualler License and a non – live Entertainment License.

Premise Description: Single story restaurant consisting of two 24 +/- square foot restrooms. 56 +/- square foot cleaning room, 237 +/- square foot kitchen, 20+/- square foot storage room, approximately 1000 square foot restaurant and bar area and 308 +/- square foot outdoor patio with 48 interior and 20 exterior seats all approved by the Building Commissioner on 3-24-17.

Non- Live Entertainment includes 1 Television and recorded music.

Hours of operation and entertainment are 11:00 am to 12:30 Pm, Daily.

Attorney Anthony Mazzeo and Chris and Kelly Ricciardelli appeared on behalf of the application; a new family Italian restaurant.

Mr. Hoxie asked if the manager has experience; yes at the Paddock. Mr. Scali asked about why they feel they can be successful. Are you doing any construction? Yes, Chris will be the chef. There will be experienced Line Cooks. Officer Gallant reiterated the Rules and Regulations; we will be doing under age compliance checks.

Ms. Hartsgrove reminded them that they can open with a common victualler license pending alcohol approval.

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

Staff Updates

1. Licensing Department updates- None from Ms. Hartsgrove. Mr. Hoxie asked about the gun range. Some recommendations for conditions on the license and rules and regulations will follow.

2. Police Department updates- Annual Compliance meetings. Off premise-1 business missed. On-premise- there were over 20 businesses that missed, these will be addressed at a future hearing.

Paul Logan addressed the Board regarding 2 quick things. Mr. Logan stated a number of fun items to do as a family in response to Mr. Pane's earlier comments. Mr. Logan asked about site plan review; who is the responsible person? Mr. Scali stated the Building Commissioner has final review. There is an informal and formal process. Formal site plan review is an open meeting but there is no testimony. Mr. Logan feels that the handicap parking has nothing in

place. All questions go through the Building Commissioner and through Ellen Swinarski. Mr. Logan stated there are a few CV licenses that have not complied. Officer Gallant stated relative to IHOP they were very quick, Corporate is probably unaware that an additional space is required. Ultimately, the Building Commissioner is responsible. Ms. Hartsgrove explained the informal site-plan review process.

Executive Session:

- 1. Review of ABCC Appeal: New England Clambake Inc. d/b/a Wimpy's, 752 Main St., Osterville, Ma. Daniele Siscoe, Manager.**

A motion was made to move that the Licensing Authority enter the Executive Session at 10:43 am and return to open session.

Motion by: Gene Burman; Seconded by: Ron Semprini; Yea 3, Nay 0

Roll call (Hoxie, Burman, Semprini – yea)

The Licensing Authority returned to Open Session at 10:50 AM

Attorney Pizzuti addressed the Board a while back during open session. He believed that they had a resolution to the matter, the same as Tap City and Mattakeese. The Wimpy's case was stronger, lack of written notice, strongest case in a sting situation. A compliance check by its nature is entrapment. Happy now that the BPD and the staff are now conducting them as they should be conducted. There were 3 or 4 guidelines that were not followed. We had a mutually acceptable resolution, communication between David and I must have broken down.

Mr. Hoxie asked about the May 8, 2017 hearing. Wimpy's is transferring stock. Given the circumstances, it is only right to have the commission reconsider their decision. If the commission says no, that is your right. Mr. Hoxie stated that Attorney Pizzuti was under the impression that this does not count as a first offense. Attorney Houghton was stunned that Attorney Pizzuti would accept as a first offense. Attorney Pizzuti stated absolutely not.

Mr. Hoxie suggests that we not include this as a first offense. Mr. Burman stated this is a dead issue, they pleaded guilty, served their time and he will stand on previous finding.

Attorney Pizzuti stated there was a mistake. There was a September email for all 13 cases; Wimpy's did not take that deal.

Attorney Nunheimer commented that we need to concentrate on consistency. The licensees need to know that if the original deal not taken, we will move on.

Offering: 2 day suspension, 1 to serve and 1 already served and 1 to be held until April 2018 pending a successful compliance check and no other violations. Remain in history, not a first offense.

Mr. Semprini agreed with Mr. Burman but also with the art of compromise. Someone explain history to me; similar to a continued without a finding.

Mr. Burman offered a motion to reaffirm the decision of 3-4 weeks ago; no second of the motion was offered.

Mr. Semprini recused himself from the vote.

Mr. Nunheimer offered the following motion: 2 day suspension, 1 day to serve, served, 1 day to be held pending successful completion of the 2017 compliance check and no other underage compliance violations. This will count in history but not as a first offense. Mr. Hoxie seconded the motion. Vote: 2-1 (Burman)

Attorney Pizzuti thanked the Board.

Lt. Murphy said the BPD echoes the business community and the Licensing Authority, we do not endorse the vote but we recognize the difficulty. The BPD will now be involved with the negotiation process with the Town Attorney for any future cases.

The meeting was adjourned at 11:30am

Respectfully submitted,

**Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority
Authority**

**Ron Semprini, Clerk
Town of Barnstable Licensing**