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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 16, 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 Monday, October 16, 2017. Chairman Martin Hoxie called the meeting to order at 9:30 A.M. He introduced; Gene Burman, Vice Chairman; Larry Decker, Associate Commissioner; Richard Scali, Director of Regulatory Services; Elizabeth Hartsgrove, Consumer Affairs Supervisor; CAO Officer Therese Gallant, Lt. John Murphy and Maggie Flynn, Recording Secretary. Ron Semprini and David Nunheimer did not attend the meeting.

Approval of Minutes:

1. Vote to accept minutes of the 09/11/17 meeting.

A motion was duly made by Mr. Burman, seconded by Mr. Decker and a unanimous vote taken to accept the minutes of the 9/11/17 meeting.

New Business:

1. **Application for a One Day Malt Only License:** Application of Peter Dyrness on behalf of the Cranberry Sunset Farm for a One Day Malt Only license for the Cranberry Harvest. The event is to take place on October 29, 2017 from 1:00 PM to 5:00 PM at the Cranberry Sunset Farm, 1964 Main Street, Marstons Mills. Beer to be served by Cape Cod Beer.

Peter Dyrness appeared on behalf of the application. This is the first time for this event. There will be a suggestion for donations. Corner of Main Street and Gammet Roads is the location of the farm.

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

2. **Application for a One Day Malt Only License:** Application of Robbin Orbinson on behalf of CapeSpace for a One Day Malt Only license for the Digital Marketing Bootcamp. The event is to take place at CapeSpace, 100 Independence Drive, Hyannis on October 26, 2017 from 1:30 PM to 7:00 PM.

Robbin Orbinson appeared on behalf of the application. Admission is being charged for the boot camp event.

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

3. **Application for a One Day Wine and Malt License:** Application of Jeffrey Marcotte on behalf of Cape Cod Community College for a One Day Wine and Malt License for the Darlene Love Concert. The event is to take place at the Tilden Arts Center, Cape Cod Community College, 2240 Iyannough Rd., West Barnstable on November 11th and 12th at 7 PM and 3 PM respectively.

Jeffrey Marcotte appeared on behalf of the application. The details of the concert were reviewed.

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

4. **Request for Closure of an Annual All Alcohol Common Victualler License:** Request from Beech Tree Cantina LLC d/b/a Twisted Tree, 599 Main Street, Hyannis to close from November 1, 2017 until March 2018 for renovations.

Shawn Jeffries appeared on behalf of the application. The range of closure is between November 1st and March 2018. The restaurant may adjust these dates but will advise the Licensing Division.

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

5. Consent Agenda:

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

Public Hearings:

- 1. Application for Change of Location and Manager for an Annual Wine and Malt Retail Package Goods Store:** Application has been filed to change the location and manager of the Annual Wine and Malt Retail Package Store of Speedway of Massachusetts LLC d/b/a Speedway Jennifer Gunderway manager, 50 Ocean Street, Hyannis, Hyannis. Location change is from 50 Ocean Street Hyannis to 317 Falmouth Rd., Hyannis. The Manager change is from Jennifer Gunderway to Arielle Herold.

Description of Premise: Single floor building with 1 main entrance/exit point, 1 secondary egress point, 1 roll up door. Space consists of 2540 sq. ft. of total retail floor space, including walk-in cooler, walk in freezer (exterior, accessed via inside stock room), and storage/back of house space.

Hours of Alcohol sales: Monday through Saturday 8:00 AM to 11:00 PM and Sunday 10:00 AM to 11:00 PM.

****** Postponed from 09/11/17 Licensing Authority Hearing******

Attorney Andrew Upton appeared on behalf of the application. He is requesting a continuance of this application. We have not received any objections to our proposal. Speedway has expressed interest in selling or transferring this license to another party. We are asking for a 30 day continuance.

Mr. Burman is concerned about the location, a lot of traffic and two package stores are in the area. Also the qualifications of the manager are not strong.

******Continued to 11/13/17 Licensing Authority Hearing******

- 2. Application for a Change of Manager on an Annual Wine and Malt Inn Holder License:** Application of K Hyannis Hospitality Inc. d/b/a Fairfield Inn and Suites, 867 Hyannough Street, Hyannis on their Annual Inn Holder Wine and Malt License, for a Change of Manager from Andrew Quinto to Tomas Tolentino.

Tomas Tolentino appeared on behalf of the application. Mr. Scali asked about how the alcohol is being served and that ID's are being checked. Mr. Tolentino confirmed his alcohol procedures.

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

3. **Application for a Change of Manager and Stockholders on an Annual All Alcohol Retail Package Goods Store:** Application has been filed to change the manager and stockholders of the Annual All Alcohol Retail Package Goods Store of Black Marlin Beverage Corp d/b/a/ Craigville Package Store, Jeffrey L Marshall, manager, 2946 Falmouth Rd, Unit 1, Osterville. The Manager change is from Jeffrey L Marshall to Viktor J Zukauskas. The stockholder change is from Viktor J Zukauskas and Jeffrey L Marshall to Viktor J Zukauskas and Lori Ann Zukauskas.

Attorney Steven Pizzuti and Victor Zukauskas appeared on behalf of the application. Jeff Marshall has retired. He was the licensed manager. This is a simple transaction and we are looking for your approval.

A motion was duly made by Mr. Burman, seconded by Mr. Decker 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 Police Department has requested a Show Cause Hearing be called before the Licensing Authority for **Tavern on the Fairway, LLC d/b/a Tavern on the Green**, William Hensley, Manager, 1460 Route 149, Marstons Mills for the following violation of the Town of Barnstable, MA Code:
- Section § 501-5. Responsibilities of License Holder. (Violation of CMR 2.05(2), MGLc138.34(c) – underage possession of alcoholic beverages on licensed premise, as described in Barnstable Police Incident Report 17-1728-OF)

Consumer Affairs Officer Therese Gallant reviewed the details of the Police Report.

Attorney David Lawler and William Hensley appeared on behalf of the establishment. Commissioner Larry Decker recused himself due to the personal relationship he has with Mr. Hensley.

Attorney Lawler waived the reading of the police report. Again, Officer Gallant reviewed the details in summary form.

Attorney Lawler thanked Officer Gallant, no questions for her and acknowledged the offense. This was an employee party where he let his guard down. Training will be instituted; all employees will be recertified/TIPS trained. Attorney Lawler read a letter out loud. (See attached).

Officer Gallant, employees were pouring for themselves and the licensee was present, we cannot equate to an underage operation. She did confirm that they did pass the underage operation.

Attorney Lawler stated that because this was an employee appreciation party the guard was down. Attorney Lawler believed that this offense was similar to a first offense and should be treated as such.

Lt. Murphy stated that the BPD does not want to advise the Board on sanctions, this is a completely different type of violation. All situations are different and should be looked at via the facts. According to Attorney Lawler the statute is the statute. The violation itself is the same statute.

Ms. Hartsgrove commented the policy needs to be more specific, employees or the public. Attorney Lawler agreed.

Mr. Burman wanted to make a public statement regarding the wonderful job the BPD is doing.

Officer Gallant commented that this is separate incident from the compliance checks. Three days with 2 to serve and 1 to be held in abeyance is the recommendation.

Attorney Lawler requested that a request for public comment be done as a matter of protocol.

Lt. Murphy clarified that this case was brought before the board not as service to a minor but failure of a license to operate their license correctly. Officer Gallant sought guidance from the ABCC as how to bring this case forward.

After testimony from Consumer Affairs Officer Therese Gallant, the following motions were voted 2-0-1 (Decker) 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 Tavern on the Fairway, LLC located at 1460 Route 149, Marstons Mills guilty in violating Section § 501-5 of the Barnstable Licensing Authority Rules and Regulations;

•**ACTION:** To move that the Licensing Authority suspend the Annual All Alcohol Common Victualler License for 3 days: of which you will serve a two-day suspension on November 21 and 22, 2017 and have one day suspension held in abeyance for one year from date of this hearing.

Licensing Division Updates:

1. Licensing Department updates: Renewal packets have been sent out.
2. Police Department updates: Officer Gallant reminded all of the special meeting this Monday.

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 meeting was adjourned at 10:29 AM

Respectfully submitted,

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

**Martin Hoxie, Chairman
Town of Barnstable Licensing**

Town of Barnstable

Consumer Affairs

Elizabeth G. Hartsgrove, Supervisor

Licensing Authority

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BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

October 16, 2017

Renewals:

1. **Application for a One Day Entertainment License:** Application of Peter Lally on behalf of Spectacle Management for a One Day Entertainment license for the Herman's Hermits Concert. The event is to take place on October 22, 2017 beginning at 7:00 PM at the Barnstable Performing Arts Center, 744 West Main St., Hyannis.
2. **Application for a One Day Entertainment License:** Application of James Herman on behalf of the Payomet Performing Arts Center for a One Day Entertainment License for the Southside Johnny's Concert. The event is to take place at the Barnstable Performing Arts Center, 744 West Main Street, Hyannis on October 7, 2017 from 7:00 PM to 11:00 PM.
******Retroactive Approval******