



ALCOHOLIC BEVERAGES ADVISORY BOARD

Marc Elrich
County Executive

Meeting
Tuesday, July 14, 2020
Alcohol Beverage Services' Meeting Room
201 Edison Park Drive, 1st Floor, Gaithersburg, MD 20878

Minutes

Members and Staff Present (virtually through Microsoft Teams): John Gaughan, Chair; Vernon Ricks, ABAB Member; Brett Robinson, ABAB Member; Christopher (Scott) Maravilla, ABAB Member; Juliana Levitt, ABAB Member; Susan Heltemes, BLC; Jayme Derbyshire, MCPD; Steve Martin, DEP; Stan Edwards, DEP; Patrice Bubar, DEP; Adam Ortiz, DEP; Robert Dorfman, Director, ABS; Ron Price, Licensing, Regulation and Education; Emily DeTitta, ABS, Kent Massie, ABS, Courtney Orsini, ABS, Bill Davis, ABS, John Van Eck, ABS and Evelin Chavez, ABS Liaison.

Absent: Lt. Ruane & Kathie Durbin

People ✕ ✕

Invite someone or dial a number 📞

Currently in this meeting (20) Mute all

Chavez, Evelin I. Organizer			
Brett Robison (Guest) Guest			
Bubar, Patrice			Ortiz, Adam
			Price, Ronald L
Derbyshire, Jayme			Scott Maravilla Guest
			Susan (Guest) Guest
			Van Eck, John
			Vernon Ricks (Guest) Guest
Juliana Levitt (Guest) Guest			+1 301-530-4117
			+1 703-490-5151

John Gaughan called the meeting to order at 9:03 am. A motion was made to approve the May meeting minutes by Mr. Ricks, seconded by Ms. Heltemes, and unanimously approved by the members present.

Evelin Chavez, ABAB Update:

Ms. Chavez did not have any updates.

John Gaughan, ABAB Member:

Mr. Gaughan did not have any updates.

General Discussion:

ABS Director, Mr. Dorfman, invited Department of Environmental Protection (DEP) Director, Adam Ortiz, and his staff to join this meeting to discuss the noise disturbance issues taking place in downtown Silver Spring, and to find ways ABS can help resolve these issues.

DEP Deputy Director, Ms. Bubar started by briefly explaining what DEP does to enforce the noise disturbance law in the urban district. Mr. Ortiz added that noise has been a major challenge in striking the right balance and that's because DEP doesn't have all the right tools in the toolbox just yet, but that they have been working closely with Mr. Dorfman, Ms. Durbin, and their staff to make sure they can be effective in making sure they have a high quality of life for all those residents living in downtown Silver Spring.

Environmental Health Specialist, Mr. Martin provided the board members with background information on the challenges they have been experiencing in the Silver Spring area. Particularly with about 6-8 different night time establishments that play amplified music as part of their business practices. There are about 3-4 new apartment complexes with about 400 units that have been built in close proximity to these nighttime establishments along Georgia Avenue. DEP got involved with this area about three years ago when they received noise complaints about Society Lounge.

Society Lounge was one of the first businesses that created a hookah rooftop entertainment. And even though they had a tent structure on the roof, it didn't provide much roof noise mitigation and the County received lots of complaints. This business has been issued citations and gone to court half a dozen times and its been a struggle going through the court process. Under the current noise ordinance, the only remedy is to issue a citation and go to court and have it adjudicated in front of a judge. Before the pandemic, that process would take about 3-4 months before these businesses could even go to court, and even then, judges were reluctant to really be hard on these businesses.

DEP is still exploring ways to update it ordinance to have some additional tools in the toolbox and give them a quicker remedy and not have to drag these issues out so long waiting for a court date. Mr. Martin explained that issuing citations doesn't seem to be effective and are still exploring different ways on how to deal with the issue. As a result of Society Lounge's success in court, other businesses have followed their model expanding to the public space and play amplified music.

Mr. Martin explained that since the opening of restaurants in Montgomery County the street dining program has been successful, but with that success comes the noise ordinance

complaints. DEP does not have the ability under the noise ordinance to close a business or to make them stop playing amplified music. The way the noise ordinance law is measured is another problem DEP has. Noise ordinance is measured in the A Scale and this measures the human hearing, so it discounts the very high and very low frequencies and concentrates on the center frequencies. This unfortunately misses the low base frequency which seems to penetrate through walls, so DEP is exploring ways to update the noise ordinance to incorporate a C Scale that will allow them to weigh the base noise in addition to the A Scale.

DEP has been working with Mr. Dorfman and Ms. Durbin to try and find ways on how these issues can be brought to the Board of License Commissioners. Mr. Gaughan asked if there is a way to have the County Council get involved to get DEP what they need in order to resolve the issues they have with the downtown Silver Spring establishments. Mr. Ricks' said he believes there may be some push back in the defense of the businesses in that area.

Mr. Ortiz said DEP is focusing on low-base frequency and trying to develop ways to help solve these issues. Establishments should not be disturbing the peace of the residents in that area.

Mr. Edwards explained the stop-work order and how it works. A stop-work order notice is a documented process that may be used to protect buildings, tenants, or workers from unsafe conditions. He explained that DEP is not looking to go to this extreme but instead suspend and/or revoke a business license when necessary. DEP believes that the Board of License Commissioners can be immediately supportive to help resolve these issues.

Mr. Robinson asked if the group was concerned about the view from other business owners in the area and how it could potentially affect them. Mr. Ortiz responded by saying that DEP has procedures that need to be abided by and that if businesses are in violation, actions need to be taken. He said that DEP does not want to shut businesses down but instead be reasonable while at the same time allow residents to live in a peaceful environment. Mr. Dorfman also added that he has received calls from business owners in Silver Spring and how they have been affected by some of these issues.

Mr. Gaughan asked for an update on the noise issue for next meeting.

Susan Heltemes, BLC Update:

Ms. Heltemes informed the board members that the Board of License Commissioners currently has one vacancy that was announced and that nominations closed on July 3rd. The board previously had a member that was adamant about not taking actions on these issues going on in Silver Spring. Ms. Heltemes spoke with Ms. Durbin and made two recommendations. The first recommendation is to have the board members trained at the next meeting which is scheduled for next month on August 1st. This will allow members to ask all the questions about sound. The second recommendation is to hold a meeting at the Silver Spring Community Center to allow the residents to express their concerns with the board. In addition, she believes there should be a widespread notice about hearings that deal with down town Silver Spring. Furthermore, work in collaboration with Councilmember Tom Hucker since he represents Silver Spring. The Silver Spring Community Center is a location that's easily accessible for people to get to.

Mr. Gaughan asked Ms. Heltemes if it was possible for the board to revoke a license if they are not in compliance with the licensing regulations. Mr. Price said the board has a lot of latitude when it comes to suspensions.

The board is currently holding virtual meetings and is hopeful things will change once the new member is on the board. Ms. Heltemes said suspension is something the board can do, but it's been very difficult because of the member that was previously on the board. The board was hindered for eleven months while this member was on it.

At this time, the license renewal process has been postponed because of the pandemic.

Robert M. Dorfman, ABS Update:

Mr. Dorfman announced that the County initiated a COVID-19 testing plan that was rolled out last week at ABS; a total of 77 employees were tested. These self-administered saliva tests will be made available to each employee, at two-week intervals, at the ABS offices, warehouse and within the 26 retail stores. The effort will help identify employees that are asymptomatic, allowing for quarantine and contact tracing and will show a more precise picture of COVID-19 numbers. The effort is also designed to provide additional peace of mind for employees working onsite and an extra layer of safety. Employees are not mandated to complete testing but are highly encouraged to do so.

The Darnestown store was temporarily closed last week after a total of four employees tested positive for COVID-19. The first employee notified retail management of a positive test result on Thursday, July 2, at which time the store was disinfected by a Hazmat team. A few days later, three more employees from the Darnestown store let management know they had tested positive.

On Tuesday, July 7th an employee from the Flower Ave. store notified management they tested positive. The Flower Ave. store was closed on Tuesday, reopening Wednesday at noon, to allow for a Hazmat team to deep clean and disinfect the store.

The employees who tested positive, and all of the Darnestown store employees, have been asked to isolate and monitor themselves for symptoms and are on paid administrative leave for two weeks. The Darnestown store remains closed as a result of the lack of available staff. The store is tentatively scheduled to reopen on Monday, July 20.

Mr. Dorfman explained that the retail rebranding effort will begin this summer. As mentioned before, the Cabin John store will be moving to an outdoor section, next to the Giant, of the newly renovated Cabin John Village Center. This store will be the first to undergo the retail store remodeling plan and, pending trademark approval, will carry the new name that each of the newly designed stores will take on, Oak, Barrel & Vine. The Cabin John store remodel will be closely followed by the Darnestown location. ABS plans on updating all of its stores over the next few years.

ABS has been very transparent with the number of employees who have tested positive which has caused some concern with County residents. As a result, the County Executive has offered to give county residents free COVID-19 testing if they have been in the store around the time an employee tested positive.

July 1st marked the beginning of the 2021 fiscal year. Despite the COVID -19 epidemic, ABS ended fiscal year 2020 on a high note with an estimated transfer of over \$35 million. A portion of these funds will go toward County debt services and the majority will be transferred to the County general fund to pay for resident services.

The County Department of Health and Human Services (DHHS) launched a new Covid-19 Data Dashboard, which is tracking and sharing the County's progress on the COVID-19 epidemic. This tool has been helping the County make the most informed decisions possible as they navigate the process of reopening. The number of positive cases is below the state average and so far, 11 percent of the entire county has been tested.

Mr. Dorfman announced that ABS received a grant from the National Alcohol Beverage Control Association (NABCA) and that grant was given to Montgomery County Economic Development Corporation (MCEDC) to assist with their efforts in helping community businesses during this time of great need.

Jayne Derbyshire, MCPD:

Ms. Derbyshire informed the group that the department concluded the under age drinking compliance checks for fiscal year ending June 30th. The department completed a total of 340 checks with approximately 70% percent compliance rate for those checks. Due to COVID-19 most of the checks were completed in early March and have not done any since then due to the circumstances.

Ms. Derbyshire also mentioned that the number of DUI arrest have decreased significantly since the beginning of the year. They have seen a decrease of about 57% percent for DUI arrests for year to date ending at the end of June.

Next Meeting:

The next meeting of the ABAB is scheduled for Tuesday, September 8, 2020 at 9:00 a.m.

Adjournment:

There being no other business before the Board, the meeting was adjourned at 10:44 a.m.