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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 11, 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, April 11, 2016. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Ron Semprini, Clerk; Larry Decker, Associate Commissioner; Richard V. Scali, Director of Regulatory Services; Elizabeth G. Hartsgrove, Consumer Affairs Supervisor; C CAO Officer Stephen Estey, Liaison Officer from the Barnstable Police Department; and Maggie Flynn, Recording Secretary.

Vote to accept Minutes:

1. Vote to accept minutes of the 3/21/16 meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 3/21/16 meeting.

New Business:

1. **Application for a New One Day Entertainment and One Day Beer Only License:** Application received from Patrick Lentell on behalf of SEMC Sports for one day beer and entertainment licenses for the Tour de Barnstable event. This event will be held at Aselton Park and the Cape Cod Maritime Museum, Ocean Street, Hyannis. Entertainment is to be provided by the Bert Wiseman trio. The event will be on May 15, 2016 from 9:00 AM to 1:30 PM.

This is a 35 mile bike ride according to Pat Lentell. We will be serving beer at the event by Cape Cod Beer. Last year we had 238 riders and we were very successful; hopefully 350 riders this year. Larry Decker participated last year. Mr. Scali asked how beer will be cordoned off, it will be in the beer trailer, it will be defined by cones and fencing. There will be monitors. The parking will be in the Town parking lots, no shuttles.

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

2. **Consent Agenda:**

Mr. Scali reviewed the tax status of the Eclectic Café. Possibly recommend a Show Cause Hearing due to tax issues.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the Consent Agenda as presented except for the Eclectic Café which will not issue the renewal and schedule a Show Cause hearing.

Public Hearings:

1. **Application for Exterior Alteration of Premises for An All Alcohol Farmer Brewery Pouring License:** Application of Cape Cod Beer Inc., d/b/a Cape Cod Beer, 1336 Phinneys Lane, Hyannis, Todd Marcus, Manager, for an Exterior Alteration of Premises description to add to the existing premises description: Current Exterior Description: Exterior patio with 6 picnic tables (at least 1 ADA compliant) with seating for 49 and an additional 10 standees on the patio. Concrete planters surround. Additional Exterior Description: Additional sq. foot patio; existing. Extension of premise to include additional 6700 sq. ft. outside for good weather event use. Seating and standees remain as originally licensed.

Beth Marcus appeared on behalf of this application. This is the same space that we use for the Farmer's Market. We continue to need this space for event use only.

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 One day Beer and Wine and Entertainment License:**

Application of Cape Cod Beer Inc., d/b/a Cape Cod Beer, 1336 Phinneys Lane, Hyannis, Todd Marcus, Manager for a one day beer and wine and entertainment licenses for the Cape Cod Beer Race to the Pint 5k/10k. The event will be held at Cape Cod Beer, 1336 Phinney's Lane, Hyannis on 4/23/16 from 4:00 to 7:00 PM. Entertainment to include 5 pieces.

Beth Marcus also addressed this application. We need to use the above space but will not be approved by the State. The 5k road race is set to start and end at the brewery.

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 a New Annual Common Victualler License and Non-Live Entertainment License:**

Application of Rodrigues & Silva Inc, d/b/a A Brasileira Cafe, 225 Iyannough Rd., Hyannis, Gabriela Simoes, Manager, for an Annual Common Victualler License. Interior seats total 42 with 4 employees and 6 standees and 20 parking spaces all approved by the Building Commissioner. No exterior seats.

Hours of operation will be 6:00 am to 11:00 pm daily. Non-Live Entertainment license is for 2 televisions.

Andre Rodriques and Fabio Silva did not renew the last application. The Corporate name has changed, menu etc. remain the same.

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 for a Transfer of an Annual Wine and Malt Retail Package Store and Change of Location:**

Application has been filed to transfer the Annual Wine and Malt Retail Package Store from Food Port International Market, LLC. d/b/a, Food Port International Market. Fredy Chavez manager, 338 Main Street, Hyannis to LLH, LLC., Brain Fahey, manager, d/b/a Trader Joe's, and to move location to 655 Iyannough Rd., Hyannis.

Description of Premise: Single floor building with 1 main entrance/exit point, 1 secondary egress point, 1 roll up door. Space consists of 11,155 sq. ft. of retail floor space, 324 sq. ft. of walk-in cooler, 225 sq. ft. of walk in freezer (exterior,

accessed via inside stock room), 1793 sq. ft. of storage/back of house space. Total sq. ft. for space is 13,272. Hours of Alcohol sales: Monday through Saturday 8:00 AM to 9:00 PM and Sunday 10:00 AM to 9:00 PM

Attorney Andrew Upton appeared on behalf of the application. Brian Fahey and Chris Maguire also attended. Attorney Upton reviewed the history of Trader Joe's and its employees. No violations for over a decade. Trader Joes customers want the beer and wines that are offered only by them. Specialty beer and wines only; quality not quantity. Brian submitted a file of letters of support. It is a convenience destination. Chris Maguire, regional VP, oversees 24 stores 9 with alcohol, 5 in Massachusetts. Strong training programs and managers, employ 3rd party company for monitoring. As a store manager in Brookline asked consistently about beer/wine on the Cape. Brian Fahey is current manager, 2 years, will be alcohol manager. We are a charitable organization. Trader Joe's is looking to add at least 15 year round jobs. Selling hours will be 8:00 am to 10:00 PM.

Fredy Chavez, owner of Food Port International also spoke at the hearing. Our products are Eastern European. The alcohol license is being under-utilized. Mr. Semprini, will you remain in business, yes.

Mr. Scali asked about the changes to the store itself. Construction has started. We are moving some aisles and refrigeration. Beer and Wine will be to the right, registers will be in front.

CAO Estey asked how will you ID customers? Trader Joes policy is to ID every person. We do have a system built into check scan. The birthdate will be punched into the register. All managers will be TIP certified. Every register will allow alcohol purchase. Average age of cashiers is 40 years.

Mr. Scali reviewed that the parking lot is very crowded. It is also a concern of ours. We will be offering more carryout services. Mr. Semprini asked about deliveries, will this coordinate with your food deliveries. We try and arrange this before hours. We try hard not to be working product during customer hours. Mr. Burman, 1793 sq. feet will be dedicated to alcohol; we must license the entire premise. Do you have enough supervision of the area? We improve constantly setting up the area for beer and wine; a customer can bypass completely.

Ms. Hartsgrove reviewed the Rules and Regulation for package store.

Compliance meeting also on Thursday at 2:00 PM.

Public Comment:

Mark Hickman, regular shopper at Trader Joes. A very unique entity. The average age is quite a bit older than other package stores.

Susanne Carter from Flower Angels of Cape Cod also spoke in support. We repurpose the flowers to nursing facilities. Also, she is a daily shopper at Trader Joe's. There is always plenty of help at the store.

Carol Lyle, worked for Trader Joe's, the visitors are always looking for their beer and wine. As a citizen this is a great opportunity to buy wine and beer at a great price.

Freddy Chavez stated that, he and his wife gave it a lot of thought of whether or not to sell to Trader Joe's. This is a company that we believe in. We are working

on the property at 10 Ocean Street to bring it back to life. They have my full support.

Mr. Nunheimer reviewed giving these licenses to larger stores. Mr. Scali stated the values of these licenses are increasing daily. Mr. Hoxie stated that we will always have this problem on licenses with quotas. They have met the criteria.

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

Old Business:

- 1 **International Inn:** Updates as required per December 14, 2015 show cause.

Attorney David Houghton stated this may be more of a set of questions instead of an update. The matter is scheduled for hearing on 4/27/16 at the ABCC. The Licensing Authority continued these hearings multiple times until March 8, 2016. Are there any further steps to be taken? Mr. Scali stated that this is in reference to the first show cause in relation to Health Code violations. Your suspension is still in place. Mr. Burman did we not suspend their hotel license. It is my understanding that all licenses were suspended. The Inn holder requires the service of food not alcohol. Should the appeal have gone to superior Court and not the ABCC? The Board of Health has continued until September 2016. Mr. Scali reviewed the timeline again. The second case was heard first by the ABCC. The matter is still open. Attorney Houghton suggested closing the hearing and notifying the license holder that it should be continued.

- 2 **Brito's Auto Sales:** The Barnstable Licensing Authority will hold a Show Cause Hearing for Jeremy Brito, d/b/a Brito's Auto Sales, 657 Yarmouth Road, Hyannis for violating the Town of Barnstable Licensing Authority Rules and Regulations for Class II Auto Dealerships and MGL c.140 §59 for displaying and storing vehicles outside of the licensed premise without being properly licensed by the Local Licensing Authority.

*****Continued from 3/7/16 Hearing*****

Liz Hartsgrove reviewed the January 11, 2016 show cause hearing. Identify parking and tenant space. All personal property was to be removed from Airport property. There was progress being made and continued to today. No progress since our last continuation. No approved floor plan. On March 18, TSA has been involved with civil penalties with the licensee. The licensee did not appear. A request was made to postpone until 4/25/16 and notify the licensee.

- 3 **Nor'Easter Update:** The ABCC returned the file for more paperwork. Owners are not moving forward with Seasonal license at this time. All licenses are in good order.

The ABCC returned the file for more paperwork. Ms. Flynn stated licensee will open on May 1 with their annual license. The seasonal request is being withdrawn at this time.

4 **Work Session:** Town of Barnstable Rules and Regulations.

First session was on March 2, 2016. Draft is provided along with requested changes. The changes are from the last session. There will now be a policy section.

Public Comments:

Attorney Stephen Pizzuti added some thoughts; commended the staff for the undertaking. By these changes you are creating more liability and removing conventional managerial discretion. This places the Licensing Authority in the liquor business. For example:

501-5 I- Maintain proper management this is arbitrary. Orderly appearance- this is arbitrary.

501-7- Removes any discretion to call the police every time; too restrictive.

501-8 D2 – Received many call from licensees regarding this, cleaning done by all after 1:30. Way too strict to call every time; cited Cambridge rules as normal business.

501-10J – This is where the liability comes into play, the change from may to will creates litigation. Tips training is very controversial among the licensees, need a better time frame; 60 days possibly. All licensees are concerned with pending ADA regulations. All these regulations are placing additional burdens on licensees.

505-1- Need to change the definition of transient; specific to condotel units.

John Pomeroy from Luke's in Hyannis stated TIP certification is important; we have a 60 day policy. Mr. Scali asked about an employee working on the register without certification. Are you comfortable with this? You realize that the liability is on you, you can lose your license if they make a mistake.

Paul Logan, resident of Cotuit representative of the Barnstable Disability Commission. Access into buildings for example: Sea Street Café, not proper parking. No signs, no striped island. These are basic things that are important.

Wayne Kurker for Hyannis Marina and Trader Ed's. After hour cleaning, call the police- every day? TIPS class being offered at Trader Ed's.

Licensing Division Updates:

1. **Licensing Department updates:** Compliance meetings. Please review private parking lot regulations. There will be multiple work sessions.
2. **Police Department updates:** The Rules and Regulations is a very good thing. June 7 is the Municipal Licensing Annual Meeting.

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

Town of Barnstable

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BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

April 11, 2016

Renewals:

1. **Application for a One Day All Alcohol and Entertainment Licenses:** Application of Judith Silverman on behalf of the Cape Cod Synagogue for a One Day Alcohol and Entertainment licenses for the Raffle Party 2016. The event is to be held at the Cape Cod Synagogue, 145 Winter Street, Hyannis on May 7th from 7:00 to 10:30 PM. Entertainment is the Fat City Band containing 10 pieces
2. **Application for One Day Beer and Entertainment Licenses:** Application of W Patrick Lentell on behalf of the Cystic Fibrosis Fund for a one day beer and entertainment licenses for the Miles for Megan fundraiser. The event will be held at the Freedom Hall, Main Street, Cotuit on 10/15 /2016 beginning at 11:00 AM. Entertainment will be amplified 4 piece band.

Common Victualler All Alcohol with Entertainment:

1. Harbor Point Restaurant, 156 Harbor Point Rd., Cummaquid
2. The Dockside Restaurant, 110 School Street, Hyannis
3. Eclectic Café, 606 Main St., Hyannis******Status on Renewal******

Common Victualler All Alcohol:

1. The Islander, 330 West Bay Road, Osterville

Junk Dealer:

1. Sweet Pea's Nest, 4083 Main St., Cummaquid
2. Gamestop, Cape Cod Mall, Hyannis
3. Hannoush Jewelers, Cape Cod Mall, Hyannis
4. Newbury Comics, Cape Cod Mall, Hyannis

Common Victualler:

1. Coffee Table Café, 230A Ocean St., Hyannis
2. CBA Snack Bar, 915 Craigville Beach Rd. Centerville
3. Katies Creamery, 568 Main Street, Hyannis

The meeting was adjourned at 11:35

Respectfully submitted,

Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority

Ron Semprini, Clerk
Town of Barnstable Licensing Authority