



# Minutes

... of the Provincetown Licensing Board Public Meeting on **Tuesday, July 10, 2018** at 5:15pm in the Judge Welsh Room, Town Hall, 260 Commercial Street.

**Members Present:** Frank Thompson (FT), Chairman; Shawn Bryne (SB); Robert F. Cameron (RC); Carol D. Santos (CS).

**Absent:** Zachary Luster.

**Staff Present:** Aaron Hobart (AH), Licensing Agent; Det. Rich Alves, Compliance Officer.

## Meeting Agenda

### ***Public Hearings***

#### **Amendment to Innholder License & Alteration of Licensed Premises**

Petition from Thomas Walter, representing *The Crowne Pointe Inn & Spa* for an ***Alteration of Licensed Premises & Amendment to their Innholder License*** at 78-82 Bradford St., Provincetown, MA.

Tom Walter, owner, and his lawyer presented; lawyer said they were looking to take 78 Bradford St. and include the property in the inn-holder's license; property has been owned by Mr. Walter since 2003 and was originally a principle residence but will now add four guest rooms/eight occupants to bring the total to 37 rooms/74 guests; referred the board to photographs in the packet and said there would be no changes to the structure other than an outside egress stairway, added for safety.

David Waller, attorney from Hyannis representing an abutter, Dr. Kaye at 8 Cutworth St., spoke; said the deck on top is at issue and referenced noise problems and thrown fire-crackers; said response from the applicant has been positive and they have offered to install a canvas top and some plantings as well as signage to help alleviate the sound situation, but that the applicant is seeking to limit the number of people allowed on the deck; noted an original request to prohibit alcohol which now seemed, to him, not possible, based on the new hotel designation.

Mr. Walter's lawyer replied that the house in the photograph is not Mr. Kaye's house and that Mr. Kaye, who has had his residence in that area for two years, had responded to a bridal party which was an isolated incident and that there hadn't been complaints from any others; said the clientele is high-end and that the owners have been very proactive in addressing problems or concerns.

Mr. Waller replied that his client didn't feel it was a big ask to reduce the number of guests on the deck of what is a private room.

SB read a letter from Dr. Kaye in opposition to converting the property in question from a single family to commercial use and extending the liquor license to that premise; cited past disturbance and a request to deny the alcohol license to prohibit alcohol use on the deck therein.

CS read a letter from William Gofill, the abutter at 72-74 Bradford St., Unit A, in support of the application; said the guests there tend to be more established clientele and that they've never had any noise, parking or other issues with their neighbor or neighbor's guests.

SB remarked on the isolated incident being reported and that the owners had provided signage. CS noted the arbitrary condition of limiting the number of people on a deck in that just one person might be capable of creating a disturbance and RC said it would be a measure hard to enforce, but asked the owner if he felt it was his responsibility to police his guests. Mr. Walter replied that what he meant by policing was prohibiting guests from inviting family or friends into the suite, said there is always someone to address complaints or situations 24 hours a day, although there is not night staff on the site after hours.

**SB made a motion to approve as presented. CS seconded the motion and it passed, 3-1-0: SB, CS, RC, in favor; FT, opposed.**

AH informed the board that they were voting on two transactions.

FT said he would vote to extend the inn license, but not the liquor license as this is what fuels the disturbance. Mr. Walter said there is no point of sale of liquor at the suite in question. FT expressed his concerns for the neighbors and suggested approving the renewal and re-assessing next year when the license request is due.

**SB made a motion to approve the amendment with the condition that the applicant comes up for review next year on the issue of guest disturbance. CS seconded the motion and it passed, 4-0-0; SB, CS, FT, RC.**

#### **New Seasonal All Alcohol Package Store License**

The Provincetown Licensing Board will hold a Public Hearing at 5:15pm on Tuesday, June 26, 2018 in the Judge Welsh Room at Town Hall, 260 Commercial Street, Provincetown, Massachusetts, to hear a petition from Elizabeth Lovati, representing *Ingredients, Inc.*, for a ***New Seasonal All Alcohol Package Store License*** at 467 Commercial St., Provincetown.

AH said Elizabeth Lovati was present an hour and forty-five minutes ago, but is not now.

**SB made a motion to move the license request to the end of the Public Hearing. RC seconded the motion and it passed, 4-0-0; SB, RC, FT, CS.**

#### **Special Liquor License**

Petition from *Michela Carew-Murphy*, for a ***Special Liquor License*** for an event to be held on August 14, 2018 from 4:00pm to 10:00pm on the Public Beach behind 99 Commercial St. No rain date requested.

**Special Liquor & Entertainment Licenses**

Petition from **Michela Carew-Murphy**, for **Special Entertainment and Liquor Licenses** for an event to be held on August 14, 2018 from 4:00pm to 10:00pm at 99 Commercial St. (Liquor license request is for the unlicensed area on the beach of 99 Commercial St. only). No rain date requested.

Michela Carew-Murphy and A.J. Santos, of the West end Racing Club, presented.

AH said Town Counsel has weighed in on the property extension request in stating that it cannot be approved as the property in question belongs to the State and that David Panagore, Town Manager, submitted a letter from Town Counsel on the request.

FT said he thought the decision should be postponed, but Ms. Carew-Murphy asked if the application could be heard and then a decision made. FT read the letter from Town Counsel stating that the land requested is part of a grant which restricts usage at the high-water mark. Ms. Carew-Murphy replied that Conservation Agent Tim Famulare informed her that the Town owned the property beach up to the Commonwealth tide-lines, which are probably about two-thirds down to the Coast Guard pier. AH said the request for 99 Commercial can proceed, but the line would be unclear at this point. Ms. Carew-Murphy asked if the application could be approved based on learning the permissible property line at a meeting in two weeks, which AH put at July 24<sup>th</sup>. FT said they would let Town Counsel make the final decision. AH said the first request for Public Beach access cannot be met; the second request should cover the extension request which is to be determined.

Ann Maguire, abutter at 97 Commercial St., spoke from the public against the opposition by the Town to deny the applicant's license at the last minute which she felt is mean-spirited; spoke in favor of the worthiness and longevity of the Racing Club which provides education and recreation for children for just \$100 a season and only if they can afford to pay it; said she understood Chapter 91 was open land and that from Howland St. on down it was not private property. AH said his daughter attends the Club but that the laws of the State are in effect for areas beyond any owner's property line.

Ms. Carew-Murphy introduced herself and the application; said she is a resident at 99 Commercial St. and was a former child member of the Racing Club and former employee of Flier's Boat Yard; said that after Flier had passed away and the Club was in need of a source of income, she took the initiative to produce the first fund-raiser last year on a Tuesday, the night that her restaurant, Sal's Place, was closed and also of how crucial she felt the fundraiser was in order to keep the Club going, speaking of the contributions that the Racing Club and the Santos family have provided to the Town through the years. Ms. Carew-Murphy outlined the parameters of the event, stating that they will corner-off the private area, in spite of the Chapter 91 designation; said a friend will be setting up a raw bar as happened last year and that she is hoping to set up the bar service on the beach to alleviate congestion; all the food would be served inside.

A.J. Santos asked if the board would cut to the chase and issue the license for the owner's property at 99 Commercial St. FT said that while he would concur with the Town in appreciating and respecting the work and history of the Racing Club, he was seeking to make sure things were being done to code in a legal way.

Linda Glenn (sp), owner of 97 Commercial St., spoke; asked if the board was prepared to tell the whole Town that it cannot have parties on the beach; asked if currently licensed events on the beach were operating to code, per Chapter 91, and that she would like to see the high-water marks of those properties who have acquired licenses; suggested the board deny Ms. Carew-Murphy's license requests and just send her home, saying, 'have your event, just don't talk to us.'

Ms. Carew-Murphy said all but one neighbor will be attending the event, and that this person who stands in opposition could make a donation to the event or the Racing Club rather than employing lawyers charging \$1,000 an hour to engage his neighbor in dispute.

AH said the Red Inn is below the high-water mark and is properly licensed for its weddings and other events. Ms. Carew-Murphy referenced a wedding on the beach last weekend at the Provincetown Inn, to which RC said if a violation was witnessed then the witness would do right to alert the Town.

Jim Santos, Flier's son, spoke; said people are drinking down on the beaches and on the Pier all the time, asked what is the difference. AH replied that this is a public event which requires a license under the purview of the ABCC and that his job is to enforce the laws of the Commonwealth.

Ms. Carew-Murphy requested again that the board grant the license conditionally ahead of learning if the property at request is or is not a Town beach and if it is not then that license could be revoked.

FT polled the board; SB and CS said they were of a mind to grant the request conditionally, while RC said he would want more information. AH said the determination of the high water mark is key here and that that the Pier has been licensed over the high water, both sides, which is precedent.

SB made a motion to grant a special liquor license as presented contingent on Town Counsel's determination but the motion was interrupted for Public Comment.

SB read two letters in support of the license request; FT read one letter in support from Rex McKinsey, Harbor Master, with the caveat that there be a police detail on hand to address alcohol in public not leaving the property, and that the area is properly cleaned-up.

Ms. Carew-Murphy assured the board the area would be left clean, as it was last year and said she was happy to provide a police presence if required. Det. Alves said one wouldn't be necessary as the establishment is a restaurant.

FT said the important thing is that the applicant stays on her property, which Ms. Carew-Murphy said she would do and is why she proposed to have the area roped off, but that she is here hoping to have the beach property belonging to the Town included, as well.

SB noted a three-page letter in opposition by the lawyer of the abutter who is against the event.

**SB made a motion to approve the license request as presented for the area that is 99 Commercial St. and the public beach behind 99 Commercial St. including the highlighted area as shown on the application, dependent upon approval by Town Counsel. CS seconded the motion and it passed, 4-0-0; SB, CS, FT, RC.**

**SB made a motion to approve the license request as presented for the unlicensed area on the 99 Commercial St. beach only. CS seconded the motion and it passed, 4-0-0; SB, CS, FT, RC.**

### **New Seasonal All Alcohol Package Store License**

#### **CONTINUED:**

The Provincetown Licensing Board will hold a Public Hearing at 5:15pm on Tuesday, June 26, 2018 in the Judge Welsh Room at Town Hall, 260 Commercial Street, Provincetown, Massachusetts, to hear a petition from Elizabeth Lovati, representing *Ingredients, Inc.*, for a ***New Seasonal All Alcohol Package Store License*** at 467 Commercial St., Provincetown.

Liz Lovati presented; referenced that she had appeared last month seeking a common victual license, but that a seasonal all-alcohol license will help her business greatly and that this is what the Bryants enjoyed for decades at that location; stated she has had her business for 20 years.

AH said the Town was over its quota for annual quotas by three and FT remarked that the State doesn't put any quotas on seasonal package stores.

Michela Carew-Murphy spoke in favor of the request, stating that Ms. Lovati's business brings a lot to the community and the Town should do as much a possible to help local businesses succeed.

**RC made a motion to approve as presented. SB seconded the motion and it passed, 4-0-0; RC, SB, FT, CS.**

### ***Public Statements***

Before Courtney Hurst presented; Liz Lovati took the mic to say she supported the request to keep Mojos open until 2:00am on the weekends in season.

### ***Other Business***

Request from Courtney Hurst of **Mojo's**, 5 Ryder St. Ext., to extend business hours to 2:00am. – *possible vote taken.*

Courtney Hurst presented; said the extension would be in effect through Labor Day and would be run by veteran employees at Mojos who trained Ms. Hurst when she bought the business two years ago and that they know the operations inside and out.

Michela Carew-Murphy spoke in full support of the request, said she's been eating at Mojos her whole life and that it would be nice to have something other than pizza to eat at 2am.

CS noted the application doesn't designate Friday and Saturday nights exclusively; AH said the Town typically grants the extension without stipulating which days are to be in effect.

**CS made a motion to approve as presented. SB seconded the motion and it passed, 4-0-0; CS, SB, FT, RC.**

### ***Amend/Transfer License***

#### ***New License***

None.

#### ***Renew License***

##### **Lodging**

1. J Hunter Property Management, Don Collins, mgr., d.b.a. **John Randall House**, 140 Bradford St., Provincetown, MA 02657

**SB made a motion to approve as presented. CS seconded the motion and it passed, 4-0-0; SB, CS, FT, RC.**

### Art Gallery

1. Carolyn Kramer, mgr., d.b.a. **Jo Hay Open Studio**, 167 Commercial St., Provincetown, MA 02657

**SB made a motion to approve as presented. CS seconded the motion and it passed, 4-0-0; SB, CS, FT, RC.**

2. Thanassi Kuliopulos, mgr., d.b.a. **Thanassi Gallery**, 234 Commercial St., Provincetown, MA 02657

**SB made a motion to approve as presented. RC seconded the motion and it passed, 4-0-0; SB, RC, FT, CS.**

3. John Burrows, mgr., d.b.a. **12 Masonic Place Gallery**, 98 Bradford St., Provincetown, MA 02657

**SB made a motion to approve as presented; RC seconded the motion and it passed, 4-0-0; SB, RC, FT, CS.**

### **Correspondence**

#### **Minutes**

None.

### **Enforcement**

Det. Alves said the July 4<sup>th</sup> holiday and the season in general has been going well; that there's been a significant down-tick in people staying open as late as they have in the past and that issues such as fake-i.d.s have not, as yet in the season, been significant.

### **Code Compliance**

AH said Code Compliance would begin in full next week when the Co-Compliance Officer starts; said there is some data base clean-up to do; a couple of licenses have come in that need to be recorded.

### **Old business**

AH reported on a show-cause hearing that was supposed to happen at today's meeting, but said there wasn't a major change from last year's hearing and noted that FT suggested that the hearing be held on Tuesday, July 31<sup>st</sup> at 3:30pm. RC said he'd be 50/50 in terms of availability. AH said the Pilgrim Monument could be placed on the July 31<sup>st</sup> agenda as they had been bumped based on the Banner deadline and through no fault of their own.

**SB made a motion to schedule a Show Cause and Public Hearing at 4:30pm on Tuesday, July 31<sup>st</sup> in the Judge Welsh Room, Town Hall. RC seconded the motion and it passed 4-0-0; SB, RC, FT, CS.**

### **New Business**

AH said he'd gotten a complaint from a neighbor now three years in a row that Essentials was staying open until 2:15 or 2:30am and sometimes even later; said they are approved to 2:00am.

AH referenced many complaints two summers ago about speakers outside of businesses and said that this year it's barkers; that he's gotten multiple complaints concerning two different businesses in

front of the Library engaging 3 and 4 barkers being overly aggressive in soliciting business and that there aren't currently any regulations per barkers.

***Licensing Board Statements***

RC spoke of his new residence at Seashore Pines Condos and that the event at the Monument which was granted a license for a recent Saturday night event sounded like they were in his backyard; said he's canvassed neighbors with multiple complaints about noise at Monument events.

AH suggested a work-session with the multiple locals who request noise waivers.

***Licensing Agent Statements***

AH said that, as staff, they field many complaints from the public and stated for the record that the rules cannot be bent based on any kind of personal preference and that the staff are just trying to follow the rules as they exist; that laws are written by the State and by local boards, but also by everyone's neighbors in Town.

**CS made a motion to adjourn at 6:55pm. SB seconded the motion and it passed, 4-0-0; CS, SB, FT, RC.**

Respectfully Submitted,  
Jody O'Neil