

SELECT BOARD

Minutes of the meeting of November 13, 2023. The meeting took place by remote participation via Zoom Webinar. Select Board Members present were Dawn Holdgate, Thomas Dixon and Matt Fee. Brooke Mohr arrived later in the meeting as noted. Dr. Malcolm MacNab was not present. Also present was Licensing Administrator Amy Baxter, Operations Administrator Erika Mooney, Attorney Brian Riley from Town Counsel's office and Police Lt. Daniel Mack.

I. CALL TO ORDER

Chair Holdgate called the meeting to order at 11:00 AM and called roll of those present.

II. LICENSING AND PETITIONS – LICENSE HOLDER REQUESTS

1. Request for Approval of Application for Pledge of Seasonal All-Alcoholic Beverages Innholder License for Nantucket Island Management, LLC dba Brant Point Grill/White Elephant for Premises Located at 50 Easton Street to Secure a Loan. Mr. Fee disclosed that he sells beverages to the applicant but that will not impact his ability to make an impartial vote. Ms. Baxter reviewed the requirements to pledge a liquor license for a loan, for this matter and item II-2. She reviewed the request.

Ms. Mohr joined the meeting at 11:05 AM as the motion was being made. She did not participate in item II-1.

Mr. Fee moved approval; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; so voted.

2. Request for Approval of Application for Pledge of Seasonal All-Alcoholic Beverages Innholder License for Nantucket Island Management, LLC dba The Wauwinet Inn for Premises Located at 120 Wauwinet Road to Secure a Loan. Ms. Baxter reviewed the request.

Ms. Mohr moved approval; seconded by Mr. Fee; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

3. Request for Approval of Application for Change of Hours for Annual Wine and Malt Beverages Restaurant License for Annapurna Restaurants, LLC dba Sophie T's for Premises Located at 8A Bayberry Court to Extend Liquor Service from 9:00 PM to 11:00 PM. Ms. Baxter reviewed the request, noting that licenses issued under Chapter 138, section 12 of the General Laws, which Sophie T's is, cannot be barred from serving alcohol between 11:00 AM and 11:00 PM. Ms. Baxter asked Mr. Riley if the Town can still put conditions on a liquor license for outdoor service. Mr. Riley answered affirmatively.

Mr. Fee moved approval to set the liquor service hours from 11:00 AM to 11:00 PM to be in line with the state liquor laws and the Planning Board special permit for the premises; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

III. LICENSING AND PETITIONS - PUBLIC HEARINGS

1. Public Hearing to Consider Application for Change of Classification from Annual to Seasonal All-Alcoholic Beverages Restaurant License for Nantucket Restaurant Management Corp. dba Faregrounds Restaurant, Kimberly Puder, Manager, for Premises Located at 27 Fairgrounds Road (Application Has Been Withdrawn). This matter was withdrawn.

2. Public Hearing to Consider Application for Alteration of Premises of Seasonal All-Alcoholic Beverages Restaurant License for Lemon Press Market, LLC dba Lemon Press, Rachel Afshari, Manager, for Premises Located at 41 Main Street, to Remove Prep Kitchen on Second Floor from License; Request for Determination that the Premises Licensed to Sell Alcoholic Beverages is Not Detrimental to the Spiritual Activities of a Church Pursuant to Section 16C of MGL Chapter 138. Chair Holdgate opened the hearing. Ms. Baxter reviewed the application, noting that Lemon Press is applying for a state catering license and wants to use the second-floor prep kitchen of its premises as space to store alcohol for its catering license. Ms. Mohr asked if the kitchen will be physically removed or just removed from the license. Ms. Baxter said just the license.

As there was no public comment, Ms. Mohr moved to close the hearing; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

Mr. Fee moved approval of the application as presented and to determine that the premises licensed to sell alcoholic beverages is not detrimental to the spiritual activities of a church pursuant to Section 16C of MGL Chapter 138; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

3. Public Hearing to Consider Application for New Common Victualler with Annual All-Alcoholic Beverages Restaurant License for Casa Real Restaurant and Bar Inc. dba Casa Real Restaurant and Bar, Mayra Escobar, Manager, for Premises Located at 5 Macys Lane. Chair Holdgate opened the hearing. Ms. Baxter reviewed the application, noting liquor and entertainment licenses were renewed for 2023 for this premises by the former licensee, Saltbox, but the licenses were never issued. She explained that the property was sold in 2023 and there was a question of lease validity and an eviction process for Saltbox, and that she hasn't heard from them since May 17th. Ms. Baxter stated that the new license applicant also owns the building and recommended the Board make any approval on the condition of non-renewal of the Saltbox license for 2024, for which the deadline is November 30, 2023. Mr. Riley said that only an existing licensee can sign off on a renewal application and since it seems unlikely the existing licensee will do so, the 2023 license will expire December 31, 2023. He added he believes the Alcoholic Beverages Control Commission (ABCC) will support this assumption. Ms. Baxter noted that Casa Real proposes a similar business model to the previous licensee which will include liquor service to the interior and the enclosed patio. Attorney Bryan Swain, representing the applicant, spoke in favor of the application, noting the proposed manager, Mayra Escobar, was also present. Mr. Swain reviewed the proposed hours of 11:00 AM to 1:00 AM, Mondays through Thursdays, and 7:00 AM to 1:00 AM, Friday through Sundays for breakfast service. He said it will be a family-friendly, casual dining restaurant. Ms. Baxter clarified that on Sundays, restaurants can't serve alcohol until 11:00 AM. Ms. Mohr asked if Casa Real will have to wait until December 31 to serve liquor. Ms. Baxter said they can open now with food service only. Ms. Holdgate spoke in favor of breakfast service during the week. Ms. Mohr asked if morning liquor service is allowed at other establishments. Ms. Baxter answered affirmatively.

As there was no public comment, Ms. Mohr moved to close the hearing; seconded by Mr. Fee; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

Mr. Fee moved approval of the application as presented; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

4. Public Hearing to Consider Application for New Live Entertainment License for Casa Real Restaurant and Bar Inc. dba Casa Real Restaurant and Bar, Mayra Escobar, Manager, for Premises Located at 5 Macys Lane. Chair Holdgate opened the hearing. Ms. Baxter reviewed the application and the conditions in place on the previous entertainment license. Mr. Swain noted that the music will not be amplified like at the Rose and Crown or the Chicken Box. Some discussion followed on abutters and notification. Ms. Mohr spoke in favor of the applicant to give notice to the neighbors for special events.

As there was no public comment, Mr. Fee moved to close the hearing; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

Mr. Fee moved approval of the application as presented with the condition of the applicant to give notice to the neighbors for special events; seconded by Ms. Mohr; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; Ms. Mohr – Yes; so voted.

IV. LICENSING AND PETITIONS - COMPLIANCE HEARING

1. Hearing to Address Multiple Violations for Annual All-Alcoholic Beverages Restaurant License for Mingo Corporation dba The Muse, Michael O'Reilly, Manager, for Premises Located at 44 Surfside Road. Ms. Baxter explained that this is a disciplinary hearing at which public comment is not allowed. She reviewed a police report as contained in the Select Board's agenda packet regarding an altercation that took place last summer between some patrons and bouncers working for the Muse. Ms. Baxter noted that Town Administration and the Select Board were alerted of the incident in July but she decided to hold off on the disciplinary hearing to allow time for the police investigation which found that the bouncers used excessive force on the patrons. She noted that the police were not called at the time of the incident as required and were only alerted to the incident due to a video of the incident that was posted on social media. Ms. Baxter said that the Muse owner and manager, Mike O'Reilly, has been fully cooperative. Chair Holdgate swore in Lt. Daniel Mack, Michael O'Reilly and his attorney James Merberg, and Ms. Baxter to give testimony. Mr. Merberg noted any reports of a third party about underage drinking are not the responsibility of the Muse. He noted that underage people were not in the Muse, but rather trying to get in. He said that two of the three bouncers involved have been dismissed from employment.

Ms. Mohr left the meeting at 11:58 PM.

Mr. Merberg said Mr. O'Reilly is trying to do the right thing and spoke in favor of no suspension of the liquor license. Ms. Baxter reiterated that the police weren't called and questioned whether Licensing would ever have known about the incident if the video was not posted on social media.. She spoke in favor of suspension or some other disciplinary action. Mr. Merberg countered that suspension would punish an establishment trying to provide a service to a certain clientele, adding that corrective action, including a new written policy, has been taken. He said that the proposed five-day suspension would greatly impact a 30-year business by "severely crippling" it. Mr. Merberg stated he feels the proposed discipline is an overreaction, there was no evidence of underage service and he asked the Board not to impose any sanctions. Mr. Dixon asked if a protocol is in place for sanctions to take place at the same time of year as the incidents. Ms. Baxter answered affirmatively, saying a suspension wouldn't hold as much weight in February as it would in July. She added that she recommended the "ceiling" of a five-day suspension with five days to be held in abeyance; and that the Board can vote a lesser sanction. Mr. Fee spoke in favor of a sanction in July 2024, maybe a two-day suspension with eight days to be kept in abeyance. He asked Mr. O'Reilly if the employee manual was in place this summer. Mr. O'Reilly responded that it is new, based on the July incident.

Mr. Dixon moved to close the disciplinary hearing; Mr. Fee seconded; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; so voted.

Mr. Fee suggested a one-day suspension on July 9, 2024 with nine days to be held in abeyance. Chair Holdgate spoke in favor of a one-night suspension with four days to be held in abeyance. Mr. Dixon moved to suspend the Muse's liquor license for one day on July 9, 2024, with five days to be held in abeyance for one year; seconded by Mr. Fee; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; so voted.

V. LICENSING AND PETITIONS – OTHER ITEMS

1. Licensing Review of Select Board Licensing Meeting Process and Agendas. Ms. Baxter noted that the intention going forward will be for the Select Board to be better informed of the decisions it is being asked to make. Chair Holdgate spoke in favor of today's separate licensing meeting, saying she feels it went well.

VI. ADJOURNMENT

Mr. Fee moved to adjourn at 12:20 PM; seconded by Mr. Dixon; by roll call vote: Chair Holdgate – Yes; Mr. Dixon – Yes; Mr. Fee – Yes; so voted.

Approved the 29th day of November 2023.

**SELECT BOARD
NOVEMBER 13, 2023 – 11:00 AM
REMOTE PARTICIPATION VIA ZOOM WEBINAR
NANTUCKET, MASSACHUSETTS**

List of documents used at the meeting:

Liquor License Public Hearing Process; Denial of Liquor License Applications Chart; Entertainment Licensing

- II. 1. AIS re: Brant Point Grill/ White Elephant; Licensing Authority Certification; Brant Point Grill License Pledge ABCC packet; Brant Point Grill/White Elephant 2023 liquor license; Financing documents
- II. 2. AIS re: The Wauwinet Inn; Licensing Authority Certification; The Wauwinet Inn License Pledge ABCC packet; The Wauwinet Inn 2023 liquor license; Financing documents
- II. 3. AIS re: Sophie T's; Licensing Authority Certification; Sophie T's 2023 liquor license
- III. 1. Faregrounds Restaurant application withdrawal letter
- III. 2. AIS re: Lemon Press; Licensing Authority Certification; Lemon Press ABCC packet; Floor plans; Lemon Press 2023 liquor license
- III. 3 & 4. AIS re: Casa Real Restaurant & Bar; Licensing Authority Certification; Nantucket Common Victualler, Liquor, Entertainment application; Casa Real ABCC packet; Floor plans; Casa Real Draft liquor license; Casa Real Draft entertainment license; Saltbox 2022 liquor license
- IV. 1. AIS re: The Muse; KP Law Liquor License Disciplinary Hearing Procedure; S. 207-16 - Nantucket Alcoholic Beverages Licensing & Regulation re: Violations & Penalties; The Muse Notice of Hearing; Police report 23-005831 dated 7/12/2023; Police report 23-006603 dated 7/27/2023; Police report 23-006604 dated 7/27/2023; The Muse 2023 liquor license; The Muse 2023 entertainment license; The Muse Security Protocols & Procedures