

## MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting on February 4, 2010 at 9:00 AM. Present for the meeting was Chairperson Tom Gearhart, Commissioner Bea Crosco, Commissioner Mike Fratz, Administrator to the Board Deborah R. Owston and Administrative Assistant, Amanda Klotz.

Commissioner Crosco called the meeting to order. The Board unanimously agreed to approve the minutes from November 5, 2009, December 30, 2009 and January 7, 2010. The Board signed mileage sheets. The 2009 edition of Article 2B Maryland Alcoholic Beverages & Tobacco Tax law books were distributed to the members of the Board.

There was general discussion before the hearings. Ms Owston informed the Board that after having allowed the licenses for My Place @ Silver Tree to be placed on hold for 90 days, Mr. Fike relinquished the licenses on January 21, 2010. When questioned about whether he had returned the inventory to the wholesalers, he indicated that the alcohol from the establishment was no longer at the licensed premise. Ms. Owston explained that the proposed changes for the Wine Festival legislation have been assigned as House Bill 400. A few changes were made to the wording of the proposed bill. There is currently no hearing scheduled, however, February 22<sup>nd</sup> is the day that most alcohol legislative bills will be heard in the General Assembly. Ms. Owston asked if she should proceed with advertising the notice for submitting pre-applications for the upcoming Wine Festival License available after July 1, 2010. The Board indicated that she should proceed with this. Ms. Owston spoke to the Board in reference to a delivery of alcohol made to a bed and breakfast. Ms. Owston has addressed this issue with the licensee of the delivering to a licensed establishment and will also be addressing the prevention of such situations in a memo that will be enclosed with the renewal packets or renewed licenses. She reported the list of establishments whose renewal of their licenses will be on hold for alleged delinquent payment of taxes to the Comptroller of Maryland as well as those that need to update their alcohol awareness training. There had been a report of an establishment advertising free drinks on the radio. Ms. Owston sent a letter to this establishment stating that this is not an acceptable or a legal practice and the ad has since been changed and there have been no further issues. There was also a report of another licensed establishment allowing patrons to bring wine into the establishment. After some discussion, the Board indicated that they would like for Ms. Owston to send the establishment a letter in reference to this. Ms. Owston informed the Board that the New Germany Store has requested that the license be placed on hold from February 17, 2010 to May 17, 2010. Commissioner Crosco made a motion to approve the hold and Commissioner Fratz seconded the motion. Ms. Owston reported that compliance checks are on-going, however, the results are unbalanced due to the fact that retailers are alerting other retailers in the area when the inspections are being done. This practice seems to be extremely prevalent this year according to reports and statements given to the office. There have been two establishments that have failed the check so far; BFS in Mt. Lake Park and Mt. State Brewing Company. Both establishments have made contact with the office and hearings will be scheduled. An incident report was received from the Sheriff's Department on an establishment detailing an issue that had arisen at that establishment involving some of the patrons. After further discussion, the Board determined that this was

an isolated incident and that no further action was required. Patty Sines, licensee of the Sugar Shack Tavern requested that she be removed from the license. Commissioner Crosco made a motion to amend the license to remove Ms. Sines. The motion was seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. Ms. Owston reported that she continues work on the renewal applications and has been approved to attend the Maryland Alcohol Licensing Association meeting in Annapolis next Tuesday.

A discussion session was held at 9:30 AM for Mooney's Pub which holds a Class "D" BWL On-Sale & Draft Beer license in reference to police reports that had been received on incidents at or involving that establishment. Licensee Jeff Kurilla did not attend the meeting, however, Ms. Robin Bittinger, bar manager, was in attendance. Ms. Owston reviewed the incidents with Ms. Bittinger and the Board. One incident involved an accident, one involved a fight in the parking lot and one involved a patron with a fire arm in the establishment. The first incident involved a vehicle that had reportedly left Mooney's in which the driver crashed into a garage down the road. Ms. Owston reminded Ms. Bittinger that the staff needs to know that it is illegal to serve someone that is visibly intoxicated and if training is required, there is information available. Ms. Bittinger explained that her understanding of the incident was that the gentleman had left another establishment and came to Mooney's and was refused service. She indicated that he left after being refused and was never served at their establishment. When asked, she indicated that to prevent such incidents and others, she has hired a doorman that cards everyone entering the establishment and monitors the inside of the establishment as well as the parking lot all evening. She also indicated that all of the bartenders are aware that when multiple drinks are ordered by one individual, they are responsible for knowing where all of the drinks are going and that none are being given to intoxicated or under aged patrons. In reference to the fight that occurred in the parking lot, she indicated that no one associated with the establishment was aware of the altercation until after the fact. In reference to the firearm issue, Ms. Bittinger indicated that as she understood the situations, the accused was in the bar earlier in the evening. He was asked to calm down by Jason Finch, the bartender. The individual played pool for awhile and left. He returned awhile later and showed the gun in his coat to the DJ that was working, whom he is familiar with. The DJ confronted him about it and alerted Jason Finch without causing a scene. Mr. Finch came around the bar and escorted the individual out of the establishment. Another gentleman called the police once they were all outside of the establishment. Chairperson Gearhart asked Ms. Bittinger who was in charge at the time of the incident. Ms. Bittinger indicated that Mel, the senior bartender was in charge at the time. Chairperson Gearhart asked if any changes have been made since these incidents had occurred. Ms. Bittinger indicated that the main change that has been made is the hiring of the doorman. He is in charge on the weekends. Chairperson Gearhart asked if there have been any other incidents since these. Ms. Bittinger indicated that there was an incident with a young woman and gentleman. Both were asked to leave, separately, and the situation never escalated. Ms. Owston reminded Ms. Bittinger that the Board asks that any such incident involving law enforcement, should be reported to the office ASAP. Chairperson Gearhart voiced the Boards disapproval of the fact that Mr. Kurilla failed to show up for the session and did not notify the office of such ahead of time. He indicated that Mr. Kurilla is the licensee and is therefore responsible for what happens at that establishment. Commissioner Crosco stressed that when a letter from the Board to the licensee states that they 'must be

present', it means just that and that as long as Mr. Kurilla's name is on the license, he should be present when requested by the Board. Ms. Bittinger indicated that she would be sure to address this with Mr. Kurilla and will share the Board's disapproval with him. Ms. Owston indicated that she had information on the alcohol awareness training opportunities and she would forward that info to Ms. Bittinger. Ms. Bittinger stated that she would like to have her entire staff attend a training including the newly hired doorman.

A discussion session was held at 9:56 AM for Table Rock Inn which holds a Class "D" BWL On-Sale license in reference to police reports that had been received on incidents at the establishment as well as anonymous complaints. Present were licensees Matt Lucas and Brittney Friend. Ms. Owston began the session by reviewing the issues. There had been an anonymous caller who alleged that several under aged individuals were being served at the establishment and that there were people drunk and passed out on the pool table. There was also a police report indicating that someone had been assaulted in the parking lot. In reference to the assault incident, Mr. Lucas explained that he had broken up an altercation on the porch of the establishment earlier in the evening between two individuals. The two gentlemen left the establishment, but returned after closing then apparently got stuck in the snow. Mr. Lucas explained that he was unaware that there had been an incident until he arrived the next morning and the vehicle was being removed from a snow bank. Chairperson Gearhart asked if there had been another vehicle there after hours as well. Mr. Lucas explained that there had been a gentleman that had felt he had drank too much to drive home in the bad weather and was advised to sleep it off in his truck in the parking lot. This gentleman had tried to help the man whose vehicle had become stuck by moving his vehicle to shine the lights in the direction of the disabled vehicle. When the officer arrived on the scene, the gentleman that was assisting was arrested and issued a charge for DUI. Chairperson Gearhart asked if Mr. Lucas had advised the man to sleep in his vehicle. Mr. Lucas indicated that yes he had advised him to do so. Commissioner Crosco asked if this man was intoxicated from drinking at Mr. Lucas' establishment. Mr. Lucas explained that he wasn't too intoxicated to be served, but shouldn't have been driving in the bad weather. Ms. Owston asked if that evening was cold. Mr. Lucas indicated that yes, it was and the weather was extremely bad on that particular evening. Ms. Friend also added that the gentleman had told them that he had called someone to come and pick him up and was only going to sleep in his vehicle until his ride arrived. Commissioner Crosco questioned the statement that was made in reference to the man being too intoxicated to drive, but not too intoxicated to serve. Mr. Lucas explained that the man had felt that he should not be driving due to the weather conditions and Mr. Lucas had agreed. In reference to the anonymous caller, Ms. Owston explained that she had received a call from a man that alleged that his 19 year old son and some friends had been frequenting the Table Rock Inn and an establishment in West Virginia and were being served alcohol. Ms. Owston explained that she had spoken to Mr. Lucas in regards to this report. A few days later, the same man called again to report that his son was still allowed into the establishment. Ms. Owston asked the man if his son was actually inside the building or in the parking lot. The man had indicated that he had been inside and had reported having seen someone drunk and passed out on the pool table. Ms. Owston had requested that the gentleman give an official testimony for the Board, however, he declined to do so. Ms. Owston explained to Mr. Lucas and Ms. Friend that they can set their own policy in terms of under aged patrons and that a better solution should be found to prevent such reports from being made. Mr. Lucas explained that they

are currently carding twice, once at the door and once at the bar when drinks are ordered. Patrons that are 21 or older are given a wrist band and under aged patrons are marked with an 'X' on their hand. Mr. Lucas explained that they had considered not allowing anyone in that is under 21, however he does not want to turn down a designated driver. He also indicated that he knows for a fact that he does not serve anyone that is under age. He indicated that there may be boys in the parking lot, but he has a doorman that has been monitoring this as well. Chairperson Gearhart inquired about the report of someone being passed out on the pool table. Mr. Lucas responded that there has never been anyone passed out in the pool table. Commissioner Fratz asked if there had been any instances with young people bringing alcohol to the parking lot. Mr. Lucas explained that there hadn't been any instances of this that he is aware of. Ms. Owston reminded that when someone orders more than one drink, they need to monitor who the other drink is being given to. Mr. Lucas indicated that they do monitor this. Ms. Friend reiterated that the carding twice practice seems to be working well. Ms. Owston explained that they need to be sure to report incidents involving law enforcement to the Board right away and possibly keep a log of incidents behind the bar for future reference. Chairperson Gearhart also suggested that alcoholic drinks and non-alcoholic drinks be put in different types of glasses to make it obvious which is which. Ms. Friend explained that the only non-alcoholic drinks that are available are in cans so they are already easily distinguishable from alcoholic beverages.

A transfer hearing was held at 10:20 am for El Canelo's which possesses a Class "B" BWL On-Sale License with Sunday Sales Option. Applicants Lisa Hernandez, Jose Hernandez and Jesse Brobst were present for the hearing. Ms. Owston explained to the Board that these individuals had taken over management of the establishment in October. Chairperson Gearhart asked what the plans were for the business and how it is currently being run. Ms. Hernandez explained that the hours of operation are currently Monday – Saturday 11:00 AM until 10:00 PM and Sundays from 11:00 AM until 8:00 PM. She also indicated that the customer must order food on Sunday to be able to order alcohol. Mr. Hernandez indicated that if a customer appears to be very young, then that person is carded when they order alcohol. Chairperson Gearhart asked if the servers card at the tables. Ms. Hernandez indicated that the servers do card at the tables when the order is placed. Ms. Owston pointed out that currently the only person on staff that is trained in alcohol awareness is Mr. Hernandez. She also explained that a person must be at least 18 to serve alcohol and that someone under 21 cannot take the alcohol from the cooler. It must be taken from the cooler by the bartender who is at least 21 and then the under aged server may take it from there and deliver it to the customer. Mr. Hernandez indicated that they were aware of this. Ms. Owston also confirmed with the licensees that alcohol can only be served on Sundays when an order has been placed for food. The alcohol can be served before the food, but the order for food must be made first. Ms. Owston also reminded that alcohol can only be purchased through a wholesaler and not from a retailer. Mr. Hernandez indicated that he was aware of this as well. Ms. Owston asked how many employees are currently employed at the restaurant. Mr. Hernandez indicated that there are currently five employees on staff. Ms. Owston asked if they are over 18 years old. Mr. Hernandez indicated that yes they are all over 18. Mr. Gearhart reminded that if they ever have any questions, to feel free to contact Ms. Owston. Ms. Owston explained to the Board that Mr. Brobst is currently meeting the residency and business requirements for the license and once Mr. and or Mrs. Hernandez meet that requirement, Mr. Brobst will go off

of the license. She also explained to the licensees that it is illegal to serve someone that is visibly intoxicated and indicated that she will provide information on how to refuse service. Chairperson Gearhart indicated that the servers should be made aware that the license of an under aged individual will say "Alcohol Restricted" on the license. The Board then reviewed and discussed the applicant's background check results. Following this discussion, Commissioner Crocco made a motion to approve the issuance of the license. The motion was seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. Mr. Hernandez asked if they can sell beer to go. Ms. Owston indicated that yes, they can sell beer to go, but not other forms of alcohol. Ms. Owston also explained that the renewal applications will go out soon. She reviewed the costs of the license both with and without the Sunday Sales Option. She also explained that if they decide to drop and Sunday Sales Option and changed their minds later, there is an issuing fee that will be charged in addition to the annual fee for the option. The transfer fees due for the current license were paid and the license was issued. The licensees will be returning the old license to the office. Ms. Owston reminded them that the Board would like any issues involving law enforcement to be reported to the office.

There being no further business to discuss, Chairperson Gearhart made a motion to adjourn the meeting. The motion was seconded by Commissioner Fratz.

The next regular meeting of the Board of License Commissioners is scheduled for Thursday, March 4, 2010.

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Thomas A. Gearhart  
Chairperson

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March 4, 2010  
Date