

**THE ALCOHOL BEVERAGE BOARD  
THURSDAY, OCTOBER 13, 2016 @ 1:00 PM  
COUNTY COMMISSIONERS CONFERENCE ROOM  
CHESAPEAKE BUILDING  
41770 BALDRIDGE STREET  
LEONARDTOWN, MD 20650**

The meeting of the Alcohol Beverage Board of St. Mary's County was held on Thursday, October 13, 2016 at 1:00 P.M. in the County Commissioners Conference Room, Chesapeake Building, Leonardtown, Maryland.

Theodore Bellevoine, Chair  
Linda Palchinsky, Vice-Chair  
Betty Currie, Member  
Kevin Hall, Member  
Leonard Kohl, Member- ABSENT  
James Tanavage, Attorney  
Tamara Hildebrand, Board Administrator  
Suzan Whilden, Administrative Assistant  
Garland Thompson, Inspector  
Cpl. James Stone, AEC

Chairman Theodore Bellevoine called the meeting to order at 1:05 p.m. and introduced the Board to the audience. Member Currie moved to approve the minutes of September 8, 2016. Motion was seconded by Vice-Chair Palchinsky. Motion carried.

### **Old Business**

**La Rive Breton** – Brian Wilson & Karleen A. Jaffres Requesting extension of conditional approval

Brian Wilson appeared before the Board and was sworn in. A letter was sent from Ms. Jaffres for Mr. Wilson to speak on her behalf. Mr. Wilson requested an extension of time for his conditional approval to get all the approvals needed for his final inspection with the Health Department. Member Hall made a motion for a 60 day conditional approval and was seconded by Member Currie. Motion carried.

### **New Business**

- **Inquiry**

**Village Liquors** - Nalini H. Vaidya and Joseph W. Fender (ABSENT)

Pursuant to Section 6-204 of the Alcoholic Beverages Article of the Annotated Code of Maryland, The Alcohol Beverage Board of St. Mary's County wishes to make inquiry into the following: Clarification of correct license for business operating licensed

premises, to wit: Class D-BWL license issued for licensed premise as a bar although the health department has not issued a permit for a bar.

Nalini H. Vaidya and Hement Vaidya appeared before the Board and were sworn in. Attorney Tanavage inquires if Mr. Vaidya will be speaking for the business; Mr. Vaidya responds yes. This proceeding is for inquiry reasons and it is determined that the business had no current Health Department permit. Mr. Vaidya states that a permit has been applied for. Attorney Tanavage requests Mr. Vaidya to explain how he operates his on-sale operation. Mr. Vaidya explains that he will hand a customer a bottle of alcohol, the customer will purchase the alcohol, a mixer, sometimes a bag of ice and will obtain a cup. The customer will then open and mix the alcoholic beverage themselves. Mr. Vaidya stated that the business does not supply cups. Customer is then allowed to consume these alcoholic beverages on premise which can also include beer or wine that would be opened by the customer. Once the customer is ready to leave the premise, they are allowed to take these open containers with them. Mr. Vaidya stated that since he has owned the business, this practice has always been in place and that he does not allow intoxicated customers to leave the premise. Mr. Vaidya stated the business has never had any violations nor does he ever sell alcohol to minors. Mr. Vaidya has been given a list by the Health Department that he plans to fulfill the requirements for to come into compliance and once he obtains the permit, they will follow all rules. Appearance of Attorney David Martinez, counsel for the Vaidya's. Attorney Martinez started by questioning the difference between service versus consumption and stated that there is gray area in the Local and State law related to this. After much discussion, Member Hall made the motion that for the next 30 days or until the Health Department permit issue is resolved; there will be no service of mixed drinks, consumption of spirits or wine, only beer. Once the Health permit has been issued, all consumption of alcohol will be served per drink by the establishment staff. Motion was seconded by Member Currie. Motion carried. Also, Attorney Tanavage brought to the attention to the Board that the second licensee was absent. Attorney Martinez apologized for the oversight and a letter will be submitted for the absence of Mr. Fender.

- **Violations**

**Fitzies Marina and Pub** - Daniel S. Fitzgerald & John Hunt Bowling Sr.

1. Possession of alcoholic beverages from an unapproved source in violation of Section 5.04(e)(1) of the Rules and Regulations of the Alcohol Beverage Board of St. Mary's County and The Alcoholic Beverages Article, Section 6-311 (Restrictions on Purchases and Sales by Retail Dealer).
2. Reuse or refill any bottle or container of alcoholic beverages in violation of Section 5.04(f) of the Rules and Regulations of the Alcohol Beverage Board of St. Mary's County.

Daniel Fitzgerald and John Bowling Sr. appeared before the Board and were sworn in. Attorney Fernando Guerro was present to represent the establishment. Attorney Tanavage stated that the licensees were pleading guilty by admission to the first violation. Attorney Tanavage read into testimony the facts of the charges of admission and the Board went to the penalty phase of the hearing. Based on the history Member Hall made the first motion for a fine of \$750.00, \$500.00 held in abeyance for 3 years with no further violations, \$250.00 fine to be paid in 10 days or the license would be suspended until payment was made. A vote was made 2 voted yay (Member Hall and Currie) and 2 voted nay (Chairman Belleavoine and Vice . Chair Palchinsky). Motion failed. The second motion was made by Member Currie for approval for a fine of \$500.00, \$250.00 held in abeyance for 3 years with no further violations, \$250.00 fine to be paid in 10 days or the license would be suspended until payment was made and was seconded by Member Hall. Motion carried. Attorney Tanavage stated the second violation had no evidence to merit the charge.

- **Applications**

### **The Rex**

Application of Joseph P. Kurley, Daniel R. Norris & Charles G. Breck to upgrade The Rex (Rex Md., Inc.) Class B (restaurant) BWL license to a Class D (tavern) BWL license. And permission to keep existing outdoor service on patio.

Joseph Kurley, Daniel Norris and Charles Breck appeared before the Board and were sworn in. All conditions of their application have been met except for the new mandatory RAST training requirement. Vice-Chair Palchinsky made the motion for approval and was seconded by Member Currie. Motion carried

### **Last Drop Country Bar**

Application of William Dain Johnson to transfer Hollywood Shakers (J&G's Lucky Leap, Inc.) Class D-BWL license from Donny Dunbar Jr. & Sean Earley & t/a Last Drop Country Bar (Last Drop, LLC), 23955 Mervell Dean Rd., Hollywood, MD 20636. Permission for Extension of Premise & Extra Serving Counter for back yard fenced in area

William Dain Johnson appeared before the Board and was sworn in. Member Hall made the motion for a 90 day conditional approval pending the Fire Marshall, Health Department, Use and Occupancy, Traders license and mandatory RAST training approval and was seconded by Member Currie. Motion carried.

### **Jessie's Kitchen**

Application of Wai Jessica Cheng & David Glenn Peachman to purchase a Class B (restaurant) BWL license & t/a Jessie's Kitchen (Jessie's Kitchen, Inc.), 22854 C Washington St., Leonardtown, MD 20650.

Jessica Cheng and David Peachman appeared before the Board and were sworn in. Member Currie made the motion for a 90 day conditional approval pending the Fire Marshall, Health Department, Use and Occupancy, Traders license and mandatory RAST training approval and was seconded by Member Hall. Motion carried.

### **Optimal Vapor**

Application of Mark Goodman to purchase a Class D-Beer license & t/a Optimal Vapor (Optimal Vapor, LLC), 22741 Three Notch Rd., Unit 3, California, MD 20619.

Mark Goodman appeared before the Board and was sworn in. Mr. Goodman explained to the Board that he wants to serve craft beers at his vape shop. He stated he has spoken with LUGM and the Health Department and will only have minimal work to do to bring his business into proper compliance to serve alcohol. The landlord has stated that if he is approved for alcohol sales, it must be for On-Sale Only. A letter of opposition was written from the St. Mary's License Beverage Association stating they were opposed to another alcohol license in the shopping center with (2) other establishments with licenses and Dave Dent testified for the SMLBA confirming these concerns as well as this not being a hospitality type business. Member Currie made the motion to grant a 90 day conditional approval pending LUGM, Health permit and On-Sale Only for approval and was seconded by Member Hall for the purpose of discussion. Members discussed their reluctance to approve a license for this type of business where many customers are underage and there are already two other licensed businesses in that shopping center. All members voted nay. Member Hall made another motion to deny the application and Chairman Belleavoine seconded the motion. Motion carried. Chairman Belleavoine advised Mr. Goodman he had 30 days to appeal the decision to the Circuit Court.

### **Other Business**

- **Board Administrator** . Tammy Hildebrand

Ms. Hildebrand stated she had met with Delegate Deb Rey to discuss past and future legislation that could be proposed for 2017 legislation. The subjects of discussion were the licenses that the Corporate Town of Leonardtown requested for galleries and hair salons and also the holding of multiple licenses. Two of these bills were put in in 2014 legislation but did not pass. It appears this legislation will be presented again in an edited version.

- **Alcohol Enforcement Coordinator** . Cpl. James Stone

For the month of September, Cpl. Stone reports that 5 open container citations were written, 15 DUI arrests made with only 1 person being underage. There were no underage sales citations reported. Cpl. Stone conducted a sobriety checkpoint that was dedicated to the late Joshua Siegert who died as a result of drunken driving. Mr. Siegert's family came to the dedication and spoke at the checkpoint location. Cpl. Stone plans to do tobacco and underage alcohol compliance checks in the month of October.

- **Board Inspector** . Garland Thompson

For the month of September, Mr. Thompson performed 15 inspections and 3 follow-ups.

- **St. Mary's Licensed Beverage Association** . David Dent

Mr. Dent has also met with Delegate Rey. One of the key points of implementing legislation is to make sure that the proposal of a bill covers all aspects of the intent. Also the SMLBA would like alcohol laws to be proposed toward the hospitality industry.

- **Community Alcohol Coalition** . Lauren Abell

Ms. Abell stated that the grant for CAC has been approved. Ms. Abell also attended the Sobriety Checkpoint dedication in honor of Joshua Siegert.

### **Adjournment**

Motion for adjournment was made by Member Hall and seconded by Vice. Chair Palchinsky. Meeting adjourned at 4:00 p.m.

Respectfully submitted,

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Suzan Whilden, Recording Secretary

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Linda Palchinsky, Vice-Chair