

**Meeting Minutes  
Board of License Commissioners  
Caroline County, Maryland**

**DATE:** Wednesday, February 28, 2018

**PLACE:** Health & Public Services Building  
403 S. 7<sup>th</sup> Street, 1<sup>st</sup> Floor, Room 110  
Denton, Maryland 21629

**BOARD MEMBERS:** Greg Eigenbrode, Chairman  
Glen Plutschak, Member  
Michael Mann, Alternate

**OTHERS PRESENT:** Crystal Dadds, Assistant Director of Codes  
Heather Price, Board Attorney  
Phillip Moore, Alcoholic Beverage Inspector  
Melanie Smith, Administrative Assistant to the Boards

Chairman Eigenbrode called the meeting of the Caroline County Board of License Commissioners to order at 9:30 a.m.

## **ACTION ITEMS**

### **VIOLATION DECISION**

The Board signed the written opinion and decision for the show/cause hearing for Dave's Place that was heard on January 24, 2018.

### **MEETING MINUTES**

Chairman Eigenbrode presented the minutes from the January 24, 2018 Board of License Commissioners meeting.

**Motion:** Mr. Plutschak made a motion to approve the minutes as written.  
**Second:** Mr. Eigenbrode seconded the motion.  
**In Favor:** The motion was unanimously approved (2-0).

## **Alcoholic Beverage License Transfer Application**

**JAYDUTT, LLC T/A WALKER'S GROCERY STORE, CONTINUED FROM JANUARY 24, 2018 –**  
18230 Henderson Rd., Marydel, MD

Anne Ogletree introduced herself as the Attorney representing Mr. Desai. She explained that since the last meeting Mr. Desai has had a chance to research the questions that were posed to him and produce answers that he hopes the Board will approve.

Chairman Eigenbrode swore in:

Deep Jitendra Desai, 27302 Jenny Hye Lane, Marydel, MD

Ms. Dadds announced that the Board was meeting for a continued hearing of the January 24, 2018 transfer application #T180101, a request by Deep Jitendra Desai for the use of Jaydutt, LLC t/a Walker's Grocery Store, located at 18230 Henderson Road, Marydel, Maryland for a Transfer of the existing Class A – Beer, Wine & Liquor (Retail), 7-Day off Premise Sales Alcoholic Beverage License. The current licensees are Jitendra M. Desai and Andrew Klein of Jaydeep, Inc. t/a Walker's Groceries & Liquors.

Mr. Plutschak noted that Mr. Desai provided the signatures of at least 10 owners of real estate and registered voters of the 1<sup>st</sup> election district in which the business is conducted. The signatures attest to how long they have been acquainted with Deep Desai; that they have examined the application and believe the statements contained in it are true; that Mr. Deep Desai is a suitable person to obtain the license and the premises is suitable for the conduct of the business of a retail dealer in alcoholic beverages. Deep Desai, who upon oath, had his signature notarized that he personally saw the signors sign the petition.

Chairman Eigenbrode asked Mr. Desai his age. Mr. Desai answered that he was 22 years old. Chairman Eigenbrode asked how it was that some of the citizens state they have known Mr. Desai for 25 years or more. Ms. Ogletree suggested they were looking at the form from the previous month that Jitendra Desai had filled out for himself in error. Chairman Eigenbrode assured her he was looking at the newly submitted list dated February 12, 2018. Ms. Ogletree responded that the sheet was on the front counter requesting signatures and because Mr. Jitendra Desai was the person present the citizens responded with how long they have known the senior Desai.

Ms. Ogletree went on to say that since the last meeting Mr. Deep Desai had property transferred over to him and he is now a property owner in Caroline County. Mr. Desai stated that other than his parents, the store employees three people. They all have their alcohol awareness certificate, although only two are trained on the cash register.

Mr. Desai investigated the trailer on the property and found it filled with old equipment and furniture. There was no alcohol stored there. Since the last hearing, Mr. Desai stated that he has become more familiar with the running of the business but admits he still has much to learn. He will learn from his father and his parents will be available should he need anything.

After consideration of past violations of selling to minors, Mr. Desai suggests that he will have monthly staff meetings to remind employees of the responsibility of being certified and checking ID's. He assured the Board that such violations will not be tolerated. He is also considering purchasing a cash register that scans ID's before purchase. Ms. Dadds was under the impression that such registers already existed. Mr. Desai explained that there is a scanner but it is not part of the register.

Ms. Ogletree explained that the remaining documents will be sought upon the approval of the Board and submitted in time to transfer the license on May 1, 2018. Ms. Dadds stated that she did receive a copy of his Certificate of Citizenship. Mr. Desai was asked the names of those employees that are certified in alcohol awareness and he listed:

Michelle Clugston  
Minesh Joshi  
Albert Camile  
Deep Desai

Inspector Moore visited the establishment on February 26, 2018 to conduct a pre-transfer inspection at which time he met Mr. Minesh. The ground around the trailer was littered but has since been picked up. The employee records were locked up and unavailable at the time but Jitendra Desai turned them into staff within two days. He also confirmed that there was no alcohol in the trailer.

**Motion:** Mr. Plutschak made a motion to approve the transfer effective May 1, 2018.  
**Second:** Mr. Mann seconded the motion.  
**In Favor:** The motion was unanimously approved (3-0).

## **OTHER BUSINESS**

### **FINES AND SUSPENSIONS DISCUSSION**

Donald Nagel, Federalsburg Chief of Police  
Lt. Roy Rafter, Jr, Natural Resources Police  
Lt. Ron Dixon, Caroline County Sheriff's Office  
Gary Manos, Ridgely Chief of Police

Ms. Dadds explained that at the January meeting the Board discussed creating a fine and penalty matrix for alcoholic beverage license violations. There are normally mitigating and aggravating circumstances and to be fair and consistent they are considering creating a matrix to assist them. They wanted to speak to the law enforcement agencies that deal with County establishments to get their feedback on the best practices to put in place.

Ms. Price added that anytime the Board sits and has deliberation and their decision is appealed, the standard is, are they arbitrary and capricious in their decision making and have they violated

the law. If they have identical violations and handle them differently they want to note the mitigating and aggravating circumstances to back their decision up.

Mr. Plutschak has found that 90% of the establishments are in compliance. The remaining 10% are repeat offenders. Ms. Price added that our Inspector finds many violations during his inspections that he has no jurisdiction over. She would like to initiate a discussion on the more serious violations he finds.

Chief Manos would like to take care of the noise and litter the neighbors complain about at Dave's Place. Mr. Plutschak added that patrons have been found drinking in the parking lot and smoking marijuana. Chief Manos was aware of those who park behind the Subway being involved in questionable behavior. He also knows the bank and Subway employees often must clean up their own parking lot before they open because of litter left from Dave's Place from the night before.

Ms. Dadds explained that having enough parking available is a zoning requirement for those businesses located outside the municipal boundary, while the towns have their own laws to address this. Chief Manos confirmed that was a big issue in Ridgely.

Ms. Price explained that the County Inspector can respond to complaints. If the municipalities receive enough complaints and direct them to the Liquor Board the establishment can be called before the Board to address them. Chief Nagel suggested communication be reciprocal. He added that the Inspector will also find concerns the towns are not aware of.

He asked how many times must you sanction a business; for instance, they are fined \$100 for a noise violation in Federalsburg. The establishments that have music consider it a business expense and don't think twice about paying the fine 6 and 7 times. This is a waste of enforcement resources time and they should be sanctioned effectively to stop the behavior.

Chief Nagel has heard reports that the charge for drinks change daily, and reports that the charge on patrons' credit cards is more than the price of the sale. The people that report this to him choose not to take it to court so it continues to happen. He wished the Comptroller's Office would be more involved. Chairman Eigenbrode suggested that a solution may be for him to ask the Department of Agriculture Weights and Measures Division to visit the establishment to confirm that what they are selling matches what they are charging in the register. Chief Nagel appreciated the suggestion; he noted this type of complaint is increasing in his town.

Chief Nagel also was concerned that one of his establishments transferred ownership without his knowledge. He said there was a breaking and entering at the time and it would have been helpful for him to have known it was transferred. Ms. Dadds suggested staff could include this information in a report to the police chiefs, or they could sign up on the website to receive email notifications of Liquor Board agenda and minutes postings to keep informed of current news.

Lt. Dixon began the discussion by stating that the Sheriff's Office concerns are focused more on criminal activity than parking and noise because their jurisdiction is in the rural areas rather than a municipality. His Office also notices it is the same few establishments that repeatedly violate the law.

While he believes the TIPS certification is a very good tool, he sees establishments that don't practice what is learned. Overserving is a big problem that occurs regularly with the more troublesome establishments. They had two drunk driving incidences just outside of Goldsboro early that morning. The two involved had left a bar sloppy drunk and unable to drive. The male drunk followed the female in his car because he was concerned that she was too drunk to drive. An accident occurred and both were charged with a DUI.

Lt. Rafter's concerns are different from both the municipality and county enforcement. The issues they face as DNR Officers are underage drinking at the State parks and on boats. While this is not a jurisdiction that the Board oversees, the youth are obtaining the alcohol from sales to minors or someone purchasing on behalf of a minor. The concern for the DNR Police is that underage persons are driving boats and vehicles and handling guns under the influence. Many of these incidences are discovered during a "jack lighting" (hunting at night by shooting from a vehicle) arrest.

So, now the charge is elevated. An establishment is selling to a minor, who becomes intoxicated, and is handling a weapon, and involved in a crime. Both DNR and the Sheriff's Office respond to calls of rounds being fired into a house. They must first decipher if it was the result of a hunting accident or an intentional shooting.

Lt. Rafter welcomed the Inspector to do a ride along with one of his officers to explore how they can work together to resolve this problem. At 10:15 a.m.

**Motion:** Mr. Plutschak made a motion to close pursuant to the provisions of the Maryland Annotated Code General Provisions Article, §3-305(b)7 and §3-305(b)12 to consult with counsel to obtain legal advice on a legal matter; and to discuss an investigative proceeding or actual or possible criminal conduct.

**Second:** Mr. Mann seconded the motion.

**In Favor:** The motion was unanimously approved (3-0).

At 11:28 a.m. Chairman Eigenbrode announced the meeting would resume in open session. The topics that were discussed in closed session was the legal mechanism to enforce State and Local Alcoholic Beverage Law and discussion of actual or possible criminal conduct at various County establishments. No actions were taken.

### **EVENT RULES & REGULATIONS DISCUSSION**

Ms. Dadds recalled how Mr. Tyler, owner of the Market Street Pub, attended last month's meeting to ask for clarification from the Board about Rule & Regulation No. 2.49 Special Use of Licensed Premises, which states "*Any licensee desiring to use the establishment for any type of special show, event or activity for any reason other than for what it is normally intended must submit a written request and receive written approval from the Board.*" This section has created questions since it was adopted and she would like to propose the Board consider either a written interpretation of the rule or a change to the wording in the Rules & Regulations to clarify what they consider a special event.

She asked what rises to the level of requiring a written approval from the Board. Things to consider could be: where the establishment is located; events held indoors vs. outdoors; music played indoors vs. outdoors; live bands vs. DJ's; will the normal use of the business be shut down for the activity; and will it cause a disturbance of the peace, safety and tranquility of the neighborhood.

Mr. Mann mentioned that clubs in Caroline County are always having events. He suggested requiring permission from the Board for events that are open to the public for club license holders such as the yacht club. He did not feel that "Paint Nights", Bands or DJ's, and Trivia, for instance, would require written permission but something over the top, such as closing the road for an event or inviting the public to participate in outdoor activities might. The Board agreed that if it was an event that was held outside it should require written permission. Bands and activities that occur indoors, that do not require the normal business activities to be shut down, should not require special permission.

Mr. Mann added that he foresees a problem with those premises that have been approved for expansion to outside areas. The nature of the approval would suggest that the establishment can do outdoors whatever they are approved to do indoors. Ms. Dadds suggested another route could be to have special permissions printed out on their licenses. She believes the problem with this rule is it attempts to make a blanket rule for establishments that have unique circumstances. The Inspector asked them to consider events that involve exotic dancers and wet t-shirt contests that could be conducted indoors as these sort of activities can result in a nudity and sexual displays violation of State law.

Mr. Eigenbrode asked what other counties use for guidelines. Ms. Dadds noted that music is often an approved activity that is included as a privilege on an individual license. This way it would be evident on the license and verified each year at renewal. She asked for the members to consider all the suggestions for further comment at the next hearing. Mr. Mann agreed that if this would make it easier to enforce the rules and regulations they should clarify this section.

## **BOARD COMMENT**

Ms. Dadds gave the Board an update on the ownership paperwork for Dave's Place. She reminded them that at the January meeting they gave Ms. Ball two weeks to update the paperwork to show the current owners of the business. They needed to remove Ms. Swann and Ms. Ball's ex-husband as owners on the paperwork if it were true that they are no longer owners. Ms. Ball found wording in her divorce papers that state her ex-husband relinquished his ownership in the company by signing the divorce decree. Ms. Swann also provided a document verifying she no longer has any ownership in the business.

Ms. Dadds asked Ms. Price if they were covered by the additional documentation or will Ms. Ball be required to amend her LLC documents. Ms. Price believes they are covered but noted that confusion would remain for any new Board members or their administration.

Ms. Price and the Board agree that current LLC documentation should be required.

Ms. Price informed the Board that someone in the County's Finance Department fell victim to a phishing scam and inadvertently supplied them every employee of the County's W-2 Tax form. Senior staff are meeting tonight to discuss the next step to take in tackling the issue. Funds have been released to employ necessary services to assist with the data breach. Ms. Price added that she just received a text that the Local Government Insurance Trust (LGIT) does cover cyber-crimes. If anyone has received a paycheck from the County then they are subject to having their data breached. Several claims have already been filed that unknown persons have attempted to file employee taxes. She suggested to the Board members that they contact the three credit bureaus right away to initiate a fraud alert on their credit. The County is providing updates as quickly as they are received via email and snail mail. The point of contact is the County's Human Resources office.

Ms. Dadds reminded the Board of the Whiskey Barrels violation of allowing their Worker's Compensation Insurance lapse. It was corrected after the hearing and Ms. Dadds received another notice since informing the Board that her insurance lapsed again. Ms. Dadds mailed Ms. Pilipauskis a notice that she had until February to correct this and the insurance was reinstated.

Chairman Eigenbrode suggested the Board respond to Ms. Ogletree's comment that the Walker's second petition was left on the counter for patrons to sign in the presence of the elder Mr. Jitendra Desai rather than the applicant Mr. Deep Desai. This implies that those that signed it were not acquainted with Deep Desai nor the application they attested to reading. Furthermore, Chairman Eigenbrode noted a few witnesses claim that they have been acquainted with Mr. Deep Desai for longer than he has been alive. Ms. Price noted the Annotated Code of Maryland section §4-604(b) lists mandatory grounds for revocation of a license that include (3) making a material false statement in an application for a license. She noted that "material" would be the applicants "knowledge" that the people who signed the petition did so under false pretenses.

- Motion:** Mr. Plutschak made a motion to direct staff to verify the information provided on the transfer application for Walkers on the basis of the attorney's statement and the discrepancies that were found on the petition.
- Second:** Mr. Mann seconded the motion.
- In Favor:** The motion was unanimously approved (3-0).

Ms. Dadds informed the Board that a few establishments have not yet paid their fines and the due date to do so has passed. The Board requested Inspector Moore to hand deliver notices to the establishments the following Friday with a response date of close of business on March 9, 2018.

Mr. Plutschak recalled the Board directing staff to add language in the decision that states a license would be immediately suspended if a fine was not paid by the due date. Ms. Price will add language to all violation decisions that the establishment must pay all fines within (31) business days of the date the decision is delivered.

Ms. Dadds understands from Chief of Staff, Ms. Visintainer, who testified at both the House and the Senate hearing of the proposed bill to allow a Bed & Breakfast Liquor License in Caroline County that it was moved forward without issue. She also informed Ms. Dadds that we will know

by March 19, 2018 if the bill passed in both chambers. If it is passed it will need to be signed by the Governor. The effective date will be July 1, 2018. Ms. Visintainer did go back to the owners of Turnbridge Point with the Boards concerns about the bill. It was decided that a B & B could be distinguished by five (5) rooms instead of ten (10) and they removed the request for "bring your own bottle" (BYOB) to be included in the bill. They will also be able to contract for catered events both on and off site and hold their own ticketed events that would include alcohol. The license will cost \$500 and they must buy their alcohol from a distributor.

Mr. Mann asked why they are rushing to receive approval for an event before the bill has passed legislation. Ms. Dadds explained that the establishment had already printed out a schedule of events for the year based on the assumption that legislation would pass and they would be approved for the license. It is the owners desire to come before the Board in March to receive pre-approval of their license so it can be processed as of the effective date of July 1.

The Board had a few concerns about this request. They would be required to advertise the hearing for pre-approval of a license that hasn't yet passed legislation. The Board cannot condone the sale of tickets for an event that hasn't yet passed legislation nor received a license. They would be selling alcohol, even if it is by ticket, without having a license. Mr. Mann suggested this is not the Boards problem to resolve. The Board hoped that in the future those in power would practice professional courtesy and consult the Board well in advance of any proposed regulation changes as they are charged with regulating and controlling the sale and distribution of alcoholic beverages and enforcement in the County.

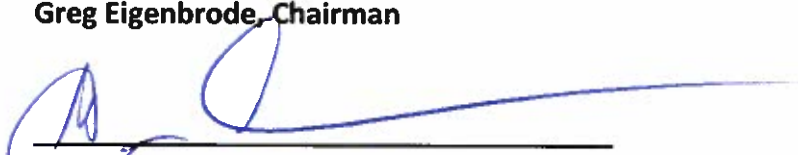
## **INSPECTOR'S REPORT**

Inspector Moore inspected the Chamber of Commerce event and the Goldsboro VFC Bingo event and found no issues. He conducted the pre-transfer inspection of Walker's Grocery in Marydel. He stopped in the 404 Taphouse to congratulate them on their opening and advised them to erect a "No one under 21 sign" as is required.

March 28, 2018 is the next meeting and April 6, 2018 is the license renewal meeting that will be held in the Planning & Codes conference room. There being nothing further to discuss Chairman Eigenbrode adjourned the meeting at 12:22 p.m.

### **BOARD OF LICENSE COMMISSIONERS**

**Greg Eigenbrode, Chairman**

  
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Minutes prepared by:       Melanie Smith