



Licensing Board

March 27, 2013 – 7:00 PM – **Agenda**
City Hall, 133 William Street, Room 314

REQUIRED: Steven A. Beauregard, Chairman
Marcelino “Sonny” G. Almeida, Commissioner
Edmund F. Craig, Jr., Commissioner
Atty. John Flor, Asst. City Solicitor
Capt. Steven Vicente, Police Department Liaison to the Lic. Bd.
Nick Nanopoulos, Director

A/O/ 03/21/13

MOTION TO ACCEPT THE MEETING MINUTES OF JANUARY 22, 2013

APPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

‘New’ Retail Package Store Wine & Malt License - Trans. # 222 – Plot # 108—172

Abracadabra Flower & Gift Service, Inc., which is petitioning for a **New Retail Package Store Wine and Malt Only Beverages License**. **Connie Pereira** is the President, Treasurer, Secretary, Sole-Director, and Sole Shareholder (100 %), and the **Proposed Manager**. The premises consist of an area approximately 1,080 sq. ft., which is currently and will continue to be used as a flower and gift shop. The area will include a wine cooler, display tables, a wine accessories sales area and service desk area, and a limited seating area to be used as a product information center; as well as a 180 sq. ft. work area and one restroom in the rear of the building. There is only one customer entrance/exit, which is located in the front of the building and leads onto Acushnet Avenue; as well as an emergency exit facing Nash Road. There will be additional storage in the 1,300 sq. ft. basement area, which is only accessible through a trap door from within the premises. The premise is situated on the main floor and basement of a street level building, which is located on the west side of Acushnet Avenue between Nash Road and Whitman Street, and numbered 1701 Acushnet Avenue.

The application was approved by the Board with the following stipulations:

1. The license would be restricted in its use to the sale of wines and malts only and said bottles are to be included and wrapped in flower arrangements, gift baskets and favors only. There shall be no on or off premise sale of any alcoholic beverages, other than those described.
2. The licensee will apply for and maintain a transportation license for the delivery of the wine and malt beverages. Said license is issued through the Alcoholic Beverages Control Commission and an approved copy shall be filed with the licensing board.

Final approval will require a ‘Certificate of Inspection’ from the Building Department.

Approved By ABCC – 02/26/13

Change of Officers, Directors, Manager, d/b/a, and Transfer of Corporate Stock - Trans. #149 - Plot # 47--39

Cork County, Inc., **Catherine Carter Flynn**, President, who is requesting a **Change of Officers, Directors, Manager, and Transfer of Corporate Stock** of the **Common Victualler (Restaurant) All Alcoholic Beverages License**; **Denis Keohane** as Clerk, Co-Director, and Co-Shareholder is petitioning to allow the transfer of all his corporate shares (49%), and to accept his resignation of all his positions in the corporation. Upon approval, **Catherine Carter Flynn** will be the President, Co-Director, and Co-Shareholder (49%); and **Barry W. Flynn** will be the Treasurer, Clerk, Co-Director, Co-Shareholder (51%), and the **Proposed New Manager**; also being requested is a **Change of d/b/a to Slainte Irish Pub & Grille**. Premises will remain the same at **34-44 Union Street**.

Approved By ABCC – 02/26/13

DISAPPROVALS RECEIVED FROM THE ALCOHOLIC BEVERAGES CONTROL COMMISSION

Change Of Officers, Directors, & Manager - Trans. #109 - Plot # 19--53

United Fishermen Club, Inc., Jose Fanguero, President, who per a vote taken at the Annual 'Club' Meeting held on October 1, 2012, is petitioning for a **Change of Officers, Directors, and Manager** for a **General on Premise All Alcoholic Beverages License**. Upon approval, the New Officers and Directors will be as follows: Jose Fanguero will be the President and Sole Director, Carlos E. Belo will be the Vice-President, Antonio F. Braz will be the Treasurer, and Carlos Pereira will be the Secretary; respectively; Stockholders will remain the same. **Antonio F. Braz Eusebio Rego** is the **Proposed New Manager**. Premises will remain the same at **639 Orchard Street**.

Note: Application was amended naming Antonio F. Braz as the new manager, replacing Eusebio Rego whose name was previously submitted.

No Advertisement Required: Abutters Not Required To Be Notified

Disapproved By ABCC – 03/07/13 - Failure to Comply With Mass Tax Laws (DOR) – 1st Attempt

Application to be sent back to the ABCC "For Reconsideration", only upon notification from the Applicant or the DOR, that all outstanding issues have been resolved

Change of Manager - Trans. # 141 – Plot # 25-A-25

Young Cape Verdean Athletic Association, Inc., 418 South Front Street, is requesting the approval of **Dulceiann Mello** who resides at 155 Frederick Street, New Bedford, MA. as **their new manager**.

Disapproved By ABCC – 03/11/13 - Failure to Comply With Mass Tax Laws (DUA) – 1st Attempt

Application to be sent back to the ABCC "For Reconsideration", only upon notification from the Applicant or the DUA, that all outstanding issues have been resolved

Pledge of License - Trans. # 225 – Plot # 31--239

Racing Mart, LLC d/b/a Mutual Oil, Alexandre El Tom, Manager of LLC, who is requesting approval of a **Pledge of the Retail Package Store Wine & Malt Only Beverages License** to **Mechanics Cooperative Bank, 308 Bay Street, Taunton, MA.**, as security to authorize and execute a promissory note in the amount of **Seven Hundred Thousand Dollars (\$700,000.00)**, pursuant to Massachusetts General Laws Ch.138 s.23.

Disapproved By ABCC – 03/11/13 - Failure to Comply With Mass Tax Laws (DUA) – 1st Attempt

Application to be sent back to the ABCC "For Reconsideration", only upon notification from the Applicant or the DUA, that all outstanding issues have been resolved

1. PETITION - Trans. # 224 – Plot # 94--47

Gulf Resources, Inc. d/b/a Hathaway Irving is petitioning for a **New Retail Package Store Wine and Malt Only Beverages License**. John Carrigg is the President, Co-Director, Co - Shareholder (50 %), Richard Carrigg is the Treasurer, Secretary, Co-Director, and Co-Shareholder (50 %), and **Dennis Collard** is the **Proposed Manager**. The proposed licensed premises is a convenience store located on the first floor of a one-story building in an area approximately 3,800 sq. ft., which includes a coffee shop take-out area, a deli take-out area, a backroom for storage, an office, and two restrooms; as well as a walk-in cooler and shelving for the sale and display of alcohol. There is one (1) entrance/exit in the front of the building, as well as two (2) emergency exits located at the rear of the building. The premises is situated on the south side of Hathaway Road, **and numbered 380 Hathaway Road**.

Final approval will require a '**Certificate of Inspection**' from the Building Department.

Application has been advertised; Abutters have been notified

2. PETITION - Trans. # 177 – Plot # 55—171 (No Representation Required)

Barry's Fine Wine & Spirits, Inc., Barry G. Levine, President, who is requesting approval of a **Pledge of the Retail Package Store All Alcoholic Beverages License** to the **New Bedford Economic Development Council, Inc., 1213 Purchase Street, N.B., MA.** as security to authorize and execute a promissory note in the amount of **Ninety-Five Thousand Dollars (\$95,000.00)**, pursuant to Massachusetts General Laws Ch.138 s.23.

Tabled at 02/25/13 Meeting

3. Hearing: Capitol Motors

Ronald Moura, Licensee
384 Dartmouth Street

Please be advised that your presence is required at a hearing to be held in this office to determine whether you have violated certain provisions of City of New Bedford Ordinance Sec.10 – 45 with regard to outstanding personal property tax owed to the City of New Bedford.

The City of New Bedford Treasurer/Collector of Taxes has requested that the Licensing Board hold a hearing for revocation of your MV Class II license due to non-payment of personal property taxes, based on your neglect or refusal to pay your local property tax to the City of New Bedford by January 31, 2013, as previously notified in a letter from this office dated January 23, 2013. All Licensees must be in compliance for renewals of all Class II licenses.

Please be advised that you are currently in violation of operating a used car lot without a license.

Failure to appear at this hearing will result in the immediate revocation of your license by this Board.

03/01/13 – The licensee paid 25% down on his Tax Title amount to get into a new agreement along with getting current with his current tax year; **Recommendation:** No further action at this time.

4. APPLICATION, Representation Required

Cinco de Mayo Celebration Committee, Javier Rojas, Representative, who is requesting pre-approval of an application for a **Special One Day Wine & Malt Only Beverages License**, for a ‘**Cinco De Mayo Celebration**’, to be held ‘**on Rivet Street**’ between **Acushnet Avenue and South Second Street**; and to be held on **Saturday, May 4, 2013, from 12:00 p.m. until 11:00 p.m. (Last call at 10:30 p.m.) (Liquor Liability with the City named as additional insured on certificate is required/along w/Copy of the Police Detail Contract)**

5. APPLICATION, (No Representation Needed)

Spinner Publications, Inc., Susan Grace, Representative, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘**Fundraiser/Auction**’ to be held at the **N. B. Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Friday, March 8, 2013 from 6:00 p.m. until 10:00 p.m.**

6. APPLICATION, (No Representation Required)

Tifereth Israel Synagogue, Milton Goodman, Representative who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘**Fundraiser Dinner & Dance**’ to be held at **Tifereth Israel Synagogue**, located at **145 Brownell Avenue**; and to be held on **Saturday, March 9, 2013 from 7:00 p.m. until 11:00 p.m.**

7. APPLICATION, (No Representation Needed)

Club Madeirense - S. S. Sacramento, Inc., Brian Fernandes, Representative, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘**Museum of Madeiran Heritage Fundraiser**’ to be held at the **Club Madeirense - S. S. Sacramento**, located at **50 Madeira Avenue**; and to be held on **Saturday, March 16, 2013 from 6:00 p.m. until 11:00 p.m.**

8. APPLICATION, (No Representation Needed)

New Bedford Art Museum, Inc., Nooshin Navidi, Representative, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘**Mad Hatter Spring Fundraiser**’ to be held at the **New Bedford Art Museum**, located at **608 Pleasant Street**; and to be held on **Friday, March 22, 2013 from 6:00 p.m. until 8:30 p.m.**

9. APPLICATION, (No Representation Needed)

New Bedford Community Rowing, Laurie Bullard, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for an ‘**Annual Meeting**’ to be held at the **Quest Center**, located on **1213 Purchase Street**; and to be held on **Wednesday, April 3, 2013 from 7:00 p.m. until 9:00 p.m.**

10. APPLICATION, (No Representation Needed)

New Bedford Area Chamber of Commerce/Bay Coast Bank, Mary Mendes, Representative, who is requesting approval of an application for a **Special One Day All Alcoholic Beverages License** for a ‘**Business After Hours Event**’ to be held at the **BayCoast Bank (formerly Citizens-Union Savings Bank)**, located at **95 William Street**;

and to be held on **Wednesday, April 10, 2013 from 5:00 p.m. until 7:00 p.m.**

11. APPLICATION, (No Representation Needed)

Irmandade Do Divino Espirito Santo Do Pico, Inc., Guida Rocha, Representative, who is requesting approval of an application for a **Special One-Day All Alcoholic Beverage License** for a 'Fundraising Dinner' to be held at the **Irmandade Do Divino Espirito Santo Do Pico Club**, located at **2056 Acushnet Avenue**; and to be held on **Saturday, April 13, 2013, from 6:00 p.m. until 11:00 p.m.**

12. APPLICATION, (No Representation Needed)

Our Lady of Angels Catholic Association/Fairhaven, Edward Cabral, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Benefit for Joe Garcia Fundraiser' to be held at the **Madeira Field – Main Pavillion**, located on **Madeira Avenue**; and to be held on **Sunday, April 28, 2013 from 1:00 p.m. until 5:00 p.m.**

13. APPLICATION, (No Representation Needed)

The Azorean Maritime Heritage Society, Rosemary Rebello, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Wine Tasting Fundraiser' to be held at the **N. B. Whaling Museum**, located at **18 Johnny Cake Hill**; and to be held on **Saturday, May 4, 2013 from 6:00 p.m. until 9:00 p.m.**

14. APPLICATION, (No Representation Needed)

Club S. S. Sacramento Scholarship Committee, Rosemary Rebello, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Scholarship Fundraiser' to be held at the **Museum of Madeiran Heritage**, located at **1 Funchal Place**; and to be held on **Saturday, May 11, 2013 from 6:00 p.m. until 9:00 p.m.**

15. APPLICATION, (No Representation Required)

Community Boating Center, Andy Herlihy, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License**, for an '**Opening of the Bay Fundraiser**' to be held in **Fort Taber Park – Under a Tent**; and to be held on **Saturday, May 11, 2013, from 6:00 p.m. until 11:00 p.m.** *(Final approval will require Liquor Liability with the City named as additionally insured, and a copy of the Police Detail Contract)*

16. APPLICATION, (No Representation Required)

Bristol Community College Foundation, Wayne Wood, Representative, who is requesting approval of an application for a **Special One Day Wine & Malt Only Beverages License** for a 'Business After Hours' to be held at **Bristol Community College**, located at **800 Purchase Street**; and to be held on **Thursday, May 16, 2013, from 5:00 p.m. until 7:00 p.m.**

17. Hearing: Centro Luzo Americano Corp., Inc.

Jose A. DaRosa, New Manager
34 Beetle Street

Please be advised that you have 'Failed to Comply' with this Board's written decision of December 27, 2012 (see attached), in which it stated that the Board *voted unanimously* to approve your application and to forward it to the ABCC for final approval with the following stipulation:

- That you complete an Alcohol 'Server Certification' course (See Attached) **within thirty (30) days after final approval is received or prior**; and proof of your certification be provided to this office; and that all your servers be 'certified' as well, with copies of their certifications to be kept on file for review, if needed.

Your license was approved on January 9, 2013, which would have required you to submit a copy of your certification to this office **by February 15, 2013**.

Therefore, based on your failure to comply with this Board's 12/17/12 approval decision, you are hereby notified that you are required to appear before this Board for a hearing.

If the required documents are submitted to this Office by Monday, March 18, 2013, you will not be required to

appear as ordered.

18. Hearing: Panthers Athletic and Social Club, Inc.

Jeffrey W. Baker, New Manager

43-45 Madeira Avenue

Please be advised that you have 'Failed to Comply' with this Board's written decision of August 28, 2012 (see attached), in which it stated that the Board *voted unanimously* to approve your application and to forward it to the ABCC for final approval with the following stipulation:

- That you complete an Alcohol 'Server Certification' course (See Attached) within thirty days after final approval is received or prior; and proof of that certification be provided to this office.

Your license was approved on December 19, 2012, which would have required you to submit a copy of your certification to this office **by January 21, 2013.**

Therefore, based on your failure to comply with this Board's 08/27/12 approval decision, you are hereby notified that you are required to appear before this Board for a hearing.

If the required documents are submitted to this Office by Monday, March 18, 2013, you will not be required to appear as ordered.

19. Hearing: United Fisherman's Club, Inc.

Antonio F. Braz, Proposed New Manager

639 Orchard Street

Your presence and that of **Jose Fangueiro, President** is requested at a hearing to determine whether you have violated certain provisions of ABCC Regulations and Licensing Board Rules & Regulations, as reported by the City of New Bedford Police Department; the Board will also review the ongoing calls to service to this location as a result of promoted events that are being held, as reported by the N. B. Police Department. Based on their findings, the Licensing Board may take action to modify, suspend, revoke, or cancel your license; and if warranted, a roll back of hours may be considered. They are as follows:

ABCC Regulation 204 CMR 2.05: (2)-

States no licensee shall permit any illegality to occur on the licensed premises. The licensee is responsible, whether present or not, for ensuring that no disorder, disturbance, or illegality takes place in, or on a licensed premises.

Licensing Board Regulations No. 1, 6, 10, 11, 12, 28, 36-

Licenses may not be transferred or surrendered without permission of the Board; each Corporate Licensee shall appoint a manager who shall have full authority and control of the premises and who shall be satisfactory to the Board, and who shall be a United States citizen. Immediate notice of the appointment must be made to the Board in writing; Alcoholic beverages shall not be served to a person who is or appears to be intoxicated; objectionable persons shall not be permitted on or about the premises. It is the responsibility of the Licensee to enforce this rule; Premises must at all times be kept safe, clean, neat, and sanitary; A current list of employees shall be submitted to authorized agents of the Licensing Board, upon request; Licenses are subject to suspension, revocation or forfeiture after hearing for breach of any of the listed regulations or any other law of the Commonwealth.

Summary of Incident

Police Department Incident Report states that Officers were dispatched to 639 Orchard Street for a disturbance called in by Police detail officers, which occurred at closing time after yet another promoted event; and resulted in at least one individual being placed into protective custody for intoxication.

Upon arrival on the scene the Reporting Officer observed at least 100 people standing and walking in the middle of Orchard Street preventing not only the undersigned arrival on scene but that of all responding units. The disturbance was created by the exiting patrons, who numbered approximately 300 to 350, who proceeded to loiter not only in the 'club' parking lot but also in the middle of Orchard Street, and in the adjoining businesses such as Rite Aid, Burger King, Howland Place, and Seabra.

Because of the mass gathering of patrons, additional units from the West End had to be called in to assist with the disturbance, at which point the large mass of patrons began to leave; even though the police were still greatly

outnumbered.

The officers then located the Manager of the United Fisherman Club, Antonio Braz, who stated that he had rented the club hall out for a Cape Verdean Soccer Team party hosted by YP Entertainment; when asked how many people were at the function, he stated approximately 350; when asked how he knew the number of patrons, he stated he had someone at the door with a counter but he could not produce the door counter or the person who was in charge of that duty.

The officers then were approached by the promoter of the event, Yannick Paiva (YP Entertainment), who stated he posted flyers in New Bedford, Brockton, Boston, and Providence. The officers noted in their report that Yannick Paiva (YP Entertainment), is the same promoter who rented the Fisherman's Club the last time they were written up for the same type of disturbance that occurred on November 23, 2012.

It was also noted in the report that the inside of the club was a complete disaster, there were hundreds of plastic cups scattered across the floor with other miscellaneous trash. The outside had numerous plastic cups scattered throughout the entire parking lot, in the street, and in all the above mentioned business parking lots; also found outside the club were several empty liquor bottles and numerous beer bottles; the detail officers also reported that a bottle of liquor was stolen from behind the bar sometime during the evening.

As a result of the disturbance, one patron was placed into protective custody for being intoxicated.

Date and time of alleged violations: Saturday, February 16, 2013 @ approx. 1:48 a.m. Police Report #'s 13-1728-OF

20. Hearing: United Fisherman's Club, Inc.
Antonio F. Braz, Proposed New Manager
639 Orchard Street

Your presence and that of **Jose Fanguero, President** is requested at a 'Public Hearing' to determine whether a roll back (decrease) of hours is warranted as a result of violations of certain provisions of M.G.L., ABCC Regulations, and Licensing Board Rules and Regulations, as a result of incidents reported by the New Bedford Police Department. This roll back (decrease) of hours could affect the hours in which you will be allowed to be open. The local licensing authority, may after proper notice, hold a hearing to determine whether a roll back of hours is warranted, on the basis of frequency of arrests, disturbances, and incidents requiring police involvement inside or outside the licensed premises; this decision is one that is not appealable to the Alcoholic Beverages Control Commission or to the superior court. (As noted in Chapter 138, sec. 12 -)

- **CORRESPONDENCE,**

From: County of Bristol, The Superior Court **Dated -03/12/13** **Received - 03/13/13**
Re: Kenneth J. Rapoza and Club Altitude, LLC vs. The Sky Room and Audrey Carter **651 Orchard Street**
SUMMONS AND RESTRAINING ORDER;
Hearing Date: March 22, 2013 at 2:00 p.m. in Court Room C - Main (Taunton) - CIVIL DOCKET # BRCV2013-00227

From: City Council **Dated - 02/28/13** **Received 03/18/13**
Related Motion: Requesting that a letter be sent to the Licensing Board, City Clerk, Health Department, and the Department of Inspectional Services, to see if any help can be given to those businesses along Acushnet Avenue, in regards to waiving any fees for permits, within their jurisdiction and said departments report to the City Council, in writing, if any help can be given to the businesses that were affected by Phase 1 of the Acushnet Avenue Project.
Steven Martins, Councilor Ward Two **IN CITY COUNCIL,** February 28, 2013
Adopted- Rita D. Arruda, City Clerk
Presented to the Mayor for Approval on March 4, 2013 Rita D. Arruda, City Clerk
RETURNED UNSIGNED March 16, 2013

- **COMPLAINTS RECEIVED:**

03/15/13 - Alianca Lounge, 1708 Acushnet Avenue - This office received a verbal complaint from a neighbor who came into the office and filed a complaint about the Alianca Lounge, which had a stabbing early Friday

Morning...She stated that there are constant problems there and that she has kids and she's concerned.

Action Taken - (03/15/13): The complaint was forwarded to Capt. Steven Vicente, Liaison to the Licensing Board, with a request for a Police Log and a copy of the Police Report once it's completed.

- **REVIEW POLICE DEPARTMENT INCIDENT REPORTS/ COMPLAINTS**

<u>NAME</u>	<u>POLICE REPORT#</u>	<u>DATE</u>	<u>VIOLATION</u>
1. Alianca Lounge	#13-2729-OF	03/15/13	Unsafe Premises/Disturbance (Fight)/ Patrons Assaulted & Stabbed/ Employee Stabbed (Approximate Time of Violation 2:03 a.m.)
2. Jalice Café	#13-2724-OF	03/15/13	Underage Event/College Night/ Resulting in Disturbance ("Flash Mob") at 7/11 (Approximate Time of Violation 1:24 a.m.)

- **Upcoming Summer Events & Festivals**

- **Day of Portugal** – June 7th, 8th, & 9th
(April Meeting)
- **Cape Verdean Day Parade** – July 6th
(May Meeting)
- **New Bedford Summerfest** – July 5th, 6th, & 7th
(May Meeting)
- **Irmandade Do Divino Espirito Santo Do Pico** – July, 12th, 13th, & 14th
(May Meeting)
- **Feast of the Blessed Sacrament (Madeira Feast)** – Aug. 1st, 2nd, 3rd & 4th
(June Meeting)

- **NEXT TWO (2) MEETING DATES:** April 22nd (Monday) & May 20th (Monday)

- **MEETING ADJOURNED:**