

**Queen Anne's County Liquor Board  
Minutes of Virtual (Zoom) Meeting**

**January 11, 2021**

**9:00 a.m.**

The Board of License Commissioners of Queen Anne's County held a virtual (zoom) meeting on Monday, January 11, 2021 at 9:00 a.m. The meeting was called to order by Chairman Joyce E. Jones, Esq. Those present were: Joyce E. Jones, Esq., Chairman; Thomas E. Beery, Vice-Chairman; John T. McQueeney, Timothy G. Hibbard and Gene M. Ransom, III, Esq., Members; Tom Calmon, Liquor Inspector; Cathy Maxwell, Clerk to the Board; Jeffrey E. Thompson, Esq., Attorney for the Board; Amy Moredock, Director of Planning & Zoning; Vivian Swinson, Zoning Administrator.

Ms. Jones went over the procedures for the zoom meeting for those calling in.

The Board held a violations hearing for Ramshead Shoe House, LLC, trading as Rams Head Shore House. The hearing is in regard to the underage sale of alcohol to a minor in violation of Alcoholic Beverages Article § 6-304 that occurred on or about November 5, 2020. Mr. Michael Lechner, Licensee, was present. Mr. Thompson administered the oath to all who were to testify. No one else appeared to testify. On a motion by Mr. Ransom, seconded by Mr. Beery, the letter dated December 18, 2020 to Mr. Lechner and attachments were entered as Exhibit No. 1. All members voted in favor. Mr. Lechner does not intend to contest the charges. Mr. Calmon read his report into the record. He said that Ramshead is very good about everything that they do. Mr. Lechner said his business has never been cited before. The employee that made the sale has been with him approx. 13 years and made a mistake. She has since been certified for alcohol awareness training. About 40% of his staff are now certified. He said his overall sales have been down 40% since the pandemic. Mr. Ransom said Ramshead has been a good community partner and have had no violations previously. A motion was made by McQueeney, seconded by Mr. Ransom, to impose a fine of \$500, and to put \$300 in abeyance for one year from this date, which means if they do not sell to another minor, the \$300 goes away as of January 11, 2022. Mr. Lechner will owe \$200 to be paid within 30 days of this date. All members voted in favor. Mr. Lechner said he appreciated the Board putting the \$300 in abeyance.

The Board discussed proposed Regulation 2.54 – Population and Numerical Limitations. Mr. Thompson said there is already a Regulation 2.54 in the revised version so this would become Regulation 2.55. He inquired if he will be doing another revised and restated Rules and Regulations or a first amendment to the revised and restated. Ms. Jones said from what she has seen other Boards do, they usually issue an addendum and that is what the Board signs. For housekeeping purposes the Board needs to reflect what changes and publish what was approved on 9/1/20. Mr. Thompson said his recommendation would be to revise and add this new section into a single document rather than do an amendment to the other document. Ms.

Jones said there should be a copy on file of each set of changes. Mr. Thompson said he will provide a red-lined version of today's proposed changes. Mr. Beery had provided the Board with proposed changes to this Regulation and those changes are listed on today's Agenda. He said there were two issues left open at the last meeting. One was on Exception No. 1 which the original form stated "new commercial centers" and Mr. Thompson was going to address the term "new". The second point was in Exception No. 4 and Mr. Thompson was going to address the word "unique" to see if there was a better term. Mr. Thompson referred to the language that states, "all existing Class A licenses in Election District four (4) may be grandfathered in and transferable". Mr. Thompson said this should say they are "eligible to request transfer". In other words, they are not just automatically transferrable. They are transferable in the sense that the law permits them to be transferred, i.e., there would be another hearing before the Board. He said since all the Class A licenses are lumped together, should it say "eligible to request transfer or reclassification". How does the Board want to deal with reclassification among the Class A licenses. Mr. Beery said he thought when that occurred, it was a new application. Mr. Thompson said this should not be left open ended. Mr. Beery said proposed chain store legislation involving potential for a new Md. license would change the Board's position on this issue. He feels this Board would rather be the regulator as opposed to the State. Ms. Jones said she thinks the "to go" legislation is going to affect the Board as much as the chain store legislation. The "to go" legislation is essentially making every restaurant that has a beer, wine & liquor license a potential mini liquor store. Mr. Ransom said he doesn't think the Board should worry about what might or might not pass and should get this done. Ms. Jones said are you allowed to transfer within the Election District or are they allowed to transfer into another one. Mr. Thompson said under the law as presently drafted, you can transfer either person-to-person or location but there is a condition in this draft for the Fourth District that "any Class "A" license transferring to Election District 4 is subject to the population limit". So this covers the issue of anything coming in. Mr. Thompson said are they going to be able to seek a reclassification as they currently do. If you have a beer & wine license, can you ask for a beer, wine & liquor. If you have a beer, wine & liquor license, can you ask for a beer & wine. Can you transfer down? It is not a new license, it's an existing license, and is the Board going to allow reclassification. Ms. Jones said is the purpose to prevent any more Class "A" licenses or prevent any more Class "A" just beer, wine & liquor. If it is all Class "A" licenses, then they would not be able to change their classification. Mr. Thompson said if the idea is no beer, wine & liquor, then the Board would want to say no reclassification because that is what the cap is about. Mr. Beery said in the original discussion, it would include all Class "A" licenses and there was no reclassification, it would be an application for a new license. He said if this only applies to beer, wine & liquor, then the exceptions could be dropped. The whole point of the exceptions was because all Class "A" licenses were included. Mr. Beery and Mr. Hibbard prefers this apply to all Class "A" licenses. Mr. McQueeney and Mr. Ransom prefer that is apply only to Class "A" beer, wine & liquor licenses. Mr. Thompson said if the Board is only addressing beer, wine & liquor, they would not want reclassification because they would not want people to "class up". If the cap is only beer, wine & liquor establishments, you would not want them to be able to reclassify because that's the subject of the whole restriction. Ms. Jones said if they can reclassify, is it true that they have to apply for a new application, it is not

automatic. In the Statute, a Class "B" can become a Class "B-D". Mr. Thompson said nothing is automatic. He said if someone is eligible to transfer that does not mean they automatically get it, it means they are eligible to make application. Reclassification would be the same. Mr. Ransom said his position would be that Class "A" beer, wine & liquor can't reclassify. He said it is important for this Board to give a clear message to all the licensees because there is another application upcoming which may be considered a "reclassification" if this Rule was in place. Mr. Ransom does not want to see people spending money to apply if this Board feels the market is saturated and it's not safe from a public health, safety and welfare to add additional Class "A" beer, wine & liquor licenses. He said there might be situations where you may want to add a small package goods store but for beer, wine & liquor the market is saturated. Mr. Hibbard said there are currently nine Class "A" beer, wine & liquor licenses in the Fourth Election District. Mr. Thompson said that is 18,000 people and he doesn't think there are anywhere near that many voters on Kent Island. He said he could call the Election Office to verify a number but the Board members did not think that was necessary. Ms. Jones said the Rule should include that this number will be evaluated on a yearly basis, every two years, or whatever the Board feels is necessary. Mr. Ransom said after every election would be a good time because the Election Board has to clean the roles up. Mr. Hibbard said the information he has shows that District Four has 16,232 total voters. Mr. Beery said he does not think that number is correct. Mr. Thompson said he thinks it is substantially less. He recently asked the Election Office how many registered voters there were in the Fourth District that were 21 years of age, it was less than 10,000. Ms. Jones said Mr. Beery is talking about the number of licensees and Mr. Hibbard is talking about the people in the Election District. Ms. Jones said she would vote that the Rule apply to all Class "A" licenses. Mr. Ransom said by including all Class "A" licenses and you grandfather in the "A"s. why would you not allow a Class "A" beer & wine to go to beer, wine & liquor. He said you would eventually create a cap that is not a cap. Someone who wants to have beer, wine & liquor will go around to the numerous Class "A", that are not beer, wine & liquor, will buy one of them, and then upgrade it. Ms. Jones said if it's a Class "A" beer and wine now, that's all it's ever going to be from this point forward and the same with a Class "A" beer, wine & liquor. Mr. Ransom said he thought the vote was that this would only apply the cap to the beer, wine & liquor and the vote was no, that it would apply to all Class "A" licenses. He said if it applies to all Class "A" licenses, what stops someone from coming in with a Class "A" beer & wine license and asking to have it upgraded to beer, wine & liquor. Mr. Thompson said if the Board is or is not going to allow for reclassification, they need to say so. It needs to be addressed one way or the other. Mr. Beery said, no, they would not be eligible for reclassification. Mr. Hibbard asked if the Board is giving them the opportunity now to upgrade and Ms. Jones said that is the issue being discussed. Mr. Hibbard said is it correct that the businesses now have the opportunity to upgrade, we are not looking for any new ones. Mr. Thompson said that is the question on the table. Mr. McQueeney said he feels we have enough Class "A" licenses now on Kent Island and they should not be able to upgrade. Mr. Ransom said he prefers this only apply to beer, wine & liquor because he thinks that is where the problem is. He said he thinks the reason it makes sense to do this is because he's concerned from a public health point of view that if we continue to expand the number of licenses, there will be a lot of pressure on these businesses and it will be easier for kids to have access to alcohol. He said if

you put alcohol in places where kids are regularly in, like grocery stores, it is going to increase access. Mr. Ransom said he feels it is easier to just put the cap on beer wine & liquor. He feels this would create much less problems. If the Board puts the absolute cap on and put rules around the transfer, they have created a commodity and people are going to start buying up the Class "A" lower level licenses and try to transfer them up to beer, wine & liquor. Ms. Jones said she agrees and that is why she voted for it to apply to all Class "A"s because if it applies to all and no one is allowed to reclassify, then we have what we have in Election District 4. Ms. Jones asked Mr. Thompson if the Board says there will be no reclassifications and it applies to all Class "A" licenses, does that satisfy any outstanding issues. Mr. Thompson said, yes, we will say they are eligible to request transfer but they are not eligible for reclassification. Ms. Jones said transferable in terms of to another licensee and/or location. Mr. Thompson said the law is clear on that, you can do either under the transfer section of the Code so the Board does not need to add a new regulation. The Board then discussed Exception No. 1. Mr. Beery said this originally said "new" commercial centers and Mr. Thompson said he would try to find a substitute for the word "new". Mr. Beery said he would like it to say "new commercial centers" unless Mr. Thompson has a better term. Existing centers that do not have a current package store, they would be eligible for it under this Exception which is what the Board is trying to avoid. Mr. Thompson said his concern was that we seem to be targeting something. If you have a commercial center, new or old, and it fits the criteria and it's not currently occupied by a Class "A" license holder, why would it make any difference if it was new or existing. If someone wants to come in and refurbish a center, that in a lot of ways is more important than a new center. Mr. Ransom suggested that this could be tied to the application of a site plan. If there was a dilapidated massive outlet center somewhere in that area and someone came in and redid it, they would have to apply for a new site plan. But if someone took a center and simply upgraded it or made changes to it they wouldn't have to necessarily do that. Vivian Swinson, Zoning Administrator, said that was correct. Ms. Jones asked Mr. Beery if he designed this Exception based on the Kwon case and Mr. Beery said, no, from a growth perspective he wants to be reasonable about when significant new centers are developed or developers spend significant amount of money redeveloping an existing center, it might be appropriate to have a liquor store there as opposed to an existing center. Mr. Ransom said two locations that come to mind are the Bell property and the Jamal property. Mr. Beery said he is fine with eliminating Exception No. 1 entirely. Mrs. Jennifer DiDonato, licensee for The Winery, said her concern with Exception No. 1 was the Bell property which is right across from the fire hall. She said if the Board is trying to limit the number of licenses because of proximity, Friendly Foods, Xtra Mart, Bakers Liquors and the Winery are all within a half mile. If the Bell property were developed it would be new and falls within that Exception and does not fall within the three miles away (Exception No. 3). Mr. Thompson said in the Kwon case the Court found that a commercial center that size was accommodating the public and he said there should be some exceptions. Mr Ransom said suppose the Bell property applied and then he bought an existing liquor store and moved it in to this new shopping center, there is nothing in the statute that would prohibit that because of the way the Board allowed the transfers to occur. He does not think the Board has a problem with the Kwon case if they don't have the exception. Mr. Thompson said that is correct, they would be eligible for transfer but not for reclassification.

Mr. Ransom said he agrees to eliminate Exception No. 1 if the Board is comfortable with it. Mr. Art Mangum, licensee for Friendly Foods, said with the limit of beer, wine & liquor stores, if there is a new or old center that will require a liquor store in it to serve the public, there are plenty of existing beer, wine & liquor stores that would be more than willing to move there if it is a great location. So he does not feel the Exception is needed. There were no further comments on Exception No. 1. Ms. Jones said if Exception No. 1 is eliminated, then people could transfer in so she would vote that Exception No. 1 be removed. The Kwon case didn't allow them to transfer locations and this Board is specifically allowing them to do so. Mr. Ransom said it appears the Board agrees to eliminate Exception No. 1 and can the Board take the rest of the Exceptions together since they were discussed in length at the last meeting and were comfortable with them. Ms. Jones said there are now three Exceptions remaining. Mr. Beery, Mr. Hibbard and Mr. McQueeney said they are comfortable with them. Ms. Jones said she has a concern with Exception No. 4 that states, "a unique concept that is not currently found in the Election District and is deemed desirable by the Board". Mr. Thompson said there is no real standard, it would be whatever the Board deems desirable and it should be accommodation of the public. Mr. Ransom said he could think of a unique situation like a beer tasting, but he doesn't want to have a loophole either. Ms. Jones made a motion for the words "and is deemed desirable by the Board" to be removed from Exception No. 4. All members voted in favor. Mr. Thompson discussed Exception No. 4 and should it read "three (3) "vehicular" travel miles". All members agreed to include three "vehicular" miles. Mr. Thompson said he will draft the new Rule No. 2.55 and add it as an amendment to the one that is currently in process. A public hearing on this proposed Rule No. 2.55 will be held at the regular February 2, 2021 monthly meeting.

The Board next discussed pending legislation. Ms. Jones said she spoke with Mike Mohler, the Administrator for Baltimore Co. Bd. of License Commissioners, concerning HB 185. Mr. Mohler indicated someone in Baltimore Co. wanted to order a beer and the licensed premises told them they had to order six beers. Mr. Mohler is trying to get it nixed. MALA is also discussing the chain store and to-go legislation. With regards to the to-go legislation it is in essentially making liquor stores everywhere. Mr. Ransom said he spoke with Commissioner Corchiarino and he asked that the Board send a letter to the Commission and they would determine it from there. Mr. Thompson will draft the letter for the to-go legislation for the Board's review. Mr. Ransom said this Wednesday is the first day of session and he said the Co. Commissioners plan to move quickly. He said on the chain store legislation, this Board should communicate that they unanimously oppose it and it's about access of alcohol to minors. Ms. Jones said this Board would be the ones to police this if it passed. Mr. Thompson said the "talking points" on the chain store legislation would be over saturation, underage drinking, the unfunded mandate related to regulating these new entities, loss of local control, grocery stores are places where families go and increases easy access to alcohol by children. Mrs. DiDonato said it is harder to monitor chain stores because they are not just selling alcohol, they are selling other goods. So it's not as big a deal for them to get a violation as it is for those who could be shut down entirely. Concerning to-go legislation, Mr. Thompson reviewed Mr. Beery's comments. Mr. Ransom said Commissioner Corchiarino also asked that this Board's votes be included, which

was 3-to-2. Ms. Jones said one issue with to-go was whether the Board should charge a delivery permit fee and the Board was unanimous on that vote. She said she does not know if it is necessary to do that right now. If the Co. Commissioners' thoughts are different from this Board, will this Board's thoughts be transferred to the Eastern Shore Delegation and Mr. Thompson said, no. Mr. Ransom said the Co. Commissioners have asked that this Board relay their positions on legislation through them and if there are any concerns, we can request a meeting and speak to them directly. Mr. Thompson said normally if this Board and the Co. Commissioners are not on the same page the Delegation is not going to do anything. Mr. Ransom said when the letters are drafted, he can speak with the Co. Commissioners on their position. Mr. Thompson said he does not think the Co. Commissioners are going to agree that this Board should charge a delivery fee. Ms. Jones said the fee charged is quite nominal, \$100 yearly, which covers the cost of the hearing, the permit and Mr. Calmon going there to check the delivery logs. Ms. Jones said it is her understanding from MALA that the majority of the counties are trying to opt out of that section as well. Mrs. Didonato asked for clarification if this Board is in opposition of the to-go legislation. Ms. Jones said the majority voted to oppose the legislation in its entirety. The Board voted unanimously to oppose not charging a delivery permit fee.

The Board next discussed administrative and budget issues. Ms. Jones reminded the Board that the yearly State and County Ethics forms are due. Ms. Jones advised Mr Calmon that he needs to fill out the State Ethics form but not the County. Concerning the 2021-22 budget, Mr. Beery prepared three draft budgets for review. Budget No. 1 and No. 2 has an increase in Members' stipend. Last year extra funds were requested for necessary additional meetings (work sessions and violation hearings). This is included in the 21-22 budget request. Budget Draft No. 1 is \$53,870; Budget Draft No. 2 is \$66,950 and Budget Draft No. 3 would include additional employee which would be either a second part time inspector or a part time administration person that would work in the Dept. of Planning & Zoning just for the Liquor Bd. Mr. Beery said he would recommend Budget No. 3. Mr. McQueeney said he feels this Board should receive a similar fee as other boards in the County. Ms. Jones said what this Board's members receive as payment is much lower than other jurisdictions. Mr. Ransom said he opposes increasing the Board members' stipend. Mr. Beery discussed whether this Board should have a full-time inspector or a second part time inspector. This will depend on the current inspector's ability to work more hours. Ms. Jones said a full-time inspector would get County benefits. Mr. Beery said this would be by contract and would probably not include health insurance and he doesn't think the current inspector expects that. Ms. Jones would like to submit a budget to Ms. Moredock as soon as possible. A motion was made by Ms. Jones, seconded by Mr. McQueeney, to submit Draft Budget No. 3 to Ms. Moredock. Ms. Jones Mr. Beery, Mr. McQueeney and Mr. Hibbard voted in favor. Mr. Ransom said he was against the stipend but agreed with the rest. Ms. Jones also suggested due to the pandemic, to increase the stipend at a later date.

For roundtable discussion, Mr. Beery said the Board received an email from Mr. Warren Wright, Drug Free Coalition, regarding stickers/placards to be placed on a business when it was closed

for a violation. It states, "By order of the Queen Anne's County Bd. of License Commissioners the herein licensed premises is forbidden to sell alcoholic beverages from.....". Dates to be completed as needed. A recommendation came back from the Sheriff's Office to include what authorized us to place this on the business. Mr. Beery said he assumes this is authorized by Annotated Code of Md. Alcoholic Beverages Code, Article § 4-602, Power of local licensing board, which states, "A local licensing board may revoke or suspend a license in accordance with this subtitle". Mr. Thompson suggested adding contact information on the bottom in case somebody does want to contact the Board.

At 11:00 a.m. a motion was made by Ms. Jones, seconded by Mr. McQueeney, to go into executive session to discuss personnel and administrative matters and obtain legal advice. All members voted in favor. The Board returned to open session at 11:36 a.m. No decisions were made in the executive session.

There being no further business the meeting was adjourned, to meet again on Tuesday, February 2, 2021.

Respectfully Submitted,

  
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Cathy Maxwell, Clerk

/s/ Joyce E. Jones  
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Joyce E. Jones, Esq., Chairman