



# Minutes

...of the Provincetown Licensing Board Public Meeting, **Tuesday, April 24, 2018** at 5:15pm in the Judge Welsh Room, Town Hall, 260 Commercial Street.

**Members Present:** Shawn Byrne (SB), Vice-Chair; Zackary Luster (ZL); Carol D. Santos (CS); Robert F. Cameron (RC).

**Absent:** Frank Thompson, Chair.

**Staff:** Det. Rich Alves, Enforcement Officer; Annie Howard (AH), Building Commissioner, sitting in for Aaron Hobart.

**Absent Staff:** Aaron Hobart, Licensing Agent.

## Meeting Agenda

### *Public Hearings*

#### Special Liquor License

Bob Sweeney, representing *Gays for Patsy* for a **Special Liquor License** for an event to be held on April 28, 2018 from 8pm to 11:30pm in the Town Hall Auditorium.

Bob Sweeney presented; said the annual ho-down has been on-going for 26 years, previously at the Crown & Anchor, to be staged this year at Town Hall with libations provided by Tin Pan Alley, which is TIPS (Training & Intervention Procedures for Servers)-certified. Mr. Sweeney added that he has the police detail in place for Town Hall.

No public comments or letters.

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

#### Noise By-law Waiver

Petition from Richard Murray, representing *Crown & Anchor LLC dba Crown & Anchor Inc.* for a **Noise By-law Waiver** for events to be held on July 3, 2018 from 12pm to 6:30pm. Rain date of July 2, 2018 requested.

Rick Murray presented, said it was the fifth year for the event and that he would be on site for the event along with two police details, five security guards and all six managers; said the beach area to be utilized for the event is enclosed and would be cleaned both before and after the event; mentioned a letter from the Chief of Police which, he said, should be on file and that he has cut back on the time-frame for the event based on past concerns or complaints from neighbors.

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

**Special Entertainment License**

Petition from Richard Murray, representing *Ragnar Events, LLC* for a *Special Entertainment License* on May 12, 2018 from 8am to 9pm at 1 High Pole Hill Rd., Provincetown, MA. No rain date requested.

Rick Murray presented; said the event had previously been held in Town for about six or seven years, went through a hiatus; said he brought the event back along with Dave Schumacher, formerly of Ptown Parties, although Mr. Schumacher has since sold his business and left Town; Ragnar is a for-profit organization from Utah and brings in about five to six thousand people which fills the restaurants and inns; after-party to be held at the Crown & Anchor. Mr. Murray presented his packet of completed paperwork.

No public comments or letters.

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

**Special Liquor License**

Petition from Susan Brown, representing *SMILE Mass, Inc.* for a *Special Liquor License* on May 12, 2018 from 10am to 8pm at 1 High Pole Hill Rd., Provincetown, MA. No rain date requested.

Susan Brown presented, said they are a non-profit partnering with Ragnar for this year's event where they will work the beer tent and receive a portion of the proceeds; said SMILE Mass is the organization that has donated many beach wheelchairs to the public beaches on the Cape in the past; have partnered previously with Ragnar at their Ragnar Trail Event in Northridge; said SMILE has TIPS-certified bartenders in place for the event and their paperwork is in order; Harpoon beer to be supplied by the Mass Bay Brewing Co.

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

**Special Liquor License**

Petition from Ken Abert, representing *Provincetown Tennessee Williams Festival* for a *Special Liquor License* for an event to be held on June 2, 2018 from 6pm to 10:30pm at the Town Hall Auditorium. No rain date requested.

Ken Abert and Jim Morrow presented. Mr. Abert announced the 13th annual Tennessee Williams Festival, special guest dinner has been held at the Hall for a number of years; catering is from Cosmos; all bartenders will be TIPS-certified and a police detail will be on site.

No public comments or letters.

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

**Special Liquor Licenses**

Petition from Robin Lapidus, representing **The Provincetown Business Guild**, for **Special Liquor Licenses** for events on June 1, 2018 from 6pm to 12am & June 3, 2018 from 11am to 11pm, August 15, 2018 from 6pm to 12am, December 1, 2018 from 6pm to 12am, December 14 & 15, 2018 from 11am to 11pm, and December 28, 2018 from 6pm to 12am at the Town Hall Auditorium, Provincetown, MA.

**ZL made a motion to continue the Special Liquor License for The Provincetown Business Guild event at Town Hall to May 8, 2018. RC seconded the motion and it passed, 4-0-0; ZL, RC, SB, CS.**

**Special Liquor License**

Petition from Robin Lapidus, representing **The Provincetown Business Guild**, for **Special Liquor Licenses** for events on August 14, 2018 from 2pm to 6pm, at 7 Winthrop St., Provincetown, MA.

Richard Conley, manager of Watership Inn presented; said his boss has been hosting this party since the inception of Carnival – close to 40 years; said they have TIPS-trained bartenders and security at all entrances, that they would apply for an Entertainment License separately and that all the money raised goes to the Provincetown Business Guild.

No public comments or letters.

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

**Change of Manager**

Petition from Ben deRuyter, representing **Voorspoed, Inc.**, d.b.a. Aqua Bar for **a Change of Manager** at 205-209 Commercial St., Provincetown, MA.

**ZL made a motion to continue the hearing for a Change of Manager License for Voorspoed, Inc. to the meeting of May 8, 2018. RC seconded the motion and it passed, 4-0-0; ZL, RC, SB, CS.**

**Public Statements**

None.

**Other Business**

**Discussion with owners of Sal's Restaurant regarding License Conditions.**

Michela Carew-Murphy presented. ZL said the Licensing Board had received new information but he had not reviewed it at this time, as such. RC concurred. Ms. Carew-Murphy said the only information she had received was an e-mail from Aaron Hobart with a video.

Alan Lipkind, attorney for the owner at 101 Commercial St., presented, addressed the licensed area through visual display boards. ZL said the key here today would be to determine not only the licensed area but what constitutes a diner. Mr. Lipkind referred to a photographic panel that showed the original licensed area at 101 Commercial St featuring 54 seats and demonstrating how the patio

extended toward the beach. Mr. Lipkind presented an application by Sal Del Dio in 1971 for two dining rooms and a patio, which, he said, was the licensed area and no walk-way out to Commercial Street.

Mr. Lipkind continued to make his case against Sal's utilizing an area for service which he said has never been authorized by licensure; said in 2015, former owner Lora Papetsas opted to split the property. Ms. Carew-Murphy apologized for interrupting, but said she didn't have a copy of the letter in question. Mr. Lipkind said he hadn't another copy but that the 54 seats under Ms. Papetsas was to be reduced to 32 licensed seats since the portion of the patio toward #101 got sold and added that no extension toward Commercial St. by Ms. Papetsas was filed, referencing the minutes from the Zoning Board of Appeals meeting in November, 2015.

ZL asked why the area in question wouldn't be considered a patio rather than a walk-way. Mr. Lipkind replied that at the 2015 ZBA hearing no plans for expansion were heard, but merely a transfer of license from Ms. Papatesas to Ms. Carew-Murphy's mother; said his client's parking space came into question for the sake of dining guests and others' access.

Mr. Lipkind referenced his client Fran Gershwin's letter pertaining to the designated serving area and that the occupancy load has a clear-cut definition of 36 outside seats. Ms. Carew-Murphy said she had a copy of the same thing that is not hand-drawn and approved by the board in 2015 and shows the approved area.

In his final display board, Mr. Lipkind pointed to the maitre'd stand and the lattice work that borders the edge of the deck; said Mr. Del Dio, original owner/operator, had an articulated service area in the square patio section and suggested that even as Ms. Carew-Murphy said she is only providing a splash of wine in the unauthorized seating area, that it remains outside the license approval. Mr. Lipkind distributed Ms. Papetsas' letter wherein she makes clear that no drinks would be served without food, which, he said, goes against Ms. Carew-Murphy's practice as new owners.

Ms. Carew-Murphy spoke in rebuttal: said she felt Mr. Del Dio's license from 1973 is irrelevant to the current situation; that Ms. Papetsas won a full liquor license which was in effect when they purchased Sal's in 2016; referenced the legal harassment Sal's has endured at the hands of Mr. Lipkind's client who, she stated, had bought a home at the site of a restaurant that had been in effect for 65 years and then decided to fight against it; said the ABCC has been to investigate, as well as Building Inspector, Annie Howard, and that it was determined by both that Sal's is marked correctly; said Mr. Lipkind is not in a position to present an examination of the liquor laws and reminded the Board that she was not there to apply for anything.

ZL said he felt the Board would not be making a decision today as to what constitutes the authorized dining or service area of Sal's. Ms. Carew-Murphy cautioned against the Board receiving information in an untimely manner that jeopardizes its ability to make decisions by vote at meeting; added that if Mr. Lipkind's client cared to make a donation to the West End Racing Club of \$30,000, then they wouldn't stage the upcoming fundraiser at all and he would be spared the disruption.

Mr. Lipkind asked if Ms. Carew-Murphy's mother was bound by a Board decision and the Board responded that Michela was in a position to speak on her mother's behalf.

No public comments or letters.

Discussion with the owners of Kabob-E-Licious.

Mark Williams presented, on behalf of the owner Tawana Williams; said it's their third season with a menu of Spanish, Mediterranean, Indian and Caribbean food at 338 Commercial St.

SB noted that the establishment has a history of not getting its license in on time and that this is to serve as a kind of warning. Mr. Williams suggested there may have been an issue with a non-current e-mail of a former manager and RC added that the license in question has been a continual problem, pointing out the amount of time spent by Licensing Agent, Aaron Hobart, tracking delinquencies. Mr. Williams said he would remedy the situation and make sure all e-mails were current and that the license would be renewed on time in February. ZL reminded Mr. Williams that this is the last warning.

No public comments to letters.

***Amend/Transfer License***

None.

***New License***

**Vehicle for Hire**

1. **Pride Taxi:** Reg#LV79213; VIN#5TDZA23C75S350705; 2005 Brown Toyota Sienna Van;

Gail Gibbs presented; said she was adding a car and that inspection had been completed.

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

**Fortune Teller**

1. **Susan Ahearn** – 155 Commercial St.

Susan Ahearn presented; said she does live in Town twelve months of the year and so is aware she is not permitted a license, but has looked into the matter as a violation of the 14<sup>th</sup> amendment as an impediment on her ability to make a living; said she is the only radio host psychic on Cape Cod, does lectures at schools and colleges, and is into her eighth season in Town.

ZL cited a State, not local, law. Ms. Ahearn referenced someone who does what she does and was granted a license previously and said she is looking at an amendment in the bylaw. ZL mentioned the possibility for a special license or permit that would limit but also expand the number of days permitted to practice. Ms. Ahearn said she thought there were only three psychics in town year-round. Annie Howard said there is a fee to be paid for a special license.

SB said these were good suggestions to keep the ball rolling. CS said she didn't get the impression from Mr. Hobart that there were alternatives and the Board agreed a new measure was needed.

**ZL made a motion to continue the hearing concerning a Fortune Teller License for Susan Ahearn to the meeting of May 8, 2018. CS seconded the motion and it passed, 4-0-0; ZL, CS, SB, RC.**

**Outdoor Artist**

1. **Mary DeAngelis** – 2 Allerton St.

Mary DeAngelis presented; said her neighbor across the street, Alyssa Schmitt, sold six little paintings out of a sweet, little booth and that Ms. Schmitt had moved out of Town and donated the booth to her which she hopes to utilize on a walkway to her house, not in the public way.

Annie Howard mentioned there was less a traffic issue on the west-side of the street.

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

***Renew License***

**Lodging**

1. Roux Provincetown, LLC, Ilene Mitnick, mgr., d.b.a. **Roux**, 210 Bradford St., Provincetown, MA 02657

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

**Common Victualer**

1. Joe Coffee, LLC, Thomas Tannariello, mgr., d.b.a. **Joe Coffee & Café**, 170 Commercial St., Provincetown, MA 02657

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

**Parking**

1. Smith, mgr., d.b.a. **Kitty's Realty Trust Parking**, 67 Shank Painter Rd., Provincetown, MA 02657

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

**ZL made a motion to consider the Art Gallery License Renewal Requests as a group. RC seconded the motion and it passed, 4-0-0; ZL, RC, SB, CS.**

SB read into the record the Art Gallery License Renewal requests as follows:

**Art Gallery**

1. Angela Russo, mgr., d.b.a. **Karilon Gallery**, 447 Commercial St., Provincetown, MA 02657
2. Frederick Design Group & Assoc, LLC, James Frederick, mgr., d.b.a. **Frederick Design Studio**, 237 Commercial St., Provincetown, MA 02657
3. Presley Rothenberg Fine Art, LLC, Jill Rothenberg, mgr., d.b.a. **On Center Gallery**, 352 Commercial St. Provincetown, MA 02657

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

***Correspondence***

As previously discussed.

***Minutes***

None.

***Enforcement***

None.

***Code Compliance***

None.

***Old business***

None.

***New Business***

None.

***Licensing Board Statements***

Discussion continued concerning the situation at Sal's Restaurant wherein the Board opted to meet in work session and not at Public Hearing with more information. RC said the questions were: when does an area become a diner and what is the approved area.

**ZL made a motion to set-up a work session on the licensure issue at Sal's Restaurant. RC seconded the motion and it passed, 4-0-0; ZL, RC, SB, CS.**

***Licensing Agent Statements***

None.

**ZL made a motion to adjourn the meeting at 6:22pm. RC seconded the motion and it passed, 4-0-0; ZL, RC, SC, CS.**

Respectfully Submitted,  
Jody O'Neil