



Minutes

The Provincetown Licensing Board Public Meeting of **Tuesday, July 21, 2020** at 3:00pm in the Judge Welsh Room, Town Hall, 260 Commercial Street.

Meeting Agenda

NOTE: THIS IS A REMOTE PARTICIPATION MEETING

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Provincetown Licensing Board will be conducted via remote participation to the greatest extent possible. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Provincetown website, at <https://www.provincetown-ma.gov/>.

For this meeting, members of the public who wish to watch/listen and participate in the meeting may do so in the following manner:

1. Watch on PTV GOV Channel 18, as well as an online livestream of PTV GOV at <http://www.provincetowntv.org/watch.html>
2. To listen and participate in this meeting, dial **(833) 579-7589** When prompted, enter the following conference number: **793 554 626#** When prompted, state your name, then press #. Please do not speak until the chair or the meeting moderator asks for public comments or questions. If possible, please mute your phone until you are called upon to speak.

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Provincetown website an audio or video recording or other comprehensive record of proceedings as soon as possible after the meeting.

Members Present by remote: Robert F. Cameron (RC), Chair; Shawn Byrne (SB) Vice-Chair; Bernice Steisel (BS); Donald R. German (DG); Julie Knapp (JK), Alternate; Russell L. Dutra (RD), Alternate.

Staff: Linda Fiorella (LF), Licensing Agent, Moderator; Enforcement Officer: Jennifer Nolette.

LF gave opening remarks at 3:00pm and called for quorum by remote.

RC called the meeting to order, then gave the meeting over to LF who read the rules governing Public Meeting under current State guidelines, pursuant to the coronavirus pandemic.

Public Hearings

Marijuana Establishment

1. Petition from Robin Reid, Esq., representing ***BWell Holdings, Inc.*** for a ***Marijuana Establishment – Retailer License*** at 220 Commercial Street. **Originally continued from June 9, 2020.**

Robin Reid, Attorney, and Karen Nash, Owner, presented. Ms. Reid said the LB should have in hand the recommendations via letter from the Chief of Police and that BWell is in a position to satisfy all as such; security bars being installed today as a condition of the LB's approval as proposed by the owner. Ms. Nash said installation should be completed by end of the week.

RC took a poll and it was determined that all members have reviewed the letter of recommendations upon which discussion proceeded.

Ms. Reid read through the recommendations including notification to all abutters, the completed application, approval by the Cannabis Control Commission and provisional license as secured, emergency response plan, and host agreement with what she said was a great deal of additional information; hours of operations to be 9am to 9pm, seven days a week in season and a minimum of 4 days a week off-season; generator at the premises to provide for up to 18 hours of power following a black-out; 10-person occupancy, including staff; Jet Security has been contracted to provide safety and security at the business; all marijuana to be kept in a vault..

Officer Nolette asked the name of the security director, which Ms. Reid said is Andre Setaloni (sp) of Jet. Officer Nolette said she understood the security director is to be from the company, BWell, and to be on site, to which Ms. Reid then said would be Karen Nash.

RC asked if there is a key code to be updated weekly per the common area. Ms. Reid said the key code was not initially part of the security plan but a combination lock on the gate was recommended by the Planning Dept. and that BWell will comply with the PD and/or Fire on a weekly basis, as needed. RC said he toured the location and felt the current lock might not be sufficient regarding the need to pass between buildings. Ms. Nash said only managers can pass from the main room to the back room and only they have the key card. Ms. Reid added that there are also two cameras in place.

RD said he felt it may be premature to render an approval today and that a more formal meeting with the Chief should take place and a vote for approval at the next LB meeting.

Ms. Reid said there had been a meeting with the but that the Chief left early even as they were prepared to address all issues at that time and are now six weeks behind; said the only outstanding item is the security bars.

SB asked for more clarity on communication with the PD, to which Ms. Reid said BWell would be notifying Officer Nolette each time a shipment of marijuana comes in and keep everyone posted on the gate combination. Officer Nolette said it was their understanding that the back building would be used for the storage of marijuana which had made her uncomfortable but now that it will be not be utilized to that end, she is satisfied. Ms. Reid said the back building would be a separate marijuana assemblage enterprise and will host the printer and paper supplies. Ms. Nash said the back building had initially been proposed for marijuana storage but that the plan changed for the better as currently presented; the business in the back building is to come under separate application.

RD again spoke against making a decision at this point in time prior to the business meeting with the Chief of Police. RC asked LF is she felt the recommendations of the Chief had been met, to which LF said she thought they had. DG said he had sided with RD at first, but after hearing Officer Nolette's agreement on compliance he was in favor of putting the approval to a vote. LF requested RC ask for public commentary. He did and there was none.

RC took a poll from the Board; SB, BS, DG, JK all said they would opt to vote today; RD said he would not. LF said a delay in vote would be a delay in the applicant securing a sign-off from the Cannabis Commission.

RC related that the LB had a three-month review with the prior marijuana business seeking licensure and that it would be helpful to hear from BWell in October as a follow-up, to which Ms. Reid would not be an issue; reminded the LB that BWell is going to miss the entire summer season with further delays. Discussion of conditioning ensued.

RC made a motion to approve as presented with the condition the applicant appears before the LB at the October 20, 2020 meeting and that no marijuana is stored in the back building and all marijuana is stored and kept in the front building. SB seconded the motion and it passed, 5-1-0: RC, SB, BS, DG, JK, in favor; RD, opposed.

Public Statements

None.

Other Business

1. Discussion with Provincetown Inn, re: Pool Bar

Ben Zehnder, Attorney; Evan Evans, Owner; and Derrick Evans, General Manager, presented. Mr. Zehnder addressed Compliance Officer Aaron Hobart's visit to the premises and subsequent filed complaints, said they were surprised at the volume of attendance on July 4th but have done the best they can to come into compliance and welcome further recommendations from the Board at this time.

SB asked if there had been a follow-up at the location, to which RC said Mr. Hobart has since been back to review the situation. RC mentioned his disappointment at the lack of staff he found at the premises on July 4th as well as the lack of Covid protocols in place;

said that an establishment with longevity such as the Inn should well have known what to expect in terms of business during a holiday in season and that the Health Inspector has found a laundry list of items to be addressed the second weekend out at the Inn, as well. BS said she agreed with RC and cautioned against a recurrence.

JK asked of the measure of compliance put in place. LF said Mr. Hobart reported that upon his return to the Inn, an announcement was being made for patrons not to visit the bar, but to wait for staff to arrive at-table, and that while chairs needed to be returned to socially distance placement after a party or group had vacated them, Mr. Hobart stated that he was happy with the progress made at the Inn which he now visits one day on the weekend and another day during the week. JK said twice weekly checks are needed. RC agreed with JK and noted that a lack of staff means businesses need to be diligent and do the right thing, but that Mr. Hobart's surprise visits are effective.

Derrick Evans said they were taking all the feedback into consideration and agreed with RC that they wished they had had made the decision to close down on July 4th when things had gotten out of hand, but they now have made changes, including more staff monitoring the gate; apologized for the lack of protocols previously.

RD said he also lamented the Inn not closing down on the 4th and questioned if the Inn had become less of a high-end place to go and more of a spring-break venue; asked if a license suspension could be imposed should there be a follow-up violation. RC suggested that might be a premature measure but that the Inn would be closely monitored. JK responded that a protocol is in place, which LF said was correct and that a fine would be the next step. LF added that a County Inspector would be performing random inspections and, as such, would be someone less known, or unknown, and therefore more effective in making discoveries pertaining to businesses around Town. RC thanked the Provincetown Inn reps for attending today's meeting.

2. Discussion with Harbor Hotel, re: Pool Bar

Bob Anderson Sr., VP Operations Linchris Hotel Corp., and Manager Sheryl Barrett presented.

Mr. Anderson said their company has run the Surfside in Town for 20 years with a liquor license and apologized for the infraction incurred at the Harbor Hotel which, he said, was due to an incorrect set-up with a roped-off bar area and Plexiglas framed ordering stations at each end; thanked Aaron Hobart for alerting them to the faulty service plan.

BS asked if the Hotel pool was open to the public, which Mr. Anderson said was not the case last year, but plans were afoot to invite the public this year, including with advertising and acoustic guitar-playing and food trucks, but that the coronavirus pandemic put a halt to these plans; said no one from outside the hotel would be carded from entering unless it was grew very crowded; the number of guests allowed to be in the pool area at any one time is 42.

JK asked if the changes proposed by Mr. Hobart had been implemented. LF responded with Mr. Hobart's notes, highlighted a need for the height of the Plexiglas be 6'. RC said he's been in touch with Mr. Hobart on the needed changes and that there may still be patrons being served drinks from the side of the bar which is unacceptable. RD asked if a pool is only supposed to be for the use of the hotel guests, to which LF said is an area

that falls under the aegis of the Health Department. RD replied that, during the Covid-19 rules and regs, that the State requires that pools be exclusively for hotel guests for the sake of monitoring virus outbreaks or positive testing. RC thanked the participants for their time.

Enforcement

None.

Code Compliance

None.

Amend/Transfer License

None.

New License

None.

Renew License

None.

Correspondence

None.

Minutes

LF said there are completed minutes, but she will include them at the next meeting.

Old business

None.

New Business

BS referenced an experience at Aqua Bar whereby persons were served liquor and then told they needed to order food. LF said she will run this scenario by Mr. Hobart to make sure it is permissible.

RD asked per Tween the Tides in the Aquarium Mall, which is now a club and if the food being served is a separate business from what the club offers. LF responded by saying that if the food is sold at another business, but within the confines of the Mall, and merged with alcohol from the Aqua Bar then that could be acceptable. RC asked if the food has to be prepared on the premises, to which LF said as long as the food is prepared at the same location, then this can be assumed as existing within the same boundaries. JK said she felt this situation is out of the LB purview. LF said staff has made approvals for these businesses. RC said he lamented that there is so much gray area and so many transitional regulations which can frustrate staff and Boards all trying to do the right thing.

Licensing Board Statements

LF said she doesn't like the gray areas, either, but said that Mr. Hobart had reported that he'd gone back to the Aqua Bar and was pleased to find people being told in no uncertain terms that they had to order food to receive alcohol.

Licensing Agent Statements

JK said she was proud of the Board and LF in working hard to keep people safe. RC announced, on behalf of former Chair, Frank Thompson, that the public should report any and all complaints to Town Hall through Aaron Hobart at compliance@provincetown-ma.gov. SB suggested the LB compile a list of frequent queries and answers to benefit the public. RC said a list of FAQ could be helpful.

DG made a motion to adjourn the meeting at 4:37pm. RC seconded the motion and it passed, 6-0-0; DG, RC, SB, BS, JK, RD.

Respectfully Submitted,
Jody O'Neil