



# Minutes

of The Provincetown Licensing Board Public Meeting on **Tuesday, June 8, 2010** at 5:15 p.m. in the Yellow Room, Community Center, 44 Bradford Street.

**Present:** Todd Wagar, Teri Nezbeth, Raphael Richter, Kristin Hatch, George Young

## ***Public Hearings***

### **Revision the Licensing Board Rules & Regulations**

1. The Provincetown Licensing Board will hear the merit of revising the Provincetown Licensing Rules & Regulations as described below:

#### **LICENSING BOARD RULES AND REGULATIONS**

### ***3.00 ALCOHOLIC BEVERAGES LICENSES***

#### **3.01 General Provisions**

*No change to Section a) or b)*

c) The hours of alcohol sales allowed at businesses licensed with pouring licenses are between 8:00 a.m. and 4:00 1:45 a.m. weekdays and between Noon and 4:00 1:45 a.m. Sundays. The Licensing Board will vote to extend pouring licenses until 2:00 1:45 a.m. on New Year's Eve at the final meeting in November. Licensees do not need to attend meeting unless they are requested by the Licensing Board and will not be contacted unless permission is not being granted due to numerous violations.

*No change to Section d) through f)*

g) Licensees shall not permit entrance to the premises by more persons than the posted number approved by the Community Development Department of ~~Regulatory Management~~ Every room licensed for public occupancy shall be conspicuously posted at each entrance, clearly visible to patrons as they enter, with a statement of occupancy as determined by the Community Development Department of ~~Regulatory Management~~. The statement must be clearly printed on permanent stock with white letters and numbers, no less than 3 inches high, printed on dark contrasting background. Handwritten statements or statements on paper or cardboard are not permitted. The statement shall be permanently affixed and secured and maintained in a clearly visible state. The statement shall contain the language "MAXIMUM OCCUPANCY OF THIS ROOM IS \_\_\_\_ PERSONS" and where applicable, "SEATING CAPACITY OF THIS ROOM IS \_\_\_\_" and also where applicable, "THEATER CAPACITY OF THIS ROOM IS \_\_\_\_".

h) No licensee may exceed the approved number of occupancy or seats posted on the license. The seating capacity and occupancy are set by the Community Development Department of Regulatory Management or Board of Health or the Licensing Board. The occupancy, and if applicable, the seating capacity and, if applicable, the theater occupancy shall be posted on the license.

i) The occupancy and capacities set for the premises by the Community Development Department of Regulatory Management and the Board of Health shall constitute the actual capacity of the premises and the amount approved by the Licensing Board and stated on the license shall not exceed this capacity.

j) All alcohol must be consumed or disposed of by the closing time stated on the license, and in no case later than 4:30 2:00 a.m.

k) All alcoholic beverage containers must be removed and disposed of from any area of service by the closing time stated on the license, and in no case later than 4:30 2:00 a.m.

l) All patrons and guests must leave the premises within ~~forty~~ fifteen (15) minutes of the closing time stated on the license, but not later than 2:15 am.

m) The Police must be notified if employees are going to remain after ~~2:00~~ 2:45 a.m. for closing and/or cleaning.

*No change to Section n) through x)*

Fourteen speakers in favor of extending pouring hours. Candace Nagel and David LaSalle speak in favor of a trial period. Mr. LaSalle also recommends a better definition for entertainment. Seventeen letters in favor are read for the record. Board of Selectman Chair, Michelle Couture reads letter for the record in opposition and states that the Board of Selectmen voted unanimously in opposition to the 1:45 pouring extension. Six speakers in opposition. Fifteen letters in opposition are read for the records. Todd Wagar closes the public comments section of the hearing. Kristin Hatch states that she thought it was important to give the public the chance to speak on the issue and feels there will be less noise without entertainment. Teri Nezbeth agrees there were good arguments for both sides of the issue. George Young states that it should be given a chance. Raphael Richter states that he thought he had his mind made up, but changed his mind. Mr. Richter also stated that he felt the arguments both for and against were good and would like to extend the pouring licenses on a trial basis. Todd Wagar asks for Chief Jaran's comments. Chief Jaran stated that he was not for or against the extension. The Police Department will make it work whatever is decided. Discussions ensued and edits made. Section l) to be changed to the following: l) All patrons and guests must leave the premises within thirty (30) minutes of the closing time stated on the license, but not later than 2:30 am.

**Motion to approve with amendment by Todd Wagar. Approved 5-0.**

Five minute break

Todd Wagar steps down

**Special Entertainment and Noise By-Law Waiver**

2. Petition from Sara Leckey, representing *Family Equality Council* for **Special Entertainment Licenses and Noise By-Law Waivers** for events to be held August 1-6, 2010 at Bas Relief Park, Provincetown, MA. No rain dates requested.

Represented by David Schumacher.

**Motion to approve by Raphael Richter. Seconded by George Young. Approved 4-0.**

Todd Wagar returns

### **Special Entertainment**

3. Petition from Susan Grilli, representing *Provincetown Counter Productions* for ***Special Entertainment Licenses*** for theatrical performances at 237-241 Commercial St., Provincetown, MA on June 28 and 29, 2010; July 5 and 6, 12 and 13, 19 and 20, 26 and 27, 2010; and August 2 and 3, 7-10, 14 -17, 21-24, 28 and 29, 2010. No rain dates requested.

**Motion to approve by Teri Nezbeth. Seconded by George Young. Approved 5-0.**

### **Special Entertainment and Special Liquor License**

4. Petition from John Burrows, representing *Provincetown Bears* for a **Special Entertainment and Special Liquor License** for an event to be held on Sunday, July 11, 2010, from 7 p.m. until 10 p.m. at the Pilgrim Monument and Museum, Provincetown, MA. No rain date requested.

**Motion to approved by Kristin Hatch. Seconded by Teri Nezbeth. Approved 5-0.**

Raphael Richter steps down

### **Revision the Licensing Board Rules & Regulations**

5. The Provincetown Licensing Board will hear the merit of revising the Provincetown Licensing Rules & Regulations as described below:

## **LICENSING BOARD RULES AND REGULATIONS**

### ***8.00 TAXICAB/LIVERY REGULATIONS***

#### **8.01 TAXICAB/LIVERY OWNERS**

I) No vehicle will be licensed as a taxicab that carries more than the number of passengers for which it is insured ~~for and that number shall not exceed 8 total passengers (including the driver).~~

K) Taxicab licenses shall be valid ~~only during the calendar year for which they are issued~~ for one year from the date of issuance.

P) The Provincetown Police Department under supervision of the Chief of Police is hereby designated as the enforcement agency of the Rules & Regulations and shall file with the Licensing Board any alleged violation thereof. Taxicab owners/operators shall comply with Rules & Regulations including those of the Airport Commission and the Provincetown Public Pier Corporation. Any violation of the Licensing Board's Rules & Regulations, State and local laws may result in a suspension or revocation of license.

#### **R) TAXI RATES**

##### **2. Flat Rates:**

e) ~~\$61.00~~ \$60.00 hourly rate in Provincetown.

V) Should a passenger refuse to pay the fare, the driver shall proceed directly to the nearest police station, present the facts and follow the officer's instructions for resolving the dispute. A complaint can be sought by the driver under MGL c. 159A, § 16, for fare evasion.

W) A driver may not discriminate based on race, sex, sexual orientation, age, or passenger destination. A driver is not required to transport:

1. Intoxicated persons.

2. Disorderly persons.

3. Passengers who are knowingly violating any federal, state, or local law.

4. Passengers whom the driver has just cause to fear bodily injury to him/herself or damage to the vehicle.

5. Habitual non-payers as identified and noted by the Licensing Agent or his/her designee.

X) All drivers of public conveyances are required by M.G.L. c. 272, § 98A, to accept any blind, deaf or hearing impaired persons accompanied by a guide dog. A driver may request said guide dog to be properly muzzled.

## **8.02 TAXICAB OPERATORS**

A) The applicant must have a valid Massachusetts driver's license and present a copy to the Licensing Agent upon filing application. The applicant agrees to provide his/her consent to allow the Provincetown Police Department, the Licensing Board, and/or the Licensing Agent the right to review and discuss his/her CORI report, if deemed necessary by the Chief of Police. The Licensing Agent will submit the application to the Provincetown Police Chief, or his/her agent. To be eligible for a new license or the renewal of a license, the applicant must meet the following requirements:

1. Any applicant convicted of any felony or misdemeanor may be barred from receiving or holding a license for up to the maximum of the following periods of time:

a. Five (5) years after the incident leading to the applicant's or license holder's conviction or admission of sufficient facts or plea of *nolo contendere* for the sale or possession of a controlled substance, or conspiring to violate the controlled substance laws.

b. Five (5) years after the incident leading to the applicant's or license holder's conviction or admission of sufficient facts or plea of *nolo contendere* for driving under the influence of alcoholic beverage, or narcotic drugs, or operating to endanger.

c. Three (3) years after the incident which led to a revocation, or one (1) years after the incident which led to the suspension of a driver's license.

d. Ten (10) years after the incident which led to the applicant's or license holder's conviction or admission of sufficient facts or plea of *nolo contendere* for a sexually related crime.

e. Five (5) years after the incident which led to the applicant's or license holder's conviction or admission of sufficient facts or plea of *nolo contendere* for assault and battery.

f. Applicants with a single conviction for another felony or misdemeanor shall be barred for a reasonable time in reasonable proportion to the time for the foregoing felonies and misdemeanors.

g. Applicants with two (2) or more such convictions may be barred for a reasonable time for the foregoing felonies and misdemeanors.

Discussion with Jody Conklin and David Gardner. David Gardner suggests that there be a section added discussing fines and that the Police Department should be authorized to issue fines.

P) The Provincetown Police Department under supervision of the Chief of Police is hereby designated as the enforcement agency of Section 8 of the Rules & Regulations and shall file with the Licensing Board any alleged violation thereof. Taxicab owners/operators shall comply with Rules & Regulations including those of the Airport Commission and the Provincetown Public Pier Corporation. Any violation of the Licensing Board's Rules & Regulations, State and local laws may result in a suspension or revocation of license.

**Motion by Todd Wagar to approve with amendment. Seconded by George Young. Approved 4-0.**

## ***New License***

**Pedicab Operator**

1. Chase Wyatt  
Not present

2. Rositsa Zaimova

**Motion to approve by Kristin Hatch. Seconded by Teri Nezbeth. Approved 4-0.**

3. Mariana Varbanova

**Motion to approve by Kristin Hatch. Seconded by Teri Nezbeth. Approved 4-0.**

4. Adrian Eni

**Motion to approve by George Young. Seconded by Teri Nezbeth. Approved 4-0.**

***Amend License*****Change License Category**

1. Petition from Gary Pasnick, representing ***East End Market Place*** to ***Change the Category*** from *Wine & Malt Package Store* to *All Alcohol Package Store* at 212 Bradford St., Provincetown, MA.

Applicant to notify abutters, legal ad to be reposted for July 13 meeting.

***Transfer License*****Taxicab**

1. **Cape Cab:** Transfer LV50469 – 2000 White Ford Taurus to TA26440 – 1998 Green Ford Windstar.

**Motion to approve by Teri Nezbeth. Seconded by George Young. Approved 4-0.**

***Renewal License*****Taxicab/Livery**

1. Mercedes Cab Co., Inc., Raphael Richter, mgr. d.b.a. ***Funkmobile***, 35 Alden St., Provincetown, MA. Reg. # LV12859; 1997 Black Lincoln Towncar.

2. **Cape Cab:** Reg. #TA26431; 2000 Gray Ford Windstar, Reg. #LV12699; 2000 White Ford Taurus.

3. **Mercedes Cab:** Reg. #LV12789; 1985 Blue Mercedes Station Wagon.

4. **Pride Taxi:** Reg. #LV54003; 2000 Yellow Dodge Caravan

5. **Jody's Taxi:** Reg. #TA26438; 1999 Brown Ford Windstar

**Motion to renew by George Young. Seconded by Kristin Hatch. Approved 4-0.**

**Taxi Operator**

1. Kyle Brodie

2. Kaloyan Raikoff

3. Raphael Richter

**Motion to renew by Teri Nezbeth. Seconded by George Young. Approved 4-0.**

Raphael Richter returns

**Art Gallery**

1. Lede Bao d.b.a. *Tao Water Gallery*, 352 Commercial St., Provincetown, MA.

**Motion to renew by George Young. Seconded by Kristin Hatch. Approved 5-0.**

George Young steps down

**Lodging**

1. John Barnett d.b.a. *Shiremax Inn*, 5 Tremont St., Provincetown, MA.

**Motion to renew by Raphael Richter. Seconded by Teri Nezbeth. Approved 4-0.**

George Young returns

**Parking Lot**

1. Henry J. Dahl d.b.a. *St. Peter's Parking Lot*, 11 Prince St., Provincetown, MA.

**Motion to renew by George Young. Seconded by Kristin Hatch. Approved 5-0.**

Raphael steps down

**Pedicab Operator**

1. Kalina Gyurova
2. Bertrand Boudier
3. Vladimir Ivanov
4. Devon Crowl
5. Ekaterina Levokova

**Motion to renew by Kristin Hatch. Seconded by Teri Nezbeth. Approved 4-0.**

Raphael Richter returns

***Minutes – May 25, 2010***

**Motion to renew by Kristin Hatch. Seconded by Raphael Richter. Approved 5-0.**

**Enforcement** – The Licensing Agent did not find any licensing issues

***Licensing Board Statements***

Kristin Hatch states that people are complaining about cupcakes being sold on the street. Todd Wagar thanks the Licensing Board for all their hard work.

***Licensing Agent Statements***

Licensing Agent requests special meeting on June 30, 2010, 1:00 p.m. for transfer of the Cape Inn Licenses and Special Entertainment License for Sandcastle

Meeting adjourned at 8:26