

June 9, 2021
9200 Basil Court
Largo, MD 20774
Virtual Hearing

Present:

Daphne Turpin-Forbes, Board Chair
Armando Camacho, Vice Chair
Tammie Norman, Commissioner
Tammy Sparkman, Commissioner
Terence Sheppard, Director
Jason DeLoach, Esquire, Counsel
Robert Clark, Chief Liquor Inspector
Christian Mendoza, Deputy Chief Liquor Inspector
Johnny Toles, Deputy Chief Liquor Inspector
Patricia Bell, Administrative Manager
Leonard Vauss, Administrative Assistant
Keyanna Little, Administrative Aide
Katrice James, Administrative Aide
Jamie Schaefer, Administrative Aide

Start Time: 7:06 p.m.

Commissioner Forbes: This is an open meeting for the Prince George's County Board of License Commissioners. Welcome to our house.

To ensure compliance with the law (Maryland Open Meetings Act) and our goal of transparency, to please identify yourself when speaking and speak audibly. As a professional courtesy, when not speaking, please mute your device. If someone from the public that is not providing testimony as a witness today, I will recognize you in the hearing and give you an opportunity for your voice to be heard. Everyone's voice matters at the BOLC. We understand that some of you may be passionate about what you have to say and that passion, in this regard, is permissible. What is not permissible is if truth, facts, and respect are not grounded in your voice. Thank you in advance for being truthful, respectful and honest during the entire proceeding.

Director Sheppard: During a typical hearing, there would be an exchange between the Board and the attorneys to exchange information as exhibits. Because this hearing is now virtual, we have implemented a 10-day rule to give those individuals here today, 10-days from today's date to add to the official record. I would ask that you email myself or the administrative staff for the BOLC. You may add information to the record long as it is information that has been discussed in this hearing.

1) t/a Martini's Restaurant & Lounge – Request for a Special Entertainment.

Ms. Forbes informs licensees of their right to an attorney. Licensees agree to move forward without representation. Jedaka Hayes-Mundey and Kenneth Mundey are sworn in.

Mrs. Munday: We are here today to request a Special Entertainment Permit. We have realized after not having Entertainment permissions for 2 years, it is a very special privilege to have. We have learned over the past two years what we need to do to improve and be worthy of holding this privilege.

Mr. Munday- We understand the mistakes that we have made in the past. We understand the 6 acceptable forms of ID, we have studied our Rules and Regs, and now we have updated, HD security cameras. We need this to survive. We really want and will do whatever necessary to reinstate our Special Entertainment Permit. Ms. Tanya Proctor is sworn in.

Ms. Proctor: On June 8, 2021 at 2 p.m., I met with the Munday's. We went over the business report and the security plan. I discussed with them and made sure it was understood that any changes made to the business are to be sent to me before they happen and I am to be provided with copies. The business has operational cameras; I was able to review each camera. The Munday's provided me with a playback of the video and advised me that the system is to remain backed up for 1 year on DVR. I do have one question for the Munday's. How is it that the 1-year recording is obtained?

Mr. Munday: The video is backed up on the Cloud, on the hard drive, and by email. We also have server protection with a save-mode in case of power surges.

Ms. Proctor: That is all I have.

Commissioner Sparkman: Corporal Proctor, I am looking at the security checklist. Can you explain to me why the parking plan is checked off as "inadequate"?

Ms. Proctor: The revised parking plan should be correct. I have the recent one now. We have not yet turned in the paperwork for June 8, 2021. I'm not entirely sure what Corporal Cicale said was inadequate at the time. If I could guess, it would have been something to do with the cameras.

Corporal Cicale is sworn in.

Ms. Forbes: Corporal, we have a security plan that is now accurate. Would you care to explain to us what was not adequate during your inspection?

Corporal Cicale: I'm not exactly sure what Corporal Proctor is referring to. It could have been a typo because I don't recall reporting "inadequate". The parking plan was adequate since April. Since she is still learning, I wanted Corporal Proctor to have her own eyes on the space.

Commissioner Sparkman: The form has a checklist. In parking flow, you checked the box for inadequate.

Corporal Cicale: That must have been a mistake, I apologize. Typically, if I have marked something as inadequate, I'll leave a note in the comments section-which I don't believe I did.

Ms. Forbes: We can agree by unanimous consent that there was a mistake in communication by Corporal Cicale. We will update the record to reflect this information.

Commissioner Norman: Just to clarify, you listed the times you will have entertainment, you will have a DJ, sports, and comedy. No bands?

Mrs. Munday: We would like to have Jazz Bands eventually. We wish to change the demographic away from Go-Go. For now, it will only be DJ's and Karaoke.

Ms. Forbes: I believe the most important factor were those cameras.

Mrs. Munday: I know our hours are until 2 a.m.; we were wondering if we could receive the permission to stay open until 3 a.m. on the weekends. Friday and Saturday? I was told we must ask permission for that.

Mr. Munday: Actually, Commissioner, we were going to wait until after the ruling to ask that question. We have police and security, so we were hoping that would prove our ability to handle these hours.

Commissioner Camacho makes a motion to grant the Special Entertainment Permit with a 6-month probationary period and an entertainment curfew of 12 a.m.

No second. Motion dies.

Commissioner Norman makes a motion to grant the Special Entertainment Permit with a 6-month probationary period and a 1 a.m. entertainment curfew, Seconded by Commissioner Sparkman.

After unanimous vote, the motion carries.

Ms. Forbes: So, Mr. and Mrs. Munday, what you have is a Special Entertainment Permit with a 6-month probationary period; probationary period meaning, no violations at all. You may also only operate with entertainment until 1 a.m. every one of those days of these 6-months. After the 6-months have passed, we will meet again to discuss and you could be up for full entertainment again.

Chief Clark: I would like to make clear that the business may continue to operate as a restaurant until 2 a.m.

Ms. Forbes: 1 a.m. is the latest hour for entertainment. I would like to ensure the record reflects 1 a.m. as the cut-off time for entertainment and 2 a.m. for restaurant closing. That is the motion that passed.

Mr. Munday: Mr. Camacho, on our liquor license, we were able to serve liquor until 3 a.m., and any day of the week that we have entertainment, we must stop that at 1 a.m. We just want to understand because previously, we could sell liquor until 2 a.m. on weekdays and 3 a.m. on weekends. We want to prevent any further miscommunication.

Commissioner Camacho: You may only sell liquor until 3 a.m. if you have entertainment. This is nullified without entertainment. For your probationary period, entertainment must stop at 1 a.m. and serving liquor must stop at 2 a.m. with restaurant services.

Ms. Little: Will there be a motion to amend the hours?

Ms. Forbes: With the motion mentioning the 1 a.m. curfew, we must amend the application to reflect that. Mr. DeLoach, is that correct?

Mr. DeLoach: That is correct.

Ms. Forbes: I'm sure that after 6-months, the Munday's will be before us again, asking for the restrictions to be lifted so that we can change the hours of operation in our system. Ms. Little, please adjust the application to reflect the hours we discussed.

Ms. Proctor: I will also adjust my security and business plans to reflect this change.

- 2) **t/a Liquor City** – Request for a Drive-Thru Window. Ms. Forbes informs licensees of their right to an attorney. Licensees agree to move forward without representation. Aruna Patel and Krishna Patel are sworn in.

Krishna Patel: We want to install a drive-thru window. We have talked to multiple contractors and are ready to move forward pending approval from the Board.

Commissioner Camacho: Have you hired contractor?

Krishna Patel: We have talked to many contractors but have not selected one officially.

Commissioner Camacho: Before we can move forward, we will need more details. We will need mechanical and architectural renderings. You must present to us the exact changes for us to expect.

Krishna Patel: The plan is to remove 1 shelf, about 7-8 ft. The walls are concrete. The contractor's plan was to knock out a 3x3 ft. hole and put in the window. There will be no changes in plumbing. We would be adding a power outlet. Then outside, we wish to add an awning/canopy so that our customers can be protected from the rain. We have not gone to DPIE yet. So, you are saying we should go there first?

Commissioner Camacho: Yes. You need temporary permission and the mechanical and architectural renderings, then you may come back to us once everything is done legally and is up to code.

Ms. Forbes: Is everyone understanding? Just to set the record straight, you must go to DPIE and the BOLC last to consider and approve the changes.

Krishna Patel: May I email Ms. Little when everything is ready?

Ms. Little: Yes, you may.

Ms. Forbes: For future reference, you may refer to Rule and Regulation No. 38 for any information you need regarding this project and drive-thru windows.

Case Continued.

- 3) Jesus Mejia, President/Secretary/Treasurer, El Mexireno Restaurant, Inc., t/a **El Mexireno Restaurant**, 5494 Saint Barnabas Road, Oxon Hill, 20745, Class B, Beer, Wine and Liquor, is summonsed to show cause for an alleged violation of 26-1903 A License holder may not provide entertainment unless authorized to do so, of the Alcoholic Beverage Article of the Annotated of Maryland and R.R. No 37(E) Change in mode of operation (Having entertainment without a permit), of the Rules and Regulations for Prince Georges County, to wit; That on Saturday, April 24, 2021 at approximately 10:25 p.m., Inspector Bagby entered the establishment for a routine inspection and noticed a DJ playing music with DJ equipment. At that time, the establishment did not possess an entertainment permit. Licensee is represented by Melvin Kodenski, Esquire. Jesus Mejia and Inspector Bagby are sworn in.

Inspector Bagby: On Saturday April 24, 2021, at approximately 10:25 p.m., I arrived at El Mexireno for a routine inspection. Upon arrival, I observed a male and female officer were "frisking" patrons before they entered the establishment by checking ID's and patting them down. I showed them my credentials as an inspector for the BOLC and entered the establishment. I observed a DJ playing Latin music from a DJ booth. I went to the kitchen to speak with manager, Mr. Mejia. As I was scanning their licenses, I noticed that the premises did not have a special entertainment permit. This is in direct violation of RR No. 37- Alterations and Additions. All changes to the establishment must be presented to the Board and the presentation of the license must be present inside and outside of the establishment. I informed Mr. Mejia that one cannot have a DJ without an Entertainment Permit. Mr. Mejia informed me that he has applied for a Special Entertainment Permit, though he does not currently have one. Mr. Mejia signed the report and was cooperative. I left the establishment at approximately 10:45 p.m.

Mr. Kodenski: Inspector Bagby, do you know this DJ's name? (**Mr. Bagby-No.**) Did you know that he is an employee of the restaurant? (**Mr. Bagby-** No, that wasn't discovered until I spoke with Mr. Mejia about having entertainment.) Was he doing anything like speaking or was he just playing music? (**Mr. Bagby-** he was just playing music.) So, there was no interaction with him and a crowd while you were there? (**Mr. Bagby-**Not while I was present, no.) How long did you witness him playing Latino music? (**Mr. Bagby-** I was there for about 10-15 minutes.) Was it crowded inside? (**Mr. Bagby-** No, about 10-15 people there.) The fellow you mentioned in the DJ area, did you see what he was doing or was he simply on the computer?

Mr. Bagby: The thing was that DJ's play their music and manipulate it from computers.

Mr. Kodenski: Mr. Mejia, you were there that evening, correct?

Mr. Mejia: Yes, at approximately 10:30 p.m., like the inspector said.

Mr. Kodenski: And was this person changing the music a DJ?

Mr. Mejia: No, he is a helper. We refer to him as a busboy. My entertainment hearing regarding my application was supposed to be within a week of the violation. Therefore, my booth was all set up and ready to go. That evening, I was eating my dinner, so I asked my busboy to change the music for me. I usually do it myself. This is the second time this inspector has done this to me. For my previous violation, I had done nothing wrong. I asked the inspector what to do and he said, "That's for the board to decide." 3 months later, I was given a \$5,000 fine for something that I never did. I was just getting ready for the hearing.

Mr. Kodenski: You had a Special Entertainment permit previously before your license had been expired. You would have had a hearing tonight for Special Entertainment had it not been pushed back from this violation. The electronic music was being changed by the busboy while the inspector did not stay long enough to see if he was still there before leaving.

Commissioner Sparkman: Mr. Mejia, the bartender was sitting in the booth changing the music?

Mr. Mejia: Yes, only because I had everything ready for the Special Entertainment Hearing.

Commissioner Sparkman: So, the bartender went to change the music and then went right back to work? (**Mr. Mejia-Yes.**)

Commissioner Norman: Mr. Bagby, were patrons dancing while you were there? (**Mr. Bagby-No.**) How loud was the music that was playing?

Mr. Bagby: It wasn't as loud as a club, but the music was much louder than the background music usually paired with dining.

Commissioner Camacho: The employee was in the booth? (**Mr. Bagby-Yes.**) Was he there the whole time you were present?

Mr. Bagby: I don't remember him leaving the booth; however, I'm not sure if he was still there when I left.

Ms. Forbes: He was in the booth for a DJ, correct?

Mr. Mejia: The booth was put in for the Special Entertainment Hearing. I'm usually the one to change the music. It's not always him.

Ms. Forbes: So, you didn't hire a DJ, but you can still exchange and manipulate different songs throughout the night? (**Mr. Mejia-Yes.**) So, would you say they are acting as a DJ?

Mr. Mejia: They were just changing the music and going back to work.

Ms. Forbes: So, you're providing a little entertainment, but not too much.

Mr. Kodenski: DJ's usually talk to people and have a microphone. This didn't happen that evening, correct? (Mr. Mejia-No, that didn't happen.)

Hector Duralo is sworn in.

Mr. Kodenski: Hector, are you a DJ?

Hector: No, I'm basically a busboy. Mr. Mejia was having dinner, so he asked me to change the music.

Mr. Kodenski: You did change the music? (**Hector-Yes.**)

Commissioner Camacho: For the staff, Mr. Mejia says he submitted the application for the Special Entertainment permit before the violation, is this true?

Ms. James: Mr. Camacho, he was scheduled to be on tonight's hearing for his Special Entertainment Permit, but that was rescheduled due to the violation. In January, the Use and Occupancy permit was not accurate to reflect their hours. So, this Special Entertainment hearing was a continuance, the additional hearing was scheduled, and everything was still pending.

Mr. Kodenski: I'd like to give a closing statement. Mr. Mejia has had to reapply for his license. Special Entertainment was granted, then there were problems with the U&O, then rescheduling the Special Entertainment hearing for tonight due to this violation of entertainment before the Special Entertainment permit could even be granted. Mr. Mejia testified under oath that the employee changing the music was a busboy. The inspector was candid about this case and I believe that there is a violation here.

Commissioner Camacho makes a motion to find the licensee in violation as charged with a fine of \$1,500.

No second, motion dies.

Commissioner Norman makes a motion to dismiss the fine charge for a violation, Seconded by Commissioner Sparkman.

Commissioner Norman: Mr. Mejia has been trying to do his best. There was no DJ, no dancing, and he has been working with the BOLC staff and this is just an unfortunate situation. I do not think that he was negligent.

Chief Clark: The dancing is not the primary focus. The entertainment is defined by the manipulation of the music. The "frisking" of ID's is an indicator of planned entertainment.

Ms. Forbes: So, the changing of the music, whether the person is hired to do so or not, is still considered entertainment. We are looking at the facts.

Commissioner Sparkman: For me, in the inspector's testimony, he witnessed the man in the booth changing music, but he did not know whether the man was still present in the booth when he left.

Ms. Forbes: The changing and manipulation of the music is irrefutable.

Commissioner Camacho: I go on the basis that there were officers "frisking" people entering the establishment. This indicates that there was to be more activity than just dining. I don't see how they could be innocent.

Ms. Forbes: On the floor is a motion to dismiss the violation. If you are in favor of dismissal, Aye, Opposed, Nay.

The Commissioners unanimously vote "Nay".

Commissioner Norman makes a motion to find the licensee in violation as charged with a fine of \$1,500, seconded by Commissioner Camacho.

The Commissioners unanimously vote “Aye”.
The motion carries.

No questions or further commentary from the Commissioners, staff, or public.

Adjourned: 8:20 p.m.

Respectfully Submitted,

Jamie Schaefer
Administrative Aide BOLC