

**THE ALCOHOL BEVERAGE BOARD
THURSDAY, SEPTEMBER 13, 2012 @ 11:00 AM
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 13, 2012 at 11:00 A. M. in the County Commissioners Conference Room, Chesapeake Building, Leonardtown, Maryland.

Moses Saldaña, Chairman
William R. Cullins III, Vice-Chairman (Arrived 11:55)
Aaron Mathis, Member
Betty Currie, Member
Linda Palchinsky, Member
Joann Wood, Attorney
Tamara Hildebrand, Board Administrator
Garland Thompson, Inspector
Cpl. James Stone, Alcohol Enforcement Officer

Chairman Saldaña called the meeting to order. The Board was introduced to the audience. Member Currie moved to approve the minutes of August 9, 2012. It was seconded by Member Palchinsky. Motion carried.

Old Business:

Extensions of Conditional Approvals- Vino 2 Wine & Liquor – Jaspal Kaur & Gurnam Singh Randhawa

The license holders appeared before the Board to request 30 day extension of their conditional approval. The only work left to be done is the electrical and the U and O. Member Currie made the motion to approve the request and it was seconded by Member Palchinsky.

Request for Stay of Board Decision – change of license classification for Marilyn McKay's Liquors

Mr. David Dent appeared before the Board to appeal the Board's decision to change the license reclassification for Marilyn McKay Liquors. Thomas McKay appeared on behalf of his mother with Attorney Mike Davis. Mr. Dent read the application for appeal to the Board which he filed on September 7. Mr. Dent's request is for a stay of the decision until a Judge can decide if the license reclassification can be grandfathered and that a grandfathered license cannot be changed/reclassified. Appealing a decision can take as long as six months and the Board feels their decision was the correct and that it would be unfair to ask Mr. McKay to wait that period of time when he has already invested so much money based on the Board's last decision. While there is no harm appealing the Board's decision, the request for the stay would cause undue hardships. Vice Chairman Cullins made the motion to deny the stay and Member Mathis seconded. Motion carried.

Marilyn McKay's Liquors – changing trade name to McKay's Market & Café.

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

New Business:

Corkage Applications: Café des Artistes – Karleen & Loic Jaffres

The license holders appeared before the Board for their request. Chairman Saldaña explained corkage to them. Member Currie made the motion to approve the application and it was seconded by Member Palchinsky. Motion carried.

Violations:

The Alcohol Beverage Board of St. Mary's County has received complaints alleging the Sale of alcoholic beverages to a person under the age of twenty (21) in violation of Section 12-108(a) of Article 2B of the Annotated Code of Maryland and Section 5.04(j) of the Rules and Regulations of the Alcohol Beverage Board of St. Mary's County for the following establishments:

Nikos Pizza & Carry-Out – Lambrina Pizanias

License holder states the violation did in fact occur.

Coffee Quarter – Tamela H. Shin & Richard Y. Shin

License holder states the violation did in fact occur.

Monterey Mexican Restaurant – Ruben Leon, Miguel A. Lopez & Abrea Rodriguez

License holder states the violation did in fact occur.

Stop & Shop – Veena Chawla & C.S. Chawla

License holder states the violation did in fact occur.

Loveville Tavern – Joseph Husick Jr & Christina Renee Ward

Mr. Ebon Jackson on Mr. Husick's behalf, states the violation did in fact occur.

A & B Liquors – Lang Xu

License holder states the violation did in fact occur.

Dave McKays Liquors – David A. McKay

License holder states the violation did in fact occur.

Toot's – Patrick Dugan

License holder states the violation did not occur.

Boatman's Mini Mart – Scott Lee Boatman

Attorney for the license holder requested a continuance.

Nikos Pizza & Carry-Out –

Attorney Wood read the facts into the record. Lambrina Pizanias and her son in law appeared before the Board with an explanation that it was a very busy time of day and she made a mistake. She's been in business for 35 years and has never had a violation. Based on the facts and findings of the testimony, Member Currie made the motion that the violation did occur and moved to fine the establishment \$1000, payable within 10 days or the license will be suspended, and the license holder must attend the RAST training. There was no second; Chairman Saldaña refined the motion to a \$1000 fine with \$500 suspended for three years if no violations occur during that time, payable within 10 days or the license will be suspended, and they must attend RAST. Member Palchinsky seconded the motion and the motion carried.

Coffee Quarter –

Attorney Wood read the facts into the record. Vice Chairman Cullins made the motion for a \$500 fine and the owners must attend RAST training. There was no second; Member Mathis refined the motion to a \$1000 fine with \$500 suspended for three years if no violations occur during that time, payable within 10 days or the license will be suspended, and they must attend RAST. Vice Chairman Cullins seconded the motion and the motion carried.

Monterey Mexican Restaurant –

Attorney Wood read the facts into the record. Member Palchinsky made the motion for a \$1000 fine with \$500 suspended for three years if no violations occur during that time, payable within 10 days or the license will be suspended, and they must attend RAST. Vice Chairman Cullins seconded the motion and the motion carried.

Stop & Shop –

Attorney Wood read the facts into the record. Vice Chairman Cullins made the motion for a \$1000 fine with \$500 suspended for three years if no violations occur during that time, payable within 10 days or the license will be suspended, and they must attend RAST. Member Palchinsky seconded and the motion carried.

Loveville Tavern –

Attorney Wood read the facts into the record. Mr. Ebon Jackson appeared on behalf of Joseph Husick. He is in the process of taking over the business from the current license holders and had been open only two days when the violation occurred. This will be the 4th violation for this establishment within two months. Member Currie made a motion for \$1000 fine, suspended to \$500 payable within 10 days or face suspension and they must attend RAST. Motion failed with Member Palchinsky, Member Mathis and Vice Chairman Cullins voting nay. Member Mathis made the motion for \$1000 fine payable within 10 days or face suspension and a 30 day suspension because of the previous violations. Chairman Saldaña seconded, but Member Palchinsky, Member Currie and Vice Chairman Cullins voted nay. Motion failed. Member Currie made the motion for a \$1000 fine payable within 10 days or the license will be suspended, and mandatory RAST attendance. Vice Chairman Cullins seconded. Member Mathis and Chairman Saldaña voted nay but the motion carried.

A & B Liquors –

Michael Davis appeared with the licenses holders. Attorney Wood read the facts into the record. Vice Chairman Cullins made the motion for \$1000 fine with \$500 suspended for three years if no violations occur during that time, payable within 10 days or the license will be suspended, and they must attend RAST. Member Currie seconded and the motion carried.

Dave McKays Liquors

Attorney Wood read the facts into the record. Mr. McKay appeared before the Board. He stated that there were two persons helping the CI at the self-checkout and each one thought the other one checked his ID. Member Currie made the motion for \$1000 fine with \$500 suspended for three years if no violations occur during that time, payable within 10 days or the license will be suspended, and they must attend RAST. Member Palchinsky seconded and the motion carried.

Toot's –

Patrick Dugan appeared before the Board. Attorney Wood read the facts into the record. The CI, a Correctional Officer from the St. Mary's County Detention Center testified that on the night in question, he walked into the establishment, ordered a beer, paid for the item and received change back. Mr. Dugan stated that the bartender that night took his order, gave him his beer but when she took his ID to the register, she then went back to the CI and told him she

couldn't serve him because he is underage and took back the beer. The CI said that did not happen and that he received change back for his beer. Mr. Dugan asked for a continuance but was denied. Member Currie made the motion based on the facts that they had heard, the violation did occur. Member Palchinsky seconded and the motion carried. Member Mathis made the motion to fine the license holder \$1000 fine with \$500 suspended for three years if no violations occur during that time, payable within 10 days or the license will be suspended, and they must attend RAST. Member Palchinsky seconded and the motion carried. The Board took a 10 minute recess

The Lexington Restaurant & Lounge – Kris L. Greer

Conduct contrary to the peace and safety of the community in violation of Section 10-401 (a)(2) of Article 2B of the Annotated Code of Maryland and Section 5.01 of the Rules and Regulations of the Alcohol Beverage Board of St. Mary's County by way of disorderly crowd and physical altercation on July 29, 2012; licensee was unable to control the crowd in the premises with the security/staff on site.

Mrs. Greer appeared before the Board stating she was not guilty of the charge. The initial call to Police was from Mrs. Greer for suspicious activities in the Coles Travel parking lot. Upon arriving, Officers did find about 20/25 persons in the parking lots and sent them on their way. At that time, someone said that there was a disturbance inside the Lexington. As the Officers tried to enter the building, there was a mass exodus from inside and the Officers couldn't get in. They deployed pepper spray and the crowd moved outside. At that time, there were several gunshots heard. Officers called for additional units and the MSP, Calvert County, and Charles County and LaPlata Deputies responded. Cpl. Cathcart and Cpl. Goodwin took cover behind a van where they found a victim of gunshot wounds. Several of the bar patrons attempted to interfere with the Officers that were trying to take cover and protect the victim. The K-9 Unit assisted in separating the crowd so the victim could be transported to Lancaster Park for medical treatment. Two of the Deputies were in foot pursuit of a male gunman who ran around the Firehouse and disappeared in the woods in the area of Missouri Avenue. It took over an hour and a half to contain the crowd in the parking lot and there were approximately 30-35 Police Units called to the area. The Board took a short recess. When they returned, Member Currie made the motion that based on the facts and findings, a 30 day suspension of the license, suspending 15 days should be imposed effective immediately. Vice Chairman Cullins seconded the motion and it carried.

Bon Buffet – Ren Xun Yang & Ren Hang Yang

Retail dealer offering for sale and keeping on the licensed premises alcoholic beverages which had not been purchased from a duly licensed manufacturer, wholesaler, or private bulk sale permit holder or nonresident winery permit holder in violation of the Maryland Annotated Code Article 2B Section 12-107.

The license holders appeared before the Board and said that the violation did occur. Attorney Wood read the facts into the record. The license holders stated that they had run out of Triple Sec and had run across the street to purchase one bottle to make the drink that had been ordered. Member Mathis moved to fine the establishment \$500, and it was seconded by Member Currie. The motion failed. Member Currie made a motion to fine them \$250, and it was seconded by Vice Chairman Cullins. Motion carried.

DB McMillan's – Robyn S. Rebarchick & Dana Rebarchick

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

Mr. Thompson testified that on 8/13/12 he responded to the establishment in regards to a complaint received by email. He observed on the menus there was a printed advertisement stating that the winner of a contest they were holding would receive a free beer every day for a month. Ms. Hildebrand was called to the stand and testified that she looked on the establishment's Face Book page and saw pictures posted of some of the contestants and the winners so far. The license holder stated that the test "winner" was the spouse of the General Manager and the other winner doesn't drink, so there has been no violation. The question of who will pay the 9% sales tax and it was stated that the establishment would pay it. Chairman Saldaña moved that the promotion is in violation of Article 2B and it was seconded by Member Palchinsky. Member Mathis, Vice Chairman Cullins and Member Currie voted nay, motion failed. Member Mathis made the motion that the violation did not occur and Vice Chairman Cullins seconded. Motion carried. Chairman Saldaña cautioned the license holders that they should not advertise that they are giving away free alcohol.

Other Business:

Board Administrator – Tammy Hildebrand

Ms. Hildebrand suggested they look at the legislative proposal when they do the rules and regs changes. She will also be going before the Board of County Commissioners for the approval of the Grant for the RAST and Topsy Taxi. Chairman Saldaña made the motion to approve the use of the funds and it was seconded by Member Mathis. Motion carried.

Board Inspector – Garland Thompson

Mr. Thompson did 14 inspections, 8 follow ups, and he attended the RAST, the RBA meeting and the Community Alcohol Coalition (CAC) meeting.

Alcohol Enforcement Coordinator – Cpl. James Stone

Cpl. Stone stated that the Sheriff's Office had 21 DUI's in the month of August, and only one was under 21. The office did 43 compliance checks and had 10 violations.

Retail Beverage Association – Dave Dent

Mr. Dent wanted to address Legislation regarding fining an underage person for trying to purchase alcohol by misrepresenting their age. He also wanted to include store clerks in the RAST.

Vice Chairman Cullins made the motion to adjourn the meeting and it was seconded by Member Currie. Motion carried.

Respectfully submitted:

Fran Hammett
Recording Secretary

Moses Saldaña
Chair