

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting on April 1, 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.

Chairperson Gearhart called the meeting to order. The Board signed mileage sheets. The minutes from the February 4, 2010 and March 4, 2010 meetings were reviewed. Separate motions were made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart to approve the minutes from these meetings.

There was general discussion before the first hearing. Ms. Owston distributed and reviewed a spreadsheet and graph detailing the sales to minors violation history since 1997. Ms. Owston informed the Board that she will reply to the Marylanders for Better Beer & Wine Laws' request through the Maryland Information Act by submitting copies of the monthly Violation Reports sent to the Comptroller's Office. Ms. Owston explained that the Wisp was requesting that the premise that the Pumphouse Café is currently licensed for be extended to include the new Lodestone Golf Course and Club House. Minutes from previous meetings during which similar circumstances were discussed too were distributed for the Board's review. Ms. Owston presented an illustration to point out to the Board the distance between the Pump House Café and the club house at the Lodestone Golf facility. Ms. Owston reviewed with the Board the sections in the law that may apply to this situation including 9-102 of Article 2B as it pertains to an additional serving counter on a licensed premise as well as 6-201 as it pertains to the Resort License. The Board chose to consult with their attorney, Mr. Craig Ingram on the subject. After reviewing all of the information, it was decided with Mr. Ingram's recommendation that the golf course be considered an additional facility of the Wisp's Class "B" Resort License and not an extension of the licensed premise of the Pump House Café. Ms. Owston will inform Ms. Meyer as such. Ms. Owston also informed the Board that the Avilton Community Association would be using one of their Special Class "C" events on April 25, 2010. At this point, six renewal applications have been received. All of the license holds established by the Health Department have been lifted, however, there are still two tax holds in place and a few establishments that will need to update their certification in alcohol awareness. One pre-application was received from the Wisp for the upcoming Wine Festival License and two other establishments have called with questions about this license. Ms. Owston reported that the Wine Festival legislation, HB 400, should pass with no trouble.

A license hearing was held at 9:30 AM for a Special Class "C" license for the Frostburg Knights of Columbus Council #1442. Present for the hearing were applicants Ronald Hansen and Andy DiLiddo. Mr. DiLiddo indicated that this license would be used for the 100th Anniversary celebration. Chairperson Gearhart asked if there are any measures planned to prevent the serving of underage persons. Mr. Hansen indicated that tickets are only being sold to persons 21 and over and that there are only 200 tickets available, most, if not all, of which will be sold to members. Chairperson Gearhart asked the gentlemen what the plan was for the evening. Mr. Hansen indicated that following a church service at 6:30 PM, festivities would begin with cocktails being served at the Eastern Garrett Fire Hall followed by an awards ceremony, dinner, music and dancing. Ms. Owston asked if this

event would be a cash bar or open bar. Mr. DiLiddo indicated that this event would have an open bar and explained that this was not intended to be a fund raising event. Ms. Owston explained to the Board that the Knights of Columbus have an alcoholic beverage licensed premise in Allegheny County, however, since the Council is applying and not the Lodge, a license in Garrett County could be permitted. She also explained to the gentlemen that once the license is obtained there can be no BYOB at the event. This would be a violation. Mr. DiLiddo explained that the catering company would be providing the non-alcoholic drinks and that they were hoping to have someone from the fire department work as the bartender for the evening. A motion to approve the Special Class "C" BWL two-day license to be used on May 1st, 2010 was made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart.

A Sales to Minor Violation Hearing was held at 9:45 AM for BFS Foods, Mt. Lake Park. Present for the hearing were Cherie Snyder, District Supervisor and Barb Skipper, store manager. No licensees were present for this hearing. Chairperson Gearhart swore in the attendees and asked that they explain what if any training employees receive. Ms. Snyder explained that each employee is given an overview and the birth date has to be typed into the computer when a beer or tobacco sale is made. Ms. Skipper explained that in this instance, the cashier looked at the year on the id incorrectly. Chairperson Gearhart explained that the license that underage individuals are issued should be carefully reviewed; including the fact that it states on it in red letters, "Under 21 until". He also asked if the employee that sold to the cadet was punished. Ms. Snyder indicated that the cashier quit. Chairperson Gearhart inquired as to the repercussions had she not quit. Ms. Snyder indicated that the employee would have been written up and would have been required to pay the fines. Chairperson Gearhart mentioned that it appears that the internal training of the employees needs to be reviewed and improved upon. Ms. Owston indicated that there is a good online course at 'wecard.org' that may be beneficial. She also explained the contents of the carding kits that the Health Department has provided. She indicated that the three other previous violations have been expunged from the licensee's record due to the amount of time that has elapsed, and therefore, this violation is considered a 1st offense. Ms. Snyder indicated that they were planning to attend a training on April 20th and will also share the information from the online course with all of the employees. Chairperson Gearhart explained that the penalty for a first offense is a \$100 fine and a letter of reprimand. Ms. Owston explained to the ladies that they have the right to oppose the facts and appeal the Board's decision to the Circuit Court. Ms. Snyder indicated that they will not appeal and will pay the fine. A motion was made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart to impose the \$100 fine and letter of reprimand on this license holder for the violation of sales to a minor. Ms. Owston collected the check for the fine, explained that she would send the letter of reprimand and place a copy of it in the license file.

A Sales to Minor Violation Hearing was held at 10:00 AM for Mt. State Brewing Co. Present for the hearing were licensees Erin Arnett and David Puckett as well as one of the managers Brian Arnett. Chairperson Gearhart swore in the attendees and inquired as to what happened. Mr. Arnett indicated that the cadet entered the establishment and the server never carded her. He indicated that the server felt that she looked over the age of 40. Chairperson Gearhart inquired as to their policy in such an instance. Mr. Arnett explained that the server was given three options: he could either quit, go to work in the

kitchen, or get TIPS training at his own cost. He chose to get the training, however, Mr. Arnett is not sure if he has been trained yet. He also explained that when someone is hired, they are told that they are required to get alcohol awareness training at their own expense. He also indicated that a video surveillance system was installed and employees were told that spot checks will be done by review of the footage to ensure that id's are being checked when appropriate. Chairperson Gearhart asked if at any point, an actual underage license had been reviewed with the servers. Mr. Arnett indicated that they had not done this, but plan to start this practice with every server. Chairperson Gearhart explained that the penalty for a first offense is a \$100 fine and a letter of reprimand. Ms. Owston asked if the server had carded; were they confident that he would have noticed that it was an underage license. Ms. Arnett indicated that she believes that he would have noticed this. Ms. Owston showed the licensees a copy of the cadets license and informed them of the valuable information on wecard.org. A motion was made by Commissioner Fratz, seconded by Commissioner Crosco and made unanimous by Chairperson Gearhart to impose the \$100 fine and letter of reprimand for a first offense of a sales to minor violation. Ms. Owston explained that they have the right to oppose the facts stated and appeal the Board's decision to Circuit Court. Mr. Arnett indicated that they agree to the facts. Ms. Owston indicated that the letter will be sent next week and will explain that they will have 30 days to pay the fine. She also reminded them that the renewal applications are due back by May 1st.

A Sales to Minor Violation Hearing was held at 10:20 AM for Keyser's Ridge Liquors. Present for the hearing was licensee Gerald Perry. Chairperson Gearhart swore in the Mr. Perry and inquired as to what had happened on the day of the violation. Mr. Perry indicated that he was not present at the time and doesn't work at the establishment; he is the resident licensee on the license. He indicated that the clerk had told him that she looked at the id and sold to the cadet. He also indicated that there is a digital clock behind the counter that displays the date on it for the sale of alcohol. Commissioner Fratz inquired as to how long the clerk had been employed at the establishment before this occurrence. Mr. Perry indicated that she had not been there very long but was unsure as to the exact length of time. Commissioner Fratz asked if she had been trained in alcohol awareness. Mr. Perry responded that, no, she had not been trained. Ms. Owston asked if there was any disciplinary action taken against the employee. Mr. Perry indicated that she was given 2 days off, however he is unsure as to whether or not she still works there. Mr. Perry indicated that he has seen the employees carding people, but some employees are better than others. Ms. Owston asked if there is surveillance in the establishment. Mr. Perry indicated that there is and Mr. Umstott was not happy with the employee after having reviewed the footage. Ms. Owston explained that management needs to make sure that all of the employees are aware of the differences in an underage license including the orientation and red box and lettering. Chairperson Gearhart reiterated this point and added that managers should go over those differences with the employees on a regular basis. Ms. Owston asked if the cash register at the establishment required a birth date to be entered before an alcohol sale can be made. Mr. Perry indicated that he believes that this is an option on the registers, however, he is unsure whether that option is used. A motion was made by Commissioner Crosco and seconded by Commissioner Fratz to impose the \$100 fine and letter of reprimand on the licensees for a first offense for a sales to minor violation. Ms. Owston explained to Mr. Perry that he has the right to appeal the

Board's decision to Circuit Court if he disagrees. Mr. Perry indicated that he would not be appealing the decision and would pay the fine today.

A Sales to Minor Violation Hearing was held at 10:30 AM for Sugar Shack Tavern. Licensee Robert Sines was present for the hearing. Chairperson Gearhart swore in Mr. Sines and asked what had happened at the time of the violation. Mr. Sines explained that the bartender asked to see the id, but did not catch the fact that it was an underage license and sold to the cadet. He indicated that there is a calendar beside the register with the appropriate date on it, however she told him that she was unaware that it was there. She had been employed at the establishment for approximately one year when the violation occurred. Ms. Owston asked if the bartender had been trained in an alcohol awareness course. Mr. Sines said that she had not been trained but she would be in lieu of any other type of disciplinary action and she would be required to pay for the training herself. Chairperson Gearhart asked if a minors license had ever been reviewed with the employees. Mr. Sines indicated that no, he had never done this but will start during every bartender meeting. A motion was made by Commissioner Fratz, seconded by Commissioner Crosco and made unanimous by Chairperson Gearhart to impose the standard \$100 fine and letter of reprimand for the first offense for a sale to a minor violation. Ms. Owston explained that he does have the right to appeal the Board's decision to Circuit Court. Mr. Sines indicated that he would not be appealing and would pay the fine. Ms. Owston explained that the Letter of Reprimand would be sent out next week and reminded him that his renewal application is due back by May 1st.

A Sales to Minor Violation Hearing was held at 10:45 AM for Good To Go. Licensees Debra Spear and Richard Beissel were present at the hearing. Chairperson Gearhart swore in the attendees and asked what had happened. Neither Ms. Spear nor Mr. Beissel were present at the time of the violation. Mr. Beissel indicated that after the violation occurred, he was called. He reviewed the surveillance tape and indicated that the store was busy and the clerk was on the phone at the time of the incident. He explained that the clerk is his daughter and she is 20 years old. He explained that they were not aware that she wasn't old enough to sell alcohol in Maryland because she had been a bartender in West Virginia. They had not thought to check into the differences in the law for Garrett County. He indicated that she had not asked to see the cadet's license. Commissioner Fratz asked if the clerk was alone at the time of the incident. Mr. Bissell explained that there was a cook on duty as well, however, she was in a different part of the store. Ms. Owston asked the age of the cook. Mr. Bissell indicated that she is in her 40's. Commissioner Fratz indicated that the cook could have been asked to make the sale of alcohol which would have eliminated the violation of having an under aged server. Ms. Spear asked if it was legal for them to perform their own checks by sending in under aged individuals to try to purchase alcohol. Chairperson Gearhart explained that this is illegal and the under aged person could get arrested. Commissioner Crosco asked Ms. Spear if she was aware of the age of the clerk. Ms. Spear explained that she was not aware of the clerk's age and had assumed that she was at least 21 since she had worked as a bartender previously. Ms. Owston reminded them that at least one person employed at the establishment must be trained in alcohol awareness and the information from that training should be shared with other employees. Commissioner Crosco asked if there had been any disciplinary actions taken against the clerk. Mr. Bissell indicated that he had a discussion with her and that until she turns 21 she will not be working the register any

more. She will be stocking shelves and cooking. Ms. Spear indicated that they are hopeful that the new cash register system that was installed which requires a birth date be entered before an alcohol sale can be made will help to prevent this from happening again. Mr. Bissell explained that, as an example to the others, he has asked everyone for their birth date regardless of age and if the person appears to be under the age of 30, he is carding them. Chairperson Gearhart explained that the penalty for the 1st offense of sales to a minor is a \$100 fine and a letter of reprimand. An additional \$100 fine would be imposed on the licensees for the under aged server violation. Separate motions were made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart to impose these penalties. Ms. Owston explained that they have the right to appeal the Board's decision to Circuit Court. Mr. Bissell indicated that they would not be appealing the decision. Ms. Owston explained that the letter would be sent out next week and they would have 30 days to pay the fine. She also reminded them that renewal applications are due by May 1st.

Following the hearings, several additional items of general discussion were reviewed by the Board. Ms. Owston informed the Board that the amendments to the Winery legislation have been added. Wording will need to be added in the form of a referendum to cover Sunday Sales, however, this is not the responsibility of the Board. She also reported that it appears that the Farmers' Market permit legislation will pass, however it is not yet in its 3rd reading. It is anticipated that the tax increase legislation will fail and will not occur this year. One police report was reviewed by Ms. Owston and will be discussed further at the next meeting.

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

The next regular meeting of the Board of License Commissioners is scheduled for Thursday, May 6, 2010.

Thomas A. Gearhart
Chairperson

April 1, 2010
Date