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BARNSTABLE TOWN CLI

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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

The December 30, 2020 public meeting of the Licensing Authority shall be physically closed to the public to avoid group congregation.

Remote Participation Instructions

Alternative public access to this meeting shall be provided in the following manner:

1. The meeting will be televised via Channel 18 and may be accessed via the Channel 18 website at:

<http://streaming85.townofbarnstable.us/CablecastPublicSite/watch/1?channel=1>

2. Real-time public comment can be addressed to the Licensing Authority utilizing the Zoom link or telephone number and access code for remote access below.

[https://zoom.us/j/931 1643 9400](https://zoom.us/j/93116439400)

Telephone Number: 888-475-4499 US Toll-free, Meeting ID: 931 1643 9400

3. Applicants, their representatives and individuals required or entitled to appear before the Licensing Authority may appear remotely and are not permitted to be physically present at the meeting, and may participate through the link or telephone number provide above. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to Richard.Scali@town.barnstable.ma.us, so that they may be displayed for remote public access viewing.

DATE OF MEETING: **December 30, 2020**

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:** Via Zoom

A meeting of the Barnstable Licensing Authority was held on Wednesday, December 30, 2020. Chairman, Mr. Martin Hoxie called the meeting in order at 9:30am. He introduced Mr. Richard Scali, Director of Licensing to explain how this zoom meeting will work and introduced all the participants. Mr. Scali introduced Commissioner, Mr. Larry Decker and Associate Commissioner, Mr. David Hirsch. Also, in attendance were Officer Therese Gallant, Lt. John Murphy and Licensing Assistant, Lindsay Parvin. David Nunheimer and Ms. Nancy Karlson-Lidman were absent.

Vote to accept Minutes:

1. Vote to accept minutes of the December 14, 2020 hearing.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote was taken to accept the minutes of the 12/14/2020 meeting as printed.

New Business:

1. Consent Agenda:

Mr. Scali stated that four of the alcohol licensees have yet to pay the 2021 renewal fee. Karibbean Lounge has requested a payment plan option. Embargo cannot make payment at this time. They hope to make the payment pending the approval of PPP funds. Ying's has yet to respond to requests. Blue Moon is also pending. Lt. Murphy will provide an update as to the status of an ongoing investigation involving the establishment. The department will prepare a report that outlines the credits applied to licensees that were required to close for 3 months due to pandemic restrictions..

Mr. Scali stated that he has reached out to the Town of Barnstable Legal department regarding the legality of accepting partial payments, but has yet to receive a response.

Lt. Murphy endorses whatever the Board decides in regards to the acceptance of partial payments as he recognizes the hardships businesses have been facing as a result of the pandemic.

Mr. Hoxie suggested that the licensees in question be required to appear at the next hearing to discuss their current status.

Mr. Decker suggested that a time limit be implemented so that the matter does not remain unresolved for an extended period of time.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote was taken to accept the consent agenda as printed with exception of the, The Karibbean Lounge, Ying's and Embargo whereas the licenses will be extended until the January 25, 2021 hearing where at such time they will be required to appear. The Blue Moon renewal is pending approval subject to Lt. Murphy's update on an active investigation.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote was taken to accept the consent agenda as printed with the noted exceptions.

Lt. Murphy stated that the Police Department has been working with The Blue Moon ownership and employees regarding an October 17, 2020 incident in which two of their patrons were involved in a gun battle that took place on Main Street, Hyannis where an estimated 12 rounds of ammunition were fired. The video footage provided indicates possible licensing violations.

Lt. Murphy noted that The Blue Moon has been cooperative with the investigation thus far. One of the suspected shooters has been identified. Lt. Murphy reports that it was a very serious incident though thankfully nobody was shot.

Lt. Murphy requested an extension of the license for a 60 day period while the Police Department continues the investigation surrounding the incident. It is not Lt. Murphy's intention to prevent the Blue Moon from operating, considering that no employees appear to be involved in the incident. However, there may be issues that should be brought to the Board's attention in regards to the matter.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote was taken to extend the license for 60 Days and request that they appear before the Board at the January 25, 2021 hearing to discuss payment status.

Public Hearings:

1. APPLICATION FOR A NEW ANNUAL ALL ALCOHOL COMMON VICTUALLER LICENSE:

Application of Pineapple Caper LLC d/b/a Pineapple Caper Cafe, 29 Wianno Ave, Osterville, Tammy Russell, Manager for a new Annual All Alcohol Common Victualler License. Premise Description: Single floor dining with one entrance, two exits, and two bathrooms in an open, single room layout. Main floor is 1000 square feet. Overall dimensions of 20ft. x 50 ft. include kitchen and front of house space. Similar 1000 sq. ft. basement that includes locked office for alcohol storage, refrigerators, freezers, and prep kitchen. 24 seats in dining area, approved by the Building Commissioner on 11-25-2020. Hours of operation are 7:00 AM to 10:00 PM, daily

Owners and Operators William and Tammy Russell appeared on behalf of the application. Mr. Russell stated that they have been operating the café as a breakfast and lunch establishment for 4 years. As a result of the pandemic, they have been considering different business models including the expansion to all alcohol service. They noted that Osterville lacks early dining options and feel they can provide such service.

Mr. Hoxie asked if they had familiarity with alcohol service and if they were TIPS certified.

Mr. Russell stated that Tammy is TIPS certified and that he plans to become certified as well. He is familiar with alcohol rules and regulations from his past experience as a caterer.

Mr. Scali asked for clarification regarding their original proposal which consisted of outdoor seating.

Mr. Russell confirmed that the outdoor seating proposal had been withdrawn due to capacity restrictions relating to the septic system.

Mr. Russell noted that the Café is currently closed as a result of capacity restrictions due to the current covid guidelines. They have considered opening for take out sometime in January.

Mr. Decker asked what the dinner menu will include.

Mr. Russell stated that they will be offering a prix fixed dinner menu with rotating options for reservation only. He stated that he hopes to open for the dinner service hours prior pending the ABCC approval of the alcohol license.

Mr. Rapp spoke as a member of the Osterville Library Association as the library is an abutter to the property. His concerns relate to outside seating and is pleased to see that it has been eliminated from the proposal. He is also opposed to the take out of alcoholic beverages.

Irene Haney, Chairmen of the Osterville Library Board of Trustees stated that she has concerns with the proposed sales of alcohol and requested the applicant clarify the evening hours of operation.

Mr. Russell stated that during slower months they intend to close after lunch service and resume operation at 5:00pm. During the busier seasons they intend to remain open throughout the transition from lunch to dinner service. The cafe will close at 10:00pm.

Ms. Haney stated that she had concerns with patron parking availability.

Mr. Russell stated that that there is ample public parking surrounding the property and that they have been operating for four years with a similar capacity and it has never been an issue.

Library Board Member Richard Sullivan asked if small plate tapas would be available for take-out.

Mr. Russell stated that the tapas menu is not intended for takeout.

Mr. Scali noted that capacity restrictions as a result of the pandemic have severely impacted restaurants operations. Many of which are financially surviving on their ability to offer takeout. He does not wish to restrict the Russell from providing the option for take-out food.

Mr. Sullivan stated that his concerns relate to the potential for trash.

Cotuit resident, Paul Logan has been a patron of the establishment for many years and is familiar with the Russells' through their work with the Cotuit Kettleers baseball team. He has the upmost confidence that they will abide by all regulations and will continue to be a valued member of the Osterville business community.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote was taken to accept the application as presented with the restriction that no alcohol is sold for takeout purposes.

2. APPLICATION FOR CHANGE OF MANAGER ON AN ANNUAL ALL ALCOHOL CLUB LICENSE:

Application of Wianno Club, 389 Parker Road, Osterville on their Annual All Alcohol Club License, for a Change of Manager from Darin Crippen to Jennifer LePage.

Jennifer LePage appeared on behalf of the application. Ms. LePage stated that she has been employed at the Wianno Club for the past 10 years as the Director of Food and Beverage. She stated that the entire staff obtains TIPS training and certification at the start of every season.

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

3. APPLICATION FOR CHANGE OF MANAGER ON AN ANNUAL ALL ALCOHOL CLUB LICENSE:

Application of Wianno Club, 107 Sea View Avenue, Osterville on their Annual All Alcohol Club License, for a Change of Manager from Darin Crippen to Jennifer LePage.

Jennifer LePage appeared on behalf of the application. Ms. LePage stated that she would be managing both Wianno Club locations.

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

4. APPLICATION FOR A CHANGE OF MANAGER ON AN ANNUAL ALL ALCOHOL CLUB LICENSE:

Application of Wequaquet Lake Yacht Club, 165 Annable Point Road, Centerville on their Annual All Alcohol Club License, for a Change of Manager from Michael Donovan to Scott A. Mullen.

Scott A. Mullen appeared on behalf of the application. Mr. Mullen stated that he has 38 years' experience in the restaurant industry. He stated that he is TIPS certified, Servsafe certified, Allergen certified and Crowd-Control certified.

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

5. ACCESSIBILITY UPDATE-NOT YOUR AVERAGE JOES, 793 IYANNOUGH ROAD, HYANNIS

Update regarding bar area accessibility issue noted by Disability Commission member, Paul Logan at the December 14, 2020 Licensing hearing.

Paul Logan spoke on behalf of the Town of Barnstable Disability Commission regarding an ongoing accessibility issue at Not Your Average Joes, Hyannis. Mr. Logan noted that all areas of the restaurant were not handicapped accessible, which is required by State and Federal law. The bar area did not offer a handicapped accessible seating. Mr. Logan requested that handicapped accessible tables be added to the bar area. Thirteen months later, no action had been taken.

Mr. Logan stated that Building Commissioner, Brian Florence notified him via email on December 23, 2020 that accessible tables had been added the bar area (per photographs). Mr. Logan stated that he has not been to the restaurant, but based on Mr. Florence's assessment of the corrections, he considers the matter to be closed.

Mr. Scali confirmed that he spoke to Mr. Florence as well as the CEO of Not Your Average Joes regarding the matter. The addition of two handicapped accessible tables in the bar area corrects the violation noted by Mr. Logan. Mr. Scali stated that he considers the matter to be closed.

No action required.

1. SHOW CAUSE HEARING:

The Barnstable Licensing Authority will hold a Show Cause Hearing relative to the Lodging House License for the Sea Beach Inn Co. d/b/a Sea Beach Inn, 388 Sea Street, Hyannis, Catherine Darling, Manager, for the following violations of the Town of Barnstable Rules and Regulations: Section 501-9 Physical Premises (subsection b), 501-11 Environs of Licensed Premises (subsection f) and 501-14 Other Causes for Revocation, Suspension and Modification of the Town of Barnstable Rules and Regulations (subsection b).***Continued from 8/17/2020 hearing***

Continued from December 14, 2020

Officer Gallant stated that the show cause hearing will not move forward at this time. Officer Gallant sited the postponement of court proceedings due to covid-19 as the reason for prior continuances. The court cases pertaining to these matters were recently dismissed.

Officer Gallant stated that despite the recent dismissals, she has concerns with the overall business operations. She has been discussing how to address these matters with Ms. Darling's Attorney.

Attorney Early spoke on behalf of his client, Ms. Darling. He stated that he is hopeful for a speedy resolution and requests that the matter be continued to the January 25, 2021 hearing, with the license being extended until such time. Attorney Early stated that his client has taken steps to hire a property manager and is also considering selling the property.

Officer Gallant is supportive of continuing to work with Attorney Early in finding a solution.

Richard Scali asked if Ms. Darling would be willing to give a statement regarding the concerns Officer Gallant has highlighted.

On behalf of his client, Attorney Early denied Mr. Scali's request for a statement, reiterating Ms. Darling's willingness to resolve the matters of concern and move in positive direction.

Mr. Scali stated that he wants to be assured that the rights of the residents are protected.

Attorney Early agrees that the rights and safety of the residents is paramount. He believes that installing a professional property manager will significantly improve business operations.

Lt. Murphy stated he supports a continuance and is confident in Officer Gallant's ability to work with Attorney Early in seeking a proper resolution.

Mr. Decker noted that the matter has been pending since the July and hopes that the issues will be resolved at the January hearing.

A motion was duly made by Mr. Decker, seconded by Mr. Hirsch and a unanimous vote was taken to extend the license for 30 days and to continue the matter to the January 25, 2021 hearing.

Licensing Division Updates:

1. Licensing Department updates

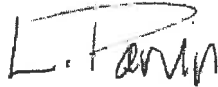
Mr. Scali reports that the Department continues to work on renewals. The licenses have been mailed. Mail has been slow as of late due to the increase in volume. Lindsay has been scanning and emailing copies of licenses for those who haven't received it. The department has also been communicating with Building and Fire regarding the completion of the State Safety inspections.

2. Police Department updates

Officer Gallant reports that she has been following up on a Package Store complaint regarding underage sales. She will update the Board on her investigation.

The meeting was adjourned at 10:35 AM

Respectfully submitted,



L. Parvin, Recorder
Town of Barnstable Licensing Authority



Larry Decker, Clerk
Town of Barnstable 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.

Town of Barnstable

Licensing Authority

200 Main Street

Hyannis, MA 02601

www.town.barnstable.ma.us

Telephone: (508) 862-4674

Fax: (508) 778-2412

BARNSTABLE LICENSING AUTHORITY

CONSENT AGENDA

December 30, 2020

Renewals:

Common Victuallers

327-057 **Graci Fitness LLC**, 92 Barnstable Road, Hyannis

311-080 **Mayflower Bakery & Café Inc.** d/b/a **Mayflower Bakery**, 185-187 Falmouth Rd, Hyannis

311-092 **B2 Bistro, Inc.**, d/b/a **Burrito Bistro Hyannis**, 790 Iyannough Road, Hyannis *(previously licensed as Wine and Malt Common Victualler)*

294-075 **Whole foods Market Group, Inc.** d/b/a **Whole Foods Market**, 990 Iyannough Road, Hyannis

269-116 **Cumberland Farms Inc.**, d/b/a **Cumberland Farms #2326**, 389 West Main Street, Hyannis

327-127 **Aaria Hospitality LLC**, d/b/a **Heritage House**, 259 Main Street, Hyannis

Class II Auto

327-057 **Brito Auto Sales**, 657 Yarmouth Road Hyannis *(pending comp)*

294-060 **Carlos Tapia Inc.** d/b/a **The Car Store Cape Cod**, 744 Bearses Way, Hyannis

327-067 **Cape Cod Auto Sales**, d/b/a **Cape Cod Used Cars**, 155 Rosary Lane, Hyannis

345-002-001 **The Car Guys Inc.** d/b/a **The Car Guys**, 551 Yarmouth Road, Hyannis

328-149 **CGC Express Inc.**, **Car Guys Credit Express**, 202 Yarmouth Road, Hyannis

Common Victualler All Alcohol

309-219 **Blue Moon at 4:30 Main Street Inc.** d/b/a **Blue Moon**, 430 Main Street, Hyannis *(pending payment, comp, State Safety Cert.)*

308-049 **The Karibbean Lounge LLC** d/b/a **Karibbean Lounge**, 662 Main Street, Hyannis *(pending payment, comp, State Safety Cert.)*

326-069 **Hyannis Harbor Tours Inc.**, d/b/a **The Landing Café**, 230 Ocean Street, Hyannis *(pending State Safety Cert.)*

327-254 **CC Entertainment, Inc.** d/b/a **Flashback**, 294 Main Street Hyannis *(Inactive)*

Common Victualler Wine & Malt

327-049 **Ronny's Pizza Inc.**, d/b/a **Ronny's Pizza**, 11 Ridgewood Ave, Hyannis

Entertainment and Amusement

293-024 **Island Carousel, Inc.** d/b/a **Island Carousel**, 793 Iyannough Road, Hyannis