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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: October 17, 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, July 18, 2016. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced Gene Burman, Vice Chairman; Ron Semprini, Clerk; Richard Scali, Director of Regulatory Services; Elizabeth Hartsgrrove, Consumer Affairs Supervisor; CAO Therese Gallant and Lt. John Murphy Liaison Police Officer and Maggie Flynn, Recording Secretary.

Vote to accept Minutes

1. Vote to accept minutes of the 09/19/16 meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 09/19/16 meeting.

New Business:

1. **Application for a One Day Wine and Malt and One Day Entertainment License:** Application of Elizabeth Wurfbain on behalf of the Hyannis Main Street BID for a one day wine and malt and entertainment licenses for the Annual Main Street Fundraiser. The event was held at the Cape Cod Maritime Museum, 135 South Street, Hyannis on September 23, 2016 from 5-8 pm. Entertainment included a 3 piece steel band. This is a retroactive approval.

Elizabeth Wurfbain appeared at the hearing. This is a retroactive approval. We thought the Museum applied for all permits.

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

2. **Forfeiture of Class II Auto License:** AB Auto Sales, 415A Barnstable Road, Hyannis has relocated their business to Buzzards Bay and is forfeiting their current Class II license.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the closure.

3. **Application for a One Day Beer Only License:** Application of Sannie Rocheteau on behalf of Whole Foods Market for a one day beer only license for an Oktoberfest with Cape Cod Brewery for a beer tasting. Event is to take place at Whole Foods Market, 990 Iyannough Rd., Hyannis on October 29, 2016 from 4:00-6:00 PM.

Sandy Rocheteau appeared for the event. The event will pair the beers with cheese that complement each other. The event will be in the specialty department.

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

4. **Consent Agenda:** None at this time.

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 reviewed all updated information regarding the three sections that were updated. Attorney Pizzuti identified an additional section that needed to be updated. Mr. Scali commended Mrs. Hartsgrove for all of her yearlong hard work. Lt. Murphy also agreed in relation to Mr. Scali's comments. Mr. Semprini inquired about the paving amendment; to get clarification. Mr. Burman recognized the hard work; he is not in favor, we are over regulated. Mr. Hoxie reminded the Board these amendments come from their goals of 2015.

A motion was duly made by Mr. Semprini, seconded by Mr. Hoxie and by a 2-1 (Burman) vote taken to approve the Town of Barnstable Rules and Regulations as amended.

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

Application of Ling & K Inc. d/b/a/ Saga Fusion Restaurant, 1560 Old Post Road, Marstons Mills on their Annual All Alcohol Common Victualler License, for a Change of Manager from Hui Ling Chen to Sky Huang.

Attorney Lawler represented the application. Last month Saga Fusion was penalized due to a compliance check. The new manager for the restaurant has significant experience. Mr. Scali asked how Mr. Huang will handle previous issues which Mr. Huang replied that they will card all patrons. Mr. Semprini asked to clarify his birthdate.

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

3. Application for a Change of D/B/A for an Annual All Alcohol License:

Application of Aztec City LLC, d/b/a Aztec City Mexican Bistro And Tequila Bar, 302 Main Street, Hyannis, Angel R. Camas-Calle Manager, for a change of d/b/a on its Annual All Alcohol Common Victualler License to Casa Peru Fusion.

Attorney Pizzuti and Jorge Fernandez represented the application. Mr. Ferndandez wants to go back to his Peruvian roots. Attorney Pizzuti presented proposed menus. Layout of the restaurant remains the same. The thought is what will work in the long term. This will include Japanese and Chinese fusions.

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

4. Application for a Change of D/B/A for an Annual All Alcohol license and Extension of Approval:

Application of South Sea Village Inc., d/b/a Jasmine Blossom, 574 Iyannough Rd, Hyannis, Wai Ming Lam Manager, for a change of d/b/a on its Annual All Alcohol Common Victualler License to Bamboo. Additional request is to extend Licensing Approval to an anticipated opening date of December 15, 2016.

Attorney Pizzuti represented this applicant. This applicant was approved previously and they want to change their name to previously utilized name of Bamboo. Eric Lam has been day to day at the location. The 15th of December is not realistic, more likely the end of the year to open. There have been permitting issues and construction delays. Mr. Scali inquired about handicap accessibility. Mr. Semprini asked about wheelchair accessibility at the bar; we have an open bar system at present.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application as presented. Also included in the motion was to extend the original approval until December 31, 2016.

- 5. Application for a New Annual Common Victualler License:** Application of Cape Cod Chicken LLC d/b/a Chick-Fil-A, 155 Enterprise Road, Hyannis, Annemarie Reissner, Manager, for an Annual Common Victualler License. 126 Interior seats, 30 exterior seats totaling 156 seats all approved by the Building Commissioner on 9-16-16. Hours of operation will be 6:30 am to 10:30 pm Monday-Saturday.

Anne Marie Reisner and Mike Peterson appeared. The hours should be opened from 6:30 am to 10:00 pm. Mr. Burman asked about restaurant experience. Ms. Reisner stated she has a strong support staff and significant training support from Corporate. Expecting 70-100 employees when fully staffed. Mr. Scali had a number of questions, concern about no restaurant experience. Mr. Scali asked what their policies were, citing online articles regarding being banned in areas. Ms. Reisner explained their hiring policies are to look for good character, however no experience required. Mr. Scali reiterated that the company has been banned in many cities and he has concerns about the LGBT community. Ms. Reisner stated there are no policies with Chick-fil-A corporate for discrimination; all are welcome to apply and to be served. Mr. Scali expressed concern with the proposed 24 hour opening ceremony and possible protests. Ms. Reisner stated the event has been changed to 12 hours 6am-6pm. Scott Goodson, Chick-Fil-A corporate office in New England spoke about the company not being discriminatory and being an open environment. Mr. Goodson explained that in 2012 the President made some personal views public, however this does not translate to corporate. They have not had any issues in any of the open establishments since those comments were made.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to approve the application as presented with the corrected closing time of 10:00 PM.

- 6. Notice of ABCC Decision Review Scottie's Famous Pizza:** The Barnstable Licensing Authority will hold a public hearing to review the ABCC decision dated August 30, 2016 and to consider the ABCC recommendation for a 30 day license

suspension for violation found by the Licensing Authority on July 15, 2015 and approved by the ABCC for MacFraga, Inc., d.b.a. Scottie's Famous Pizza, 11 Ridgewood Avenue, Hyannis, MA, Alex MacDonald, Mgr.,

Attorney David Lawler, Alex Macdonald and Alex Fraga appeared. The ABCC overturned the revocation of the license. Request that the Board issue the remaining 16 days be served of the 30 days.

Attorney Houghton wanted to thank all participants in this matter. Strongly recommend that the Licensing Authority adopt what the ABCC recommend. Lt. Murphy disagrees with the ABCC. Mr. Semprini asked to hear from the owners. Alex Macdonald stated he was very new and needed to learn quite a bit. He is trying to get better each day. Since last October they hired new employees that are both TIP and Serve Safe certified. They are keeping the area clean, no more drug addicts or dealers; the clientele has changed completely. The first year they called the police department 40 times. They have paid a price. Since June of 2015 there has not been an issue with the Police Department.

Discussion revolved around what the original penalty was issued and how it was served.

The five days was served as being closed completely. They reopened after 5 days with food only and no alcohol for 14 days in total.

After discussion with Town Atty. David Houghton and Atty. David Lawler, the following motions were voted 3-0 by the Licensing Authority:

•ACTION: To move that the Licensing Authority revoke the July 15, 2015 show cause hearing decision and adopt the ABCC recommendation; and

•ACTION: To move that the Licensing Authority suspend the On Premise Beer & Wine license for sixteen (16) days starting November 1st, 2016 and allow food service to continue on premise during alcohol suspension. (14 days already served in 2015)

- 7. Notice of Decision Review Mattakeese Wharf and Tap City Grill:** The Barnstable Licensing Authority will hold a public hearing to review the local Licensing Authority decision dated November 16, 2015 and joint recommendation for suspension by reason of pending ABCC appeal for Venditti Enterprises Inc, Inc., d.b.a. Mattakeese Wharf, 271 Millway, Barnstable; Paul S. Venditti, mgr. and Tap City Grill LLC d.b.a. Tap City Grill, 586 Main Street, Hyannis; Cristina Carreras, mgr.

Attorney Houghton reviewed that compliance checks in brief. Both establishments have the same set of circumstances and were appealed. These could go to ABCC hearings and beyond. Action by the Board to reaffirm findings

Attorney Pizzuti stated that this has been a long road; this is a learning experience. There have been other licensees that have served their time;

Lt. Murphy stated he has a difference of opinion. Yes, the guidelines were not followed, however a compliance check is not illegal and the Police Department acted in good faith. Attorney Pizzuti meant no malice towards his statement that it was illegal to conduct compliance checks, it was a legal term.

Findings: Moved that the Licensing Authority affirms its findings made on November 16, 2015 that a violation of section 501-7(1) of the Barnstable Licensing Authority Rules and Regulations for the sale or delivery of an alcoholic beverage to a person under 21 years of age occurred on September 26, 2015 on the licensed premises of Vendetti Enterprises, Inc. d/b/a Mattakeese Wharf at 271 Mill Way, Barnstable.

Verdict: Moved that the Licensing Authority affirms its findings made on November 16, 2015 that Venditti Enterprises Inc., d/b/a Mattakeese Wharf was guilty of violating 501-7(1) of the Barnstable Licensing Authority Rules and Regulations on September 26, 2015.

Action: Moved that the Licensing authority rescind its action on November 16, 2015 suspending the All Alcoholic Common Victualler License, Common Victualler and Entertainment Licenses for 2 Days, One to be served September 24, 2016 and one held in abeyance for one year and substitute the following: suspending the All Alcoholic Common Victualler and Entertainment Licenses for 2 days, one having been served on October 11, 2016 and one held in abeyance for one year or the next compliance check, whichever occurs first, provided that no underage service violation occurs during that time the violation on September 26, 2015 shall not be considered a prior offense, and provided further that all appeals of this action are waived and all appeals of the action of November 16, 2015 be dismissed with prejudice, without costs.

Findings: Moved that the Licensing Authority affirms its findings made on November 16, 2015 that a violation of section 501-7(1) of the Barnstable Licensing Authority Rules and Regulations for the sale or delivery of an alcoholic beverage to a person under 21 years of age occurred on September 27, 2015 on the licensed premises of Tap City Grille, Inc. d/b/a Tap City Grille at 586-586A Main Street, Hyannis.

Verdict: Moved that the Licensing Authority affirms its findings made on November 16, 2015 that Tap City Grille Inc., d/b/a Tap City Grille was guilty

of violating 501-7(1) of the Barnstable Licensing Authority Rules and Regulations on September 27, 2015.

Action: Moved that the Licensing authority rescind its action on November 16, 2015 suspending the All Alcoholic Common Victualler License, Common Victualler and Entertainment Licenses for 2 Days, One to be served January 9, 2016 and one held in abeyance for one year and substitute the following: suspending the All Alcoholic Common Victualler and Entertainment Licenses for 2 days, one having been served on November 1, 2016 and one held in abeyance for one year or the next compliance check, whichever occurs first, provided that no underage service violation occurs during that time the violation on September 27, 2015 shall not be considered a prior offense, and provided further that all appeals of this action are waived and all appeals of the action of November 16, 2015 be dismissed with prejudice, without costs.

Licensing Division Updates:

1. **Licensing Department updates:** Renewals have been mailed out. Plastic Bag ordinance is in effect; 43 exemptions were filed.
2. **Police Department updates:** Per Lt. Murphy, a vehicle was damaged in a private parking lot with a boot. Due to the storm there was a delay. Concern that the boot caused damage and cannot locate the owner of the lot. Next meeting discuss the suspension process, signs etc.

The meeting was adjourned at 11:04 AM

Respectfully submitted,

Margaret D. Flynn, Recorder
Town of Barnstable Licensing Authority

Ron Semprini, Clerk
Town of Barnstable Licensing Authority