

**THE ALCOHOL BEVERAGE BOARD  
THURSDAY, APRIL 12, 2018 @ 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, April 12, 2018 at 1:00 P.M. in the County Commissioners Conference Room, Chesapeake Building, Leonardtown, Maryland.

Kevin Hall, Chair  
Linda Palchinsky, Vice-Chair  
Betty Currie, Member  
Leonard Kohl, Member  
James Tanavage, Attorney  
Tamara Hildebrand, Board Administrator  
Suzan Whilden, Administrative Assistant  
Garland Thompson, Inspector  
Sgt. Stephen Myers, AEC - **ABSENT**

Chairman Hall called the meeting to order at 1:00 p.m. and introduced the Board to the audience. Member Currie moved to approve the March 8, 2018 minutes. Motion was seconded by Vice-Chair Palchinsky. Motion carried. Chairman Hall announced that the violation for Abell's Tavern would be postponed until next month because of a witness not being able to attend this meeting.

### **New Business**

- **Application**

**Salsas Mexican Café** - Application of Carlos Bravo to purchase a Class B (restaurant) BWL license & t/a Salsas Mexican Café (Vicart, LLC), 25470 Point Lookout Rd., Leonardtown, MD 20650

Carlos Bravo appeared before the Board and was sworn in. Mr. Bravo stated to the Board that his establishment failed to renew their liquor license on time so they had to re-apply for a new license. Member Currie made a motion to approve the application. Motion was seconded by Vice-Chair Palchinsky. Motion carried.

- **Special Privilege Applications**

**Ruddy Duck Seafood & Ale House – Brian K. Norris** - requesting off site catering privilege

Brian Norris appeared before the Board and was sworn in. Mr. Norris explained that he has been operating a catering business for food only and would now like to incorporate alcohol into those services. Member Kohl made a motion to approve the application for off-site catering. Motion was seconded by Member Currie. Motion carried.

**Marketplace Wine & Spirits – Kurt Missun, Hui Cha Missun and Brian Jones - requesting Beer Wine Tasting permit (BWT 365)**

Kurt Missun appeared before the Board and was sworn in. A letter had been provided allowing Mr. Missun to speak on behalf of the other licensees, Hui Cha Missun and Brian Jones. Mr. Missun came before the Board to request a permit to have beer and wine tastings 365 days of the year. Vice-Chair Palchinsky made a motion to approve the permit. Motion was seconded by Member Kohl. Motion carried.

- **Premise Change**

**Elks Lodge #2092 – Trent Mason, Robert Broom and Michael Palmer - requesting extension of premise to include grassy areas**

Trent Mason, Robert Broom and Michael Palmer appeared before the Board and were sworn in. Mr. Broom explained to the Board that the Elks Lodge would like to utilize a portion of their property outside of the building, to allow alcohol during special events. The pool area would not be included in this request. Member Kohl made a motion to approve the application for the extension of premise. Motion was seconded by Vice-Chair Palchinsky. Motion carried.

- **Violations**

**Canopy Liquors – Nehaben Patel**

*1. On or about January 16, 2018, permitting a person to consume or open any alcoholic beverage on the licensed premises or any other portion of the property of the establishment, including parking areas adjacent to the licensed establishment, in violation of Section 5.04(g) of the Rules and Regulations of the Alcohol Beverage Board of St. Mary's County.*

*2. On or about January 18, 2018, permitting a person to consume or open any alcoholic beverage on the licensed premises or any other portion of the property of the establishment, including parking areas adjacent to the licensed establishment, in violation of Section 5.04(g) of the Rules and Regulations of the Alcohol Beverage Board of St. Mary's County.*

*3. On or about February 4, 2018, Commission of acts on licensed premises contrary to State law in violation of Section 5.04(b) "Acts Contrary to Law" of the Rules and Regulations of the Alcohol Beverage Board of St. Mary's County; to wit: Distribution of Tobacco Product or Paraphernalia to Minor in violation of Section 10-107 of the Criminal Law Section of the Maryland Annotated Code.*

Nehaben Patel appeared before the Board and was sworn in. Attorney Shane Mattingly was present to represent Ms. Patel. Attorney Mattingly stated that Ms. Patel admits to violation #3. Attorney Tanavage read into the record the events of February 4, 2018. Attorney Tanavage stated that it was a clerk that had made the sale. The penalty will be determined later after the other violations are heard.

Cpl Ray appeared before the Board and was sworn in to testify for violations #1 & 2.

Cpl Ray stated that on January 16, 2018, he observed someone on the stoop at Canopy Liquors drinking what he suspected to be an alcoholic beverage from a can in a brown paper bag. Cpl. Ray alerted Cpl. Al Beishline and DFC Vince Pontorno to come to the establishment to investigate. Cpl. Al Beishline and DFC Vince Pontorno were sworn in and testified that the person did have an open alcoholic beverage and was issued a criminal citation for consumption in public. Member Kohl inquired of the licensee if the business had security cameras outside. The licensee responded that they did. Member Currie made a motion that the violation did occur based on the testimony and reports of the officers and that there was surveillance cameras outside of the establishment that evening. Motion was seconded by Member Kohl. Motion carried.

Cpl. Ray stated that on January 18, 2018, he observed a man on the stoop who poured a bottle of juice out onto the alley way and replace it with a miniature of an alcoholic beverage and consume it. Cpl. Ray alerted Cpl. Al Beishline and DFC Vince Pontorno to come to the establishment to investigate. It was determined that the person did have an open alcoholic beverage and was issued a criminal citation for consumption in public. Member Kohl made a motion that the violation did occur based on the testimony of the officers. Motion was seconded by Vice-Chair Palchinsky. Motion carried.

Chairman Hall called for a motion for penalty for the violation that occurred on January 16, 2018. Member Currie made the motion for a \$500.00 fine, \$250.00 held in abeyance for 3 years. No one seconded the motion. Motion died. Vice-Chair Palchinsky made the motion for a \$1,000.00 fine; \$500.00 held in abeyance for 3 years. Motion was seconded by Member Kohl. Motion carried.

For the violation that occurred on January 18, 2018, Member Kohl made the motion for a \$1,000.00 fine; \$500.00 held in abeyance for 3 years. Motion was seconded by Vice-Chair Palchinsky. Motion carried.

For the violation that occurred on February 4, 2018, Member Kohl made the motion for a \$500.00 fine, \$250.00 held in abeyance for 3 years. Motion was seconded by Member Currie. Motion carried.

## **Corner Liquors – Shambhubhai Keshavial Patel- POSTPONED TO MAY 10, 2018**

### **Other Business**

- **Board Administrator- Tammy Hildebrand**

Ms. Hildebrand explained that due to changes in the schedule and conflicts with the May Board meeting we will be opting out of MALA this year. Ms. Hildebrand explained the CAC had conducted a great training for law enforcement and retailers which the staff did attend. Ms. Hildebrand asked the Board for assistance for what to do when a violator doesn't attempt to attend RAST nor makes any response to written correspondence to attend RAST. The Board's decision was to bring the licensees in for inquiry and Ms. Hildebrand will consult with the Board attorney when doing so. Ms. Hildebrand reminded the Board that licenses went on sale on April 1<sup>st</sup> and if they are not picked by April 30<sup>th</sup>, there is a \$25.00 a day fine for each day late.

- **Alcohol Enforcement Coordinator – Sgt. Steve Myers – ABSENT**
- **Board Inspector – Garland Thompson**

Garland Thompson performed 18 inspections for the month of March and had 1 follow-up inspection

- **St. Mary's County Licensed Beverage Association – Dave Dent**

Dave Dent reports that the CAC did a Mystery Shopper program in March that was quite successful. The SMCLBA also conducted Secret Shopper program on 18 establishments around the County. Legislative session has ended for the year and Mr. Dent will report any new information at another time.

- **CAC- Lauren Abell- ABSENT**
- **Violations Continued:**

### **The Pax Lounge - Dimple Oberio**

*Acts which violate the peace and safety of the community in which the place of the business is located, including, but not limited to: patrons causing a disturbance and fighting in the parking lot; patrons standing in the roadway while leaving the establishment; gunshots reported coming from the area of the establishment; allowing the Board to take action "for any reason to promote the peace and safety of the*

*community in which the premises are located” in violation of Section 4-604(A)(1) of The Alcohol Beverage Article of the Maryland Annotated Code and “for any cause which, in the judgment of the Board, is necessary to promote the peace and safety of the community in which the place of business is situated” in violation of Section 5.01 of the Rules and Regulations of the Alcohol Beverage Board of St. Mary’s County.*

Dimple Oberio and Jay Faruque appeared before the Board and were sworn in. Attorney Shane Mattingly was present to represent the establishment. Attorney Mattingly stated his clients denied the allegations.

The first witness, McKenna Fischer appeared before the Board and was sworn in. Ms. Fischer stated she is a paramedic and was on duty on February 18, 2018. Between 1 am and 2 am, she and the driver of the ambulance were en route to St. Mary’s Hospital to pick up a patient for transport. As they were approaching the Pax Lounge, there were people in the roadway blocking them. They observed a fight at the bar parking lot that spilled out into the street. The driver flashed the ambulance lights and siren to attempt to clear the road, but were ignored and threatened. People began trying to gain entry into the ambulance, jumping on the hood, hitting the windshield and rocking the vehicle. At that time, they called 911 for police help. She observed approximately 60 people outside the bar and in the roadway. When they were finally able to exit the area and got to their destination, it was reported that there were shots fired at the Pax Lounge.

Witness Garrett Thomas, whose residence is next to the Pax Lounge, appeared before the Board and was sworn in. Mr. Thomas stated that between 1 am- 2am on February 18, 2018, he was awakened by loud noises coming from the direction of Pax Lounge. Mr. Thomas stated that he was able to see a large group, 60 or so people, congregated outside of the bar closest to Pin Cushion Road. Soon after looking out of the window, Mr. Thomas stated he heard 3 consecutive gun shots that came from the direction of the bar. Mr. Thomas then called the police.

Witness William Abell appeared before the Board and was sworn in. Mr. Abell stated that his home is across the street from the Pax Lounge. On the early morning of February 18, 2018, Mr. Abell observed a large crowd of loud people in the roadway in front of the Pax Lounge. Mr. Abell observed the AAA ambulance stopped on Route 5 trying to get through a crowd of people in the roadway in front of the Pax Lounge. Mr. Abell stated that at around four minutes to two, he heard 3 gun shots, thought to be fired from a pistol. Mr. Abell stated that he called the Sheriff’s office for police to come.

Dep Shawn Shelko appeared before the Board and was sworn in. Dep. Shelko was the first officer to respond on the scene after he received the call at approximately 1:50 am on February 18, 2018. Dep. Shelko stated that there were cars lined on both sides of the road and a very large crowd of people in the roadway. Dep Shelko stated that he

proceeded through the crowd, passed the Pax Lounge and closed the road south of the business, at the furthest point of patron's parked vehicles to secure the area so as to be able to start the investigation. Dep Shelko stated that he was stopping cars and questioning people to what was going on at the Pax Lounge. Several people stated that they had heard gun fired but were unaware of where it came from. Dep Shelko stated that after all the cars were stopped and questioned, the other units started to search the roadway looking for shell casings. After the search was completed and no shell casings were found, Dep Shelko went into the Pax Lounge and made contact with Jay Faruque. Mr. Faruque stated that he had not heard any gunshots nor was he aware of the incident with the AAA ambulance. Dep Shelko stated that he had spoken with one of the security that was working outside and that they had heard the gun shots.

Jim Davis appeared before the Board and was sworn in. Mr. Davis stated he has been the head of security for the Pax Lounge since they opened. Mr. Davis stated he had been in contact with a crowd of people who were not permitted to enter the Pax Lounge due to being at full capacity and they became angry.

No further testimony or discussion being made, Member Kohl made a motion the violation did occur based on the sworn testimony of the deputy, the EMT, Mr. Abell, Mr. Thomas, and Pax Lounge security. Motion was seconded by Member Currie. Motion carried.

Before the penalty phase, the Board called for any testimony from the public. A letter had been submitted by the Stauffer's, an Amish family whose property borders the Pax Lounge. Mr. Mattingly made final comments on behalf of his client, asking the Board to take into consideration that the bar would be making changes to avoid further problems. Mr. Faruque asked that the Board take into consideration that the bar is his families and his employees livelihood.

Vice-Chair Palchinsky made a motion to suspend the license for 60 days. Motion was seconded by Member Kohl. Discussion ensued, with members being concerned that 60 days was too long. Vote 3:1 opposed; Vice-Chair Palchinsky in favor. Motion failed.

Member Currie made a motion to suspend the license for 14 days, a \$1000.00 fine, \$500.00 held in abeyance for 3 years. Motion was seconded by Chairman Hall. Chairman Hall asked for discussion. Matthew Thomas, a resident whose property borders the Pax Lounge requested to address the Board and was sworn in. Mr. Thomas expressed his concerns and problems the establishment is causing the neighborhood. He stated he felt the establishment needed to be closed down for the peace and safety of the community. Chairman Hall, having no further discussion, called for a vote. Note was made that the business had a fine of \$500 held in abeyance from a previous

violation that would be reinstated. Vote 3:1 opposed; Member Currie in favor. Motion failed.

Vice-Chair Palchinsky made a motion to suspend the license for 30 days, a \$1000.00 fine. Motion was seconded by Member Kohl. Zonayed Faruque, the brother of Jamil Faruque & employee of the bar, requested to address the Board and was sworn in. Mr. Faruque stated that the livelihood of many people would be impacted by the penalty that is being imposed. Vote 3:1 in favor; Member Currie opposed. Motion carried.

**Adjournment** - Member Kohl made a motion to adjourn at 4:10 PM. Motion was seconded by Member Currie. Motion carried.

Respectfully submitted,

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Suzan Whilden, Recording Secretary

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Kevin M. Hall, Chair