

**THE ALCOHOL BEVERAGE BOARD
THURSDAY, SEPTEMBER 9, 2010 @ 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, September 9, 2010 at 1:00 P. M. in the County Commissioners Conference Room, Chesapeake Building, Leonardtown, Maryland.

Present: Moses Saldaña, Chairman
Tom Sacks, Vice-Chairman
Betty Currie, Member
Linda Palchinsky, Member
Joann Wood, Attorney
Tamara Hildebrand, Board Administrator
Tommy Thompson, Inspector
DFC James Stone, Alcohol Enforcement Officer
Fran Hammett, Recording Secretary

Chairman Saldaña called the meeting to order at 1: 00 p.m.

APPROVAL OF MINUTES:

Chairman Saldaña entertained a motion for approval of the minutes of the meeting of August 12, 2010. A motion was made by Member Currie to approve the minutes and it was seconded by Member Palchinsky to approve the minutes. Motion carried.

VIOLATIONS:

- HULA's – William Jarboe

Distribution of free alcoholic beverages in violation of Section 12-107(b)(2) of Article 2B of the Annotated Code of Maryland

Chairman Saldaña explained the violation procedures of the Board and Ms. Wood stated that they have reached an agreement. Mr. Jarboe has reached an agreement as to the facts that have occurred, but he is not willing to agree that the violation occurred. The Board can forego any testimony and reach an agreement that the violation occurred. He's not contesting to the facts; he is contesting the language of the violation. Basically, his argument is over whether the violation is a violation. The facts on the record are that on July 1, 2010 at approximately 2240 hrs, Deputy Abbie Perkins responded to Hula's Bungalow in California, to assist in a complaint received by the Board Administrator that Hula's was conducting a Ladies Night. The complaint also advised that it was posted on a social network page, FaceBook, with no cover and free, all you can drink rum or vodka drinks for ladies. Deputy Perkins responded to Hula's Bungalow in plain clothes to check for the alcohol violation, and upon arrival, her ID was checked as was the ID of her companions and they were told to ask the bartender for the drink specials. There was no cover charge to enter the bar. Upon entry, she went to the bar to order a drink, waiting for the bartender, she overheard a male ask the bartender what the drink specials were, and the bartender responded that vodka and rum drinks are free. Deputy Perkins was holding a \$10 bill in her hand when she ordered a vodka and orange juice. A few moments later a bartender placed the drink in front of her and walked away. Approximately 30 minutes later, she went back to the bar and ordered another drink from the other

bartender. She was given a vodka and cranberry juice with no exchange of money. She sat down on a bench and started talking with a male. She asked him if he paid a cover charge to get in and he responded no. She asked if he paid for his beer and he said yes. Deputy Perkins had not paid for her drinks that night. Those would be the facts if she testified before the Board. Mr. Jarboe agrees that the occurrences happened. There was no advertising from his establishment; it was a customer's posting on Facebook. The testimony from the Deputy is that the Facebook post is what prompted the investigation. He does agree to those facts and he is not contesting that is what happened. Hula's does have a webpage but it was not advertised on that page. He is protesting the language of the violation. He read the section he was charged with and the way he interpreted it, is that it does not apply to the owner of an establishment that purchases the alcohol for his business but rather that a customer may not bring their own alcohol into an establishment. The intent of this law does not apply to an outdoor Motor Raceway such as Budds Creek and MIR that permits the customers to bring in their own alcohol. The intent of the law is for a private individual not to be able to bring in their own alcohol and consume it in the establishment. The intent of the law was not for an owner to give a customer a free drink. It's the language that he is contesting at this time, and he doesn't feel he has misrepresented his intentions. Ms. Wood stated that the bottom line is that you cannot give away free drinks, whether you are the owner or an employee and the reason is that a person may not consume in the licensed establishment drinks that are not purchased from the license holder on the premises. There has to be some reasonable charge for the drinks to the persons who are there, either a cover charge or some charge for the drink. This license holder has never had any violations at any of his establishments for over 20 years. It was not his intent to break the law. It clearly does not state that the owner cannot comp or give away a free drink. The Board understands that there was clearly no intent to break any laws, but the fact is that the customer did not purchase any alcohol in the establishment and it was consumed. It must be purchased either by a cover charge or some charge of some sort. As to whether or not the violation occurred, Mr. Saldaña called for a motion. Vice-Chairman Sacks made the motion that the violation did occur and it was seconded by Betty Currie. Motion carried. Mr. Sacks then made the motion for the penalty to be a \$250 fine suspended for six months pending no further violations. Member Currie seconded, and the motion carried.

- Chef's American Bistro – Keith Francis, Rhonda Williams, & Francis Martin

Consumption of alcoholic beverages not purchased from the license holder on the licensed premises in violation of Section 12-107(b) of Article 2B of the Annotated Code of Maryland when conducting "Free Corkage Nights"

Mr. Francis was unable to attend due to Military obligations, but Rhonda Williams Francis has the Power of Attorney to speak on his behalf. Chairman Saldaña explained the procedures and stated that they had allowed customers to bring in their own bottles of wine into the Bistro so that staff could open and serve the wine with the meal. This was as a result of their Face book posting. A ten minute recess was granted to discuss their options. Ms. Francis did admit that the violation did in fact occur. Ms. Wood read into the record the facts of the violation. The Board Administrator received a phone call from an individual and based on that phone call, she proceeded to the Chef's American Bistro website and where she saw that the Bistro was advertising Friday night "Free Corkage Nights" where customers can bring in a bottle of their best wine where Staff will open it and serve it free of charge. Ms. Francis pled ignorance of the law and stated that there was no intent to break the law. Chairman Saldaña explained to her that Ms. Hildebrand is always available for questions as is Mr. Thompson. Mr. Sacks then made the motion for the penalty to be a \$250 fine suspended for six months pending no further violations. Member Currie seconded and motion passed.

APPLICATIONS

- Creekside Pub
 - Application of Lindsay Canter & Marlene Donovan to purchase a Class D(Tavern)-BWL license & t/a Creekside Pub (Creekside Pub, LLC.), 20256 Point Lookout Rd., Great Mills,

MD 20634. And permission for extension of premise to include deck for smoking & non smoking patrons and extension of premise & extra serving counter for horseshoe pits.

This is a request for conditional approval pending all Agency approvals. Ms. Canter is the County resident on the license and has experience bartending in the County at Donovan's. Ms. Donovan also needs to renew her TAM certification. This is where the old Friendly Tavern is in Great Mills. There will be a deck off the back approximately 20' by 30' with a cover and a fence and a horseshoe pit. There will not be any food served outside. The only time alcohol will be outside is when there is a horseshoe game, one hour before and one hour afterwards. There will only be beer served so they will not be required to have a wash sink by the Health Department, but for the deck users, they will be allowed to take their drink outside. Member Palchinsky made the motion to approve the application pending all the County/State approvals, and the TAM certification. Member Currie seconded and the motion was passed.

OTHER BUSINESS

- Olde Town Pub - John MacDonald Jr., Joseph Drury & Jason Burroughs
 - Requesting temporary extension of premise on Oct. 8, 2010, from 5pm to 2am, to accommodate high school reunion party.

Mr. MacDonald appeared on behalf of the other license holders. This will be a conditional approval, pending the Town of Leonardtown approval. Mr. MacDonald wishes to put a tent up in the grassy area on October 8, 2010. This is for approximately 100 people that may be attending Ryken's Home Coming weekend. He has no way of knowing how many people may show up, but as Friday is already a busy night for his business, he wants to be prepared in the event he has more customers. He was advised of the Crowd Manager Course and given the web address so the course could be taken. There will be two bouncers at the door checking ID's and only one entrance into the extended premise and the tent area. They will be adding port-a-pottys and has made arrangements with the Fire Department for parking to be available in the old carnival grounds. He will be shutting down the outside area around midnight. Vice Chairman Sacks made the motion to approve the extension pending the Town's approval. Member Palchinsky seconded and the motion carried.

- Officer Change – Olive Garden
 - Deleting E. Charlene Abney; Adding Joseph G. Kern

Member Currie made the motion to approve the officer change and it was seconded by Member Member Palchinsky. Motion carried.

BOARD ADMINISTRATOR

Ms. Hildebrand stated that there no legislative proposals. Mr. Butler is appealing Judge Raley's decision to the Court of Special Appeals. There were two license cancellations, Donavon's and Good View.

ALCOHOL ENFORCEMENT COORDINATOR

Deputy Stone reported 1 DUI under the age of 21, 5 citations for consumption of alcohol, 2 under 21. There were numerous traffic enforcements and three sobriety checkpoints in August because August was deemed the deadliest month for DUI crashes. He wanted to stress the use of Taxi's and Designated Drivers especially during the Football Season.

Mr. Thompson reported that so far this year, he has done 115 inspections (13 in August) and spot checks. Two establishments had no under-21 signs posted and that was corrected.

RETAIL BEVERAGE ASSOCIATION

Mr. Dent appeared on behalf of the Retail Beverage Association and stated there are new credit card regulations that allow establishments to legally place up to a \$10 minimum on credit card purchases. The alcohol tax is looming again, a dime a drink, but that would place an additional tax of approximately \$4.00 on a case of beer. The RBA wants to reach out to the ABB and come up with some workshops for license holders to bring them up to date or remind them of the advertising issues or the free drink issues. These could be held possibly on a quarterly basis or twice a year. Ms Hildebrand said that it was also a topic that was addressed at the MALA Conference. These workshops could provide some education to the licensees. While no one can really foresee what may be happening or what may come up, just discussion in general would help. The Board has been very reasonable in the fine stage and the next penalty will not be as reasonable. Mr. Dent said he would bring up the topic at the State Board meeting and get input with other local chapters. Chairman Saldaña stated that appears that many business are policing each other and themselves because it is being reported to the Board Administrator.

Member Currie made the motion to adjourn and it was seconded by Member Palchinsky. Motion carried. The meeting was adjourned at 2:46 pm.

Respectfully submitted

Fran Hammett
Recording Secretary

Moses Saldaña
Chairman