

Meeting Minutes
Board of License Commissioners
Caroline County, Maryland

DATE: Wednesday, January 23, 2019

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

BOARD MEMBERS: Greg Eigenbrode, Chairman
Nick Loukides, Vice-Chairman
Glen Plutschak, Member
Michael Mann, Alternate

OTHERS PRESENT: Crystal Dadds, Asst. Director of Codes
Heather Price, County 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 9:32 a.m.

CONSENT AGENDA

- December 19, 2018 Minutes
- Wetcher Whistle Violation Decision
- Sheldon's 313 Violation Decision
- 404 Taphouse Violation Decision

Ms. Smith explained that she had not yet received the three decisions, adding that, the attorney was expected to arrive soon and could advise the Board how to proceed with the required signatures.

She explained that the December minutes remained on the consent agenda. Chairman Eigenbrode asked if there were any additions or corrections. There being none a motion was made.

Motion: Mr. Loukides motioned to approve the December Liquor Board minutes as presented.

Second: Mr. Plutschak seconded the motion.

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

OTHER BUSINESS

CHANGE TO LICENSED PREMISE – Bullock’s Deli

Inspector Moore informed the Board that although Bullock’s was not asking for a change in their premise they were notifying the Board that construction occurred at their establishment. Specifically, they have raised the concrete pad for their patio beside the store to resolve flooding issues. They will have tables for their patrons. They do not have an on-premise license, so the notice complies with §2.02 of the Caroline County Board of License Commissioners Rules and Regulations.

CY18 ANNUAL GIFT DISCLOSURE FORM

Ms. Smith asked the Board to sign the gift disclosure forms that would be delivered to the County Attorney upon completion.

INSPECTOR’S REPORT

Inspector Moore reported that there were only two DUI’s in Caroline County during New Year’s celebrations. He listed his inspections and had questions regarding possible violations/concerns regarding two establishments in Caroline County. They directed staff to bring one establishment in for a Show Cause Hearing.

The Inspector explained that when he has inspected Nich’s there is beer and wine in a cooler on the floor. More alcohol is found locked in the back cooler. Although, the license allows them to sell during the day, the Board was told they would only sell in the evenings. This is a problem for him as an inspector because if the alcohol is available for sale but there is no TIPS certified person on site there is a violation of the Code. The Board directed staff to send a letter on their behalf warning the licensee that a TIPS certified person must always be present.

DISCUSSION

Mr. Mann asked Ms. Dadds to explain the commotion he witnessed in the office that morning. She recalled that the Board deferred the penalty for Sheldon’s violation of Rule and Regulation No. 2.06 to allow them until December 31, 2018 to file the required paperwork. On page 10 of the December minutes the Board signed, both Ms. Sheldon and Mr. Mullins maintained that the required paperwork was sent to Crystal Dadds via email prior to the November Board meeting.

Ms. Dadds reminded them during a phone conversation and Inspector Moore reminded them of the deadline when he spoke with Mr. Mullins at 404 Taphouse in December.

On January 2, 2019, Mr. Mullins called Ms. Dadds to ask what would happen if the paperwork was not submitted on time. When he was told it would be reported to the Board at the next Board meeting he implied his partner was supposed to have delivered them.

Ms. Sheldon called January 22, 2019 to ask if the papers were submitted and if the fines had been paid. Ms. Dadds stated that they were not. Ms. Sheldon stated Mr. Mullins was supposed to have taken care of all of this. Ms. Sheldon explained that the rental agreement Mr. Mullins asked them to sign did not match the agreement they made at settlement and she wanted her lawyers to look at the paperwork before they sign them.

Ms. Sheldon appeared in the office before nine this morning to meet with Mr. Mullins and resolve the issues. Mr. Mullins and his partner arrived with an agreement that was still not signed. All parties were sent to the Health Department to get the required paperwork signed and notarized. Ms. Dadds stated that they would drop the paperwork off to the Board before they left.

Chairman Eigenbrode asked if Sheldon's has been open. Ms. Dadds stated that Mr. Mullins informed her that he had been open, without a license. Chairman Eigenbrode stated that he was visiting 404 Taphouse when Mr. Mullins came over and told him he was opening Sheldon's that Monday because the County offices were closed.

Mr. Mann asked if a decision could be made to postpone the charges until another Show Cause hearing was set for the February meeting and hold the license because the licensees failed to pay the fine on time and have not submitted the documents by the deadline they gave.

It was noted on page 10 of the December 2018 minutes, that submitting the documents was a condition of the approval for the manager change at Sheldon's. Mr. Plutschak stated, in the minutes at that time, that this wouldn't have to be an issue if they brought the documents in that day. Mr. Eigenbrode read on page 11 that Mr. Mullins stated that he would pay the fines the day of the hearing and did not. Ms. Price suggested the Board make it a condition of the motion next time, so they can act on the promises that are made. Mr. Loukides agreed, and Ms. Price stated she will attempt to direct them that way in the future.

Ms. Price noted that not paying the fine by the deadline constituted a violation that would be discussed at a Show Cause hearing. She did not think the Board had enough evidence to revoke the license today, but they could provide the evidence at the next hearing, then they could revoke the license if they so choose.

Ms. Price also suggested that the Board require that the licensees respond to the charges rather than their spokesperson. Chairman Eigenbrode thought he made it clear that the responsibility lies on the license holders. Ms. Price explained that he as the Chair needs to insist that the licensee responds to the charges and not allow anyone other than a lawyer speak for them as has been done with Mr. Mullins for the Taphouse and now Sheldon's establishments.

Mr. Plutschak has recognized how the licensees use Mr. Mullins to speak for them and then they minimalize, rationalize and postpone. He agreed that the Board needs to stop allowing this routine.

At this time Mr. Mullins entered the room and handed Ms. Dadds the paperwork that he failed to submit as required. Ms. Price scanned the documents and suggested the Board wait for her to review them for legal sufficiency before accepting them as submitted. Mr. Plutschak asked if she

had reason to suspect they were not sufficient. She answered, yes, that there was a restriction that one might see on a residential agreement, specifically, an act that restricted pets from being on site. Also, the notarization did not confirm one of the signatures whose name was also crossed out on the form.

In response to the Boards questions, Ms. Dadds explained that the document was a "Statement of Premise Owner" that states the owners are aware that the establishment is licensed to sell alcohol and they agree to search and seizure and inspections by the appropriate authorities. She then read it for the Board.

Mr. Plutschak believed the license should not be returned until the documents are approved for legal sufficiency. Chairman Eigenbrode noted that Mr. Mullins again stated on the record that the documents were already signed and would be turned in by December 31 2018. Ms. Price responded that the Board had noted on the record that Mr. Mullins has lied under oath numerous times.

Inspector Moore stated that witnesses take an oath that what they say is truth under the penalty of perjury. Other jurisdictions have revoked a license for such a charge.

Mr. Plutschak asked if staff expected Mr. Mullins to grieve them over any decision that was made today. Staff did expect it and stated that knowing this should not sway them in their decision. The Board suggested staff, in the future, should have anyone that comes in the office acting unruly arrested. Mr. Plutschak asked if there was any charge for perjury in Caroline County.

Ms. Price stated that she will email herself a reminder to create an ordinance for signature next month. She asked Inspector Moore for examples he had of other jurisdictions ruling. He replied that he did not have examples, that he was just made aware of Mr. Mullins deception today. He suggested a few areas she could research. The Board asked if there was not a law to enforce this, then what is the purpose of swearing anyone in to speak.

Ms. Dadds agreed that there must be a State ordinance because the Board has heard a case of perjury in the past. Ms. Price found it in the Maryland Annotated Code Article AB, §6-330. It states that a person who commits perjury is guilty of a misdemeanor and on conviction is subject to the penalty stated under §9-101 of the Criminal Law Article. Ms. Price explained that a perjury charge can be referred to the State's Attorney's Office. She stated that she needed to make it a local rule.

Ms. Price mentioned the renovations that are being done at Sheldon's. Mr. Mann stated that he knows they are not working there during the day. It was witnessed that they were working in the evenings. Ms. Dadds understands they canceled their Health Department visit because they were supposedly replacing a beam. No permits for such work had been applied for.

Ms. Price asked how many days they were closed for the work. Ms. Dadds stated they were closed five days due to the suspension. Mr. Mullins told her that he had been open Monday and Tuesday of this week. Ms. Price asked if he had the license back and he did not.

Chairman Eigenbrode stated that Mr. Mullins told him he was going to open Sheldon's for business Monday despite not having a license because the office was closed for a holiday. He also told Mr. Eigenbrode that he would be at the office first thing Tuesday to pick up the license. Mr. Eigenbrode stated that didn't know what to tell him. Ms. Price said he could have told him it's a violation to sell alcohol without the presence of a license. Ms. Dadds confirmed that she had not heard from Mr. Mullins until this morning.

The Board listed the assignments for staff:

- Check signatures and paperwork for legal sufficiency. When approved than staff can return the license to the licensee, and
- Summons Sheldon's in again for a February Show Cause Hearing to address the current violations for not submitting the requested information in the time allotted, and any new violations found when statements are investigated, and
- Ms. Price will draft a rule for perjury.

Motion: Mr. Plutschak motioned to direct staff to review the two documents handed in by Mr. Mullins today for legal sufficiency. Staff can return the license when the documents are approved. If the documents are not approved, then staff should hold the license until the requirements are satisfied or the February meeting date, whichever comes first.

Second: Mr. Loukides seconded the motion.

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

Motion: Mr. Plutschak motioned to direct the Inspector to verify whether or not structural work was being done at Sheldon's and if there were any sales or invoices on the days they did not have their license.

Second: Mr. Loukides seconded the motion.

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

Motion: Mr. Plutschak motioned to direct staff to summons the licensees for Sheldon's to a Show Cause Hearing in February for the charges of not paying the fine by the time set by the Board and not submitting the paperwork by the time set by the Board.

Second: Mr. Loukides seconded the motion.

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

Ms. Price informed the Board that a complaint was lodged against the Board. Staff suggested they go into closed session to consult her for legal advice.

At 10:25 a.m. on motion by Mr. Loukides, seconded by Mr. Plutschak, the Board unanimously moved into Closed Session for the following purpose: Consultation with counsel to obtain legal advice on a legal matter. Authority: Maryland Annotated Code, General Provisions Article, §3-305(b)(7).

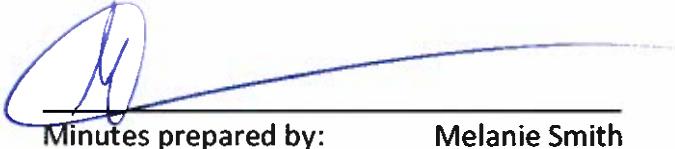
At 10:42 a.m. on motion by Mr. Loukides, seconded by Mr. Plutschak, the Board unanimously reconvened in open session.

Ms. Price announced that the Board received legal counsel regarding the standards of review to appeal to the Circuit Court and no action was taken.

There being nothing further to discuss Chairman Eigenbrode adjourned the meeting at 10:43 a.m.

BOARD OF LICENSE COMMISSIONERS

Greg Eigenbrode, Chairman

A handwritten signature in blue ink, appearing to be 'M. Smith', is written over a horizontal line. The signature is stylized and extends to the right of the line.

Minutes prepared by: **Melanie Smith**