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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: March 20, 2017

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 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; 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 3/06/17 meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Semprini and a unanimous vote taken to accept the minutes of the 3/6/17 meeting.

Old Business:

1. **2017 Lodging House License Renewal Discussion:** Embassy Inn, 98 High School Road, Hyannis, MA. 02601.
****Continued from 2/13/17 Hearing****

Attorney John Hopkins and Timothy Maloney appeared. Attorney Hopkins reviewed the status of the deck. There is an additional issue regarding the roof/stairs attached to the deck. Stairway is in disrepair. Mr. Maloney will be removing the cover. He understands that he will now be responsible for treatment in weather. The final certificate of inspection is also needed. Attorney Hopkins requested 30 days. The letter will be submitted promptly. License will be continued for 30 days and no need to reappear unless repairs and COI are not completed.

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. **Application for a new Annual Common Victualler License:** Application of The Pineapple Caper LLC., d/b/a Pineapple Caper Cafe, 21 Wianno Ave., Osterville, Tammy Russell, Manager, for a new Annual Common Victualler license. Hours of operation will be 7:00 am to 3:00 pm daily. There will be 22 interior seats only as approved by the Building Commissioner on 2-9-17.
******Postponed from 3/6/17 Hearing******

Tammy Russell appeared on behalf of the application. We are taking over the Wianno Green Café for breakfast and lunch. We also have a food truck for catering purposes. Hope to be open May 1, 2017.

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 Change of Manager on an Annual All Alcohol Common Victualler License:** Application of Davester LLC d/b/a Embargo, 453 Main Street, Hyannis on their Annual All Alcohol Common Victualler License, for a Change of Manager from David Noble to Marissa Noble.
3. *Attorney Bob Bianchi and Marissa Noble appeared. She has been there since the beginning of the restaurant.*

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 Change of Manager on Seasonal All Alcohol Common Victualler License:** Application of Hyannis Anglers Club Inc. d/b/a Hyannis Anglers Club, 235 Ocean Street, Hyannis on their Annual All Alcohol Club License, for a Change of Manager from Anthony Folino to Linda Romano.

Attorney Anthony Mazzeo and Linda Romano appeared. Linda has experience as a teacher in the Town of Barnstable. Mr. Scali asked about the status of the building. No clear future status of the building was available.

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 for an Alteration of Premises for a Seasonal All Alcohol Common Victualler License:** Application of 13 Live's Corp., d/b/a The Black Cat Harbor Shack, 159 Ocean Street, Hyannis, Scott C Brownlee, Manager, for an Alteration of Premises description to change the existing premises description to:

Two story wood frame structure in front with frontage on Ocean Street. Three entrance/exits, two storage areas, 3 bathrooms including 1 handicapped accessible. North Patio, South Patio. Front Patio and Rear Patio with Bar.

Rear accessory structure, approximate 1,392 sq. ft., with 32 seats and 14 bar seats. Rear patio standees are 24. Front area structures: South Patio has 11 seats. Front Patio as 18 seats and North patio has 8 seats. All areas will now have full alcohol and wait service.

A total of 83 exterior seats and total maximum exterior capacity of 120; including 24 standees and 13 shift employees. No front area standees. No interior seats. All changes approved by the Building Commissioner on 2/21/17.

Attorney Dan Creedon and Dave Colombo appeared on behalf of this application. Attorney Creedon stated last year we were before you for a roof deck; that has been abandoned with this scaled down change of premises request. Want to add the front area for alcohol service. Areas will be fenced in to provide security; this to meet a need and demand of the public. No net change to the number of seats. The plan shows a well-controlled area in terms of licensing. There is handicap accessibility.

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

6. **Application for a New Annual Live Entertainment License:** Application of CapeSpace, LLC, d/b/a CapeSpace, 100 Independence Dr., Hyannis; Robbin Orbison manager.

Entertainment is to include live music indoors for 10 performers with 10 pieces. Entertainment are during the following hours: Monday - Friday 6:00 PM to 10:00 PM and Saturday – Sunday 11:00 AM – 5:00 PM. Additional entertainment requests are for poetry readings and comedy shows. Required use approved by Building Commissioner.

Robin Orbinson appeared for the application. This is a shared workspace facility. We are looking to bring in a few Coffee house style events. Coffee and prepared foods from a Caterer will be provided. The Common Victualler license is not required because there is no cooking on the premises.

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 Hearing:

- 1. Show Cause Hearing for an All Alcohol Common Victualler License:** The Barnstable Licensing Authority will hold a Show Cause Hearing to consider violations of Section § 502-1r. Alcoholic Beverages General Provisions of the Town of Barnstable Code, for the sale or delivery of an alcoholic beverage to a person under 21 years of age by Pacific Bay, Inc., d/b/a Tiki Port Restaurant, Wai Fai Mah, Manager, 720 Route 132, Hyannis.

******Postponed from 3/06/17 Hearing******

Attorney David Lawler and Wai Fai Mah and Nancy Wong appeared for the Show Cause Hearing. Attorney Lawler acknowledged the findings of the police report, we are not contesting the findings.

CAO Gallant reads the police report into record. Mr. Hoxie asked if there are criminal charges pending? Yes.

Attorney Lawler stated that all here today are familiar with Tiki Port. They have been in business for 40 years; yes this is the second time in a short period of time. This was a mistake in judgement on behalf of Tiki Port. Since then they have gone to a “we card everyone” approach. (Copy of the proposed sign was provided to the Board). Serving under age will mean termination of employment. Most recent punishment was a 5 day with 2 to serve. We will be willing to accept this punishment. Mr. Hoxie asked where the violation occurred, in the lounge or the dining room. It was in the dining room and they did order food. Lt Murphy was the commander that evening; the ones arrested were posting on Facebook they were drinking at the Tiki Port. Mr. Semprini asked about the bartender, he was not terminated but is facing charges. The policy is for all future offenses. Mr.

Scali asked about further training. TIPS training for English speaking and will make accommodations for English as second language. Ms. Hartsgrove reviewed the Rules and Regulations pertaining to the log.

Recommend to serve the one day from last year and serve 2 with this suspension. Three days to be held.

Lt. Murphy stated the Tiki Port is an anchor restaurant but he has some concerns, why wasn't the we card everyone procedure put in place at the first offense. Attorney Lawler did not represent them at this time; he cannot comment on this. We have taken aggressive measures. Social media is what we must deal with at this time.

Lt. Murphy has an issue with only 1 year held it should be 2 years. He did reiterate that the BPD has a good working relationship with the restaurant.

FINDINGS: To move that the Licensing Authority determine violation of Section § 502-1r of the Barnstable Licensing Authority Rules and Regulations was found (3-0);

VERDICT: To move that the Licensing Authority find Tiki Port Restaurant located at 720 Route 132, Hyannis guilty in violating Section § 502-1r of the Barnstable Licensing Authority Rules and Regulations (3-0);

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler for 5 days: of which you will serve a two day suspension on April 4 and 5, 2017 and have three day suspension held in abeyance for two years from date of this hearing (3-0)

ACTION: To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License for 1 day, on April 3, 2017 in accordance with the September 19, 2016 action taken by the Licensing Authority (3-0).

Licensing Division Updates

- 1. Licensing Department updates**
- 2. Police Department updates**

Executive Session:

The Licensing Authority may vote to enter into executive session pursuant to G. L. c. 30A s. 21(a)(3) to discuss strategy with respect to the following litigation if the chair declares that discussion in an open meeting may have a detrimental effect on the litigating position of the Authority.

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

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

The public meeting was adjourned at 10:20

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

March 20, 2017

Renewals:

- 1. Application for One Day All Alcohol and Entertainment Licenses:**
Application of Paul J Covell on behalf of the Barnstable County Deputy Sheriff's Association, PO Box 3028, Pocasset for a One Day All Alcohol and a One day Entertainment License for the 16th Annual Raffle and Rib Roast. The event is to take place at the St. George Greek Church Hall, 1130 Falmouth Rd., Centerville on March 31, 2017 from 6:00 pm - 12:00 am. One guitar player will be at the event.
- 2. Auctioneer:**
Luiz Gonzaga, 16 School Street, Hyannis