

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

DATE: Wednesday, September 25, 2019

PLACE: Health & Public Services Building
403 S. 7th Street, 2nd Floor, Room 242
Denton, Maryland 21629

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

OTHERS PRESENT: Phillip Moore, Alcoholic Beverage Inspector
Heather Price, County Attorney
Melanie Smith, Administrative Assistant to the Boards

Chairman Eigenbrode called the meeting of the Caroline County Board of License Commissioners to order at 9:31 a.m. Chairman Eigenbrode announced that the agenda was going to be changed to hear a temporary license request by the Chamber of Commerce.

TEMPORARY ALCOHOLIC BEVERAGE LICENSE APPLICATIONS

CAROLINE COUNTY CHAMBER OF COMMERCE – October 19, 2019

Ms. Smith explained that she was just informed of the License application this morning and fortunately Ms. Snyder was available to present the application to the Board on short notice. Ms. Snyder is applying for a temporary license to sell beer and wine at the Caroline County 4-H property on Detour Road. The event is sponsored by the Caroline County Chamber of Commerce and is scheduled for October 19, 2019 from noon to 6 PM. Ms. Smith introduced Ms. Snyder to the Board and asked her to tell them about the event.

Ms. Snyder explained that the event is a macaroni and cheese contest. People pay \$10 to get in and they can taste each of the dishes. They will vote for their favorite and the winner will receive \$500.

They will have a beer and wine garden designated to the fenced in area behind the Williams building in the center of the park. (The Board members were familiar with the area.) Wendy Dixon, a bartender from Roadhouse 313, will be their TIPS certified person. Harvest Ridge Winery from Maryland will be there with their own TIPS certified people. They will introduce their wines as they serve the customers. It is not a wine tasting event. They are selling their wine at the event.

Ms. Dixon will be working out of a beer truck owned by Kelly Distributors. They plan to give everyone a 10 oz. cup when they enter the garden so they can avoid over consumption. People will be identified at the entrance and given a wrist band for those over 21. If it rains at the event, they will serve the alcohol in the Williams building or under a tent in the fenced in area.

Other foods will be available as well as games, a disc jockey, vendors and alpacas from two local farms. The Board discussed keeping the beer and wine garden contained within a fence. Ms. Snyder agreed and intends to put standing tables or picnic tables within the fenced area to offer seating.

Mr. Mann explained that if she were to provide the site plan it would stay on file should she do the event again next year. Ms. Snyder said she would provide a site plan to them today.

Motion: Mr. Plutschak made a motion to approve the Chambers' application to serve beer and wine at their event on October 19th on the condition that an acceptable site plan is submitted to the Administrative Assistant today.

Second: Mr. Loukides seconded the motion.

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

OLD BUSINESS

Chairman Eigenbrode announced that the old business will be postponed until the October meeting. This included the Rules of Procedures Discussion and the Violation/Penalty Guidelines.

NEW BUSINESS

DAVE'S PLACE – 207 East Sixth Street, Ridgely, MD 21660

Lucille Ball, Owner of Dave's Place and Ron Legates, Manager of the establishment presented a request to expand their porch area and have it included again in their approved premise area.

Mr. Legates passed out a site plan of the proposed porch. Mr. Legates described an area on the patio side of the building where they will close a gap in the fencing by the ice machine. The front of the building will be closed in with wood framing that is four foot high. There will be a gate to enter the patio and one entrance at the front of the building.

They are going to close off the end of the porch area by the shed with the existing fence and placing a gate between the shed and main building. Ms. Ball applied for a permit from the town of Ridgely yesterday. Mr. Mann and Chairman Eigenbrode were satisfied with the plans.

Mr. Plutschak asked if the County Liquor Inspector, Phillip Moore, had talked with the Ridgely Chief of Police and the Fire Marshal. Inspector Moore had received positive feedback from both. He added that before any construction begins, they must have approval from the Board as well as the proper permits with the Town. Once the Board approves the submitted plans, it must be

built as it was submitted; any changes to the approved plans would need to come back before the Board. Mr. Legates stated that he understood.

Mr. Plutschak asked how the Inspector felt about the plans. Inspector Moore stated that he has seen some improvement since their last violation. The Ridgely Chief of Police was satisfied, and the construction should make it easier for staff to manage their clientele. He added that he will inspect the building upon completion.

Mr. Mann suggested they begin with a probation period to use the porch and patio area and if there are no incidences, they would be approved for the area to be part of their licensed premise.

Motion: Mr. Loukides made a motion to approve the expansion and use of the porch area for a four-month probation. If there are no problems of any kind during the probation period, the area will become a permanent part of their licensed premise.

Second: Mr. Plutschak seconded the motion.

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

Motion: Mr. Loukides made a motion to approve the expansion plans as submitted.

Second: Mr. Plutschak seconded the motion.

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

It was stressed that the porch cannot be opened to patrons until the expansion is finalized by both the Town and Inspector Moore. However, the four-month probation period begins as of today.

CONSENT AGENDA

The following consent agenda was presented for approval:

- August 28, 2019 Minutes
- Wetcher Whistle Decision
- Choptank River Yacht Club Decision
- Amendment No. 2019-03 – Rule & Regulation No. 2.17

Motion: Mr. Loukides made a motion to approve the consent agenda excluding the Choptank River Yacht Club Decision.

Second: Mr. Plutschak seconded the motion.

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

Motion: Mr. Plutschak made a motion to approve the Choptank River Yacht Club Decision.

Second: Mr. Loukides seconded the motion.

In Favor: The motion was unanimously approved (2-0).

Chairman Eigenbrode did not sit during the Choptank River Yacht Club hearing and therefore could not participate in the motion to approve the decision. The full Board motioned to approve the minutes and amendment, however, only Mr. Plutschak and Mr. Loukides participated in the approval of the Choptank River Yacht Club Decision.

Ms. Price apologized to the Board for getting the decisions to them so late and explained that being the only County Attorney has been trying the past six months due to the many leadership changes that have occurred. She believes that things should now settle down and she can return to the routine work of the County.

The members discussed the depth of the case they heard for the Wetcher Whistle violation. Ms. Price shared that the attorney had contacted her afterwards to thank everyone for hearing his case through. Their patience allowed him to represent his client thoroughly and he recognized how tedious his defense must have been for the Board.

Ms. Price added that the decision for this case will be very helpful in future cases to recall how to respond to Motions in Limine, Due Process, Entrapment, and Rules of Evidence in Administrative hearings, etc. She commended the Board for not being dismissive of the actions, which may have afforded the licensee an opportunity to appeal.

DISCUSSION

Ms. Price went over the language she used for the disclaimer at the top of the Matrix. She warned that the document is protected under Attorney/Client privileges and cannot be distributed outside of the Board and staff circle. Also, future members cannot rely on this document rigidly but only as a guidance article. She suggested renaming the document Violation/Penalty Chart.

Ms. Price also worked with the Board to define how they chose to consider the resetting of a violation record for those establishments that stay in good standing with the Board for a prescribed number of years. She warned that using the word, expungement, has a specific definition in law. Therefore, it would cause confusion in the mind of lawyers as to what policy the Board intends.

Expungement would denote the permanent clearing of a violation record. Her understanding was that the Board did not want to clear the record but rather reset the record as a clean slate. She explained there is a Pardon – as if it never happened; or an Expungement that means it happened, but it cannot be found.

Chairman Eigenbrode recalled one establishment that had committed so many serious violations that if they were to come before the Board ever again, they would certainly have had their license revoked. The establishment claimed to have handed the business over to a relative. Although, the relative was never present and the first owner had continued running the business for more than a year. Chairman Eigenbrode believed the first owner may have thought that his violation record was cleared as a result of the ownership change. He asked for reassurance that it was not the case.

Ms. Price recalled a similar case where an owner lost their license at one establishment and began managing another. The owners record followed her when the same violations began occurring at the second establishment.

Inspector Moore added that another example of why each case should be considered individually was when the County was without an Inspector for several years.

Chairman Eigenbrode asked how it would be handled if a previous owner had their license revoked but was applying for a new license under a different name. Ms. Price explained that the standard they look at for granting a new license is stricter and even includes whether or not the applicant is a decent human being.

Ms. Price suggested that they could do a discretionary reset that would be permitted upon application and explanation by the licensee.

Ms. Price presented an Affidavit by Confidential Informant for the Inspector to use for future events. The Board approved of the form.

INSPECTORS REPORT

Inspector Moore filled in this week for the Codes Enforcement Officer while the position is vacant. However, Inspector Moore was able to inspect a few alcohol establishments.

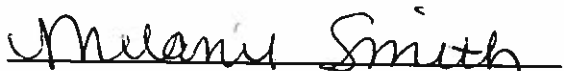
During his visit to Dave's Place he came upon Mr. LeGates building a fence, very late at night. He did not have a town permit, nor did he have permission from the Board to make any changes to the premise area. That is why they were on today's agenda.

A Confidential Informant the Inspector used for an underage compliance check was recently killed by a drunk driver. The Board asked that their condolences be passed on to the family for this ironic and tragic incident.

The owner of Fat Ricky's informed Inspector Moore that they planned to stop selling food at 10 pm. Inspector Moore suggested they could sell appetizers or snacks, but because they are a restaurant, they are required to sell food as long as they were open.

The Board was pleased that licensees now call with questions before they act in violation to the code. Inspector Moore has seen a new respect for the Board among the license holders. Mr. Mann contributed that to the Matrix and consistent rulings.

There being nothing further to discuss Chairman Eigenbrode adjourned the meeting at 10:40 am.


Minutes prepared by: Melanie Smith