

## MINUTES

The Garrett County Board of License Commissioners/Liquor Control Board held their regular meeting on May 2, 2002 at 9:00 AM. Present for the meeting were Commissioners Bea Crosco and Bruce Opel; Chairperson Thomas Gearhart; Administrator to the Board, F. Gary Mullich, Deborah Owston, Administrative Assistant and Craig Ingram, Attorney to the Board.

Chairperson Gearhart called the meeting to order. A motion was made by Commissioner Crosco to approve the April 4, 2002 meeting minutes and seconded by Commissioner Opel and unanimously approved. The Board signed mileage sheets.

There was general discussion before the scheduled hearings in which Commissioner Opel questioned what options were available for the use of the pavilion area at the Hen House when it was not being used for the requested dinner theater performances during the summer on the designated days. Gary advised Commissioner Opel that the pavilion area is not part of the licensed premise on days other than those approved by the Board for the dinner theater and that a qualified Class C applicant could obtain a special license. The Board signed a new license for Sharon Markwood and Robert Markwood of the Pop Shoppe at the Markwood Citgo station upon their request to add the wine tasting option to the initial liquor license. Gary updated the Board on Lynn Kasik of On the Rox's Pizza Pub's failure to reduce her stock ownership in Deep Creek Brewing Company. Gary has advised Ms. Kasik that she must contact Deep Creek Brewing Company and secure a reduction in her ownership or she will be called in for a hearing concerning having financial interest in two liquor licenses. Commissioner Crosco talked with John Smith at Bud's Package Store about transferring the license into Eric Sines name from Mr. Reckart's. Mr. Smith said that Mr. Reckart would not be transferring the license to Eric Sines and that he would resume the management of the licensed establishment in addition to the ownership. Debbe Owston updated the Board on several items that happened since the last meeting. Compliance checks were conducted on April 15, 2002 at several licensed establishments. Once the office receives the police reports they will be reviewed and possible hearings could be scheduled for the violations at the June or July meeting. There will be an upcoming transfer hearing for Cheers, operated by Ruth Beitzel to be operated by Hugh Umbel as Deep Creek Liquors. Also, transfer paperwork was submitted to transfer the licenses for Red Run Lodge and Mighty Oaks Pub picked up their licenses on April 24, 2002.

A hearing was held at 9:30 AM for a Class "D" Beer & Wine On-Sale License for New Germany Store & Gas Stop. Applicant, Joseph Howe, was present for the hearing in addition to his wife Andrea Howe. Mr. Howe said he would be reopening the store for primarily off premise consumption but would like to serve some food and have on premise consumption as well. Mr. Howe explained that his wife has not been a resident of the United States for two years but when she does establish her residency she may be added as an applicant. Commissioner Opel made a motion the license be approved

and seconded by Commissioner Crosco and unanimously approved. After appropriate fees were paid, the license was issued.

A violation hearing was held at 9:45 AM for Oak Grove Tavern, license # 01-55, for the purchase of alcohol from another retailer, as a result of an inspection on January 31, 2002 by the Field Enforcement Division of the Comptroller's Office. Licensee Joseph Healy was present at the hearing. Richard "Marty" Sine, Field Enforcement Officer of the Comptroller's Office was at the hearing to present evidence and testimony concerning the purchases. Mr. Healy told the Board that he had forgot to order a few items and had purchased them at Midway Liquors. Commissioner Crosco questioned how long had Mr. Healy had held a license in the County and during those periods of holding a license had he had difficulty getting deliveries of alcohol. Mr. Healy responded that he has held different licenses for about 28 years in the County and that he did not have trouble ordering alcohol for his establishments. The Board deliberated and determined that a violation had occurred. Commissioner Opel made a motion for a \$50 fine and a letter of reprimand for violating Article 2B, §12-107 (a) and the motion was seconded by Chairperson Gearhart and unanimously approved.

A violation hearing was held at 10:00 AM for Backbone Mountain Inn, license #01-75, for the purchase of alcohol from Midway Discount Liquors, as a result of an inspection on December 27, 2001 by the Field Enforcement Division of the Comptroller's Office. Licensee Phyllis Inglese was present at the hearing. Richard "Marty" Sine, Field Enforcement Officer of the Comptroller's Office was at the hearing to present evidence and testimony concerning the purchases. Mrs. Inglese told the Board that during the inspection she told the inspectors that she has trouble getting deliveries to her location. Mr. Sine stated that he had also made an inspection in June or July 2001 and issued a warning on the same violations. Commissioner Crosco questioned Mrs. Inglese as to how long she has been the licensee and Mrs. Inglese responded that she had been a licensee for almost ten years. Commissioner Crosco asked how many years had it been since a wholesaler delivered to the establishment. Mrs. Inglese said that in the past there was a \$300 minimum. Commissioner Crosco questioned whether for the past eight years were the orders made at Midway and would she place the order or stop in to get the items. Mrs. Inglese said she would sometimes split the order and pick it up at Midway. Since then she gives Midway an order and gets a 10% discount. Commissioner Crosco questioned whether Mrs. Inglese had ever contacted the Liquor Control Board about making purchases from Midway. Mrs. Inglese responded "no"; that she did not realize at first that it was illegal. Mrs. Inglese did not contact the Comptroller's Office on why the delivery trucks would not go out into her area of the County. She said she assumed as long as she was buying through the County or a retailer it was ok. Commissioner Crosco explained that there are steps she should have taken regarding this matter. Commissioner Opel asked Mrs. Inglese if she would not have purchased from Midway would she still be in business and Mrs. Inglese responded by saying, "no". Chairperson Gearhart asked Mrs. Inglese if the proprietor of Midway was aware that she was purchasing the alcohol for the bar and Mrs. Inglese responded, "yes". Chairperson Gearhart asked Marty Sine whether the owner of Midway was aware of the discount. Mr. Sine said he had spoke with Mr. Roger Ruff who told him

that he does give discounts. Chairperson Gearhart questioned Mr. Sine if he told Mrs. Inglese that the Liquor Control Board would contact her and Mr. Sine said, "yes". After the Board deliberated with Craig Ingram it was determined that a violation had occurred. Commissioner Opel made a motion to fine \$100 and a letter of reprimand for violating Article 2B, §12-107 (a) and the motion was second by Chairperson Gearhart. The vote was two to one with Commissioner Crosco opposed. She felt that the penalty was not stringent enough.

A violation hearing was scheduled for 10:30 AM for Backbone Mountain Inn, license # 01-75, for the violation of Article 2B, § 10-401(2) which states that, "any license or permit issued under the provisions of Article 2B may be revoked or suspended by the issuing authority for any cause which in the judgment of the official, court or board, is necessary to promote the peace or safety of the community in which the place of business is situated." Present for the hearing were Phyllis Inglese, licensee, Detective David McLaughlin, Garrett County Sheriff's Office, Sergeant Mark Rodeheaver, Maryland State Police, and Richard "Marty" Sine, Field Enforcement Officer of the Comptroller's Office. Mrs. Inglese told the Board that her lawyers instructed her not to talk since the Judge of Circuit Court had not signed the injunction on the hearing. Chairperson Gearhart asked Detective McLaughlin to give an overview of the incident. Detective McLaughlin told the Board that they had a search and seizure warrant for 4676 George Washington Highway on January 26, 2002 @ 6:30 PM. They made contact with Mike Inglese and advised him of the warrant for gambling devices. During the search they came upon drugs subsequently obtained a search and seizure warrant for drugs. The officers remained on the premise until Judge Burnett approved the warrant. The warrant was granted and the drugs were noted to be in plain view in the backroom area of the establishment, which is the kitchen area to the left of the bar. The gambling devices were noted to be in plain view around the bar area of the premise. Chairperson Gearhart asked whether there was probable cause for the warrant and Sgt. Rodeheaver responded that yes there was based on complaints and undercover officers observations. Craig Ingram asked if this was a sweep or action based on complaints and Sgt. Rodeheaver responded that it was based on a complaint. Craig Ingram asked Gary Mullich whether the area where the drugs and gambling devices were located was part of the licensed premise and Mr. Mullich responded that it was part of the licensed premise. Sgt. Rodeheaver presented the Board with video evidence of the search, which showed the gambling devices, and drugs found on the premise during the search on January 26, 2002. Chairperson Gearhart asked Mrs. Inglese if she had any questions about the video evidence presented for the officers and Mrs. Inglese said that her lawyers advised her not to speak. Commissioner Crosco asked the officers whether tip boards were legal anywhere. The officers said they believed that tip boards were only legal for non-profit organizations. The Board went into deliberation for about thirty minutes and determined that the presence of the gambling devices and drugs on the licensed premise constituted a violation of the peace and safety of the neighborhood. The Board discussed their options concerning Article 2B, 10-401(2). Commissioner Crosco made a motion to revoke the license and there was no second and the motion did not carry. Commissioner Opel made a motion of a \$3,000 fine and 90-day suspension of the license and there was no second and the motion did not carry.

Chairperson Gearhart made a motion for a fine of \$2,000 and 60-day suspension of the license and Commissioner Opel seconded the motion. The vote was two to one with Commissioner Crosco opposed. She believed that the penalty was not stringent enough. The fine will be due by May 31, 2002 and the suspension to be from June 3, 2002 to August 2, 2002.

A request was made in the renewal application by Keith Handyside of Black Bear Tavern, license # 01-63 to increase the deck size of the premise and a motion was made by Commissioner Opel to accept the increase and Commissioner Crosco seconded the motion with all in favor.

After the hearings, the next meeting day was set for June 6<sup>th</sup>, 2002. There being no further business, Chairperson Gearhart motioned the meeting be adjourned, and seconded by Commissioner Opel.

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Thomas A. Gearhart  
Chairperson

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June 6, 2002  
Date