

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting in the Commissioners Public Meeting Room 209 on Thursday, February 3, 2011 at 9:00 AM. Present for the meeting was Chairperson Thomas Gearhart, Commissioner Mike Fratz, Commissioner Bea Crosco, Administrator to the Board Deborah R. Owston and Administrative Assistant, Amy Baker.

Chairperson Gearhart called the meeting to order at 9:06 AM.

Vianne Bell from the Deep Creek Lake Art & Wine Festival committee came to answer any questions from the Board in regards to the wine festival pre-application submitted by the Wisp Resort. Ms. Bell reported that last year a donation of \$50,000 plus was made to the American Red Cross Western Potomac Chapter. Commissioner Crosco made a motion to approve the pre-application and the motion was made unanimous by Chairperson Gearhart, as Commissioner Mike Fratz was not in attendance yet. Ms. Owston advised Ms. Bell to submit their application at the July 7th, 2011 meeting for the Wine Festival License.

There was a general discussion before the first hearing. The Neighborhood Store license was issued on November 5, 2010. Ms. Owston inspected some establishments the beginning of December 2010. The HART for Animals will hold the Hound Dog Hoe-Down Dance February 12, 2011 at the Southern Garrett Rescue Squad. The Dove Center, Festival of Trees was held on November 24, 2010. Ms. Owston also reported that she received some compliance checks results. Ms. Owston reported on November 17, 2010 the FDA determined that alcohol energy drinks such as Four Loko, Joose, Max and Core have "unsafe food additives." Ms. Owston reported that the products are now off the shelves in Garrett County establishments. Jason DeWitt stopped into the office. He is in charge of a security business geared for licensed establishments. Table Rock, Mooney's Pub and other local establishments, has hired him. Ms. Owston reported that she will be attending a MALA Executive Committee Meeting on February 18, 2011. Ms. Owston also reported that Pizzeria Uno's may want to add the Off-Premise Wine Sales Option to their license for a wine tasting event on Friday, February 25, 2011 during the Deep Creek Dunk festivities.

A license hearing was held at 9:30 AM for a Special Class "C" 2-day BWL License for Friendsville VFRD to be used on February 25th & 26th, 2011. Present for the hearing was applicant, Rodney W. Bowser. The license premise is to be Friendsville VFRD Fire Hall, 122 Walnut Street in Friendsville, MD. Mr. Bowser reported that they will be hosting a gun bash. Chairperson Gearhart asked what attempts would be made to control underage drinking. Mr. Bowser reported that he would personally be monitoring the security at the event. One thousand tickets will be sold at \$25/person including beer, food and prizes. Mr. Bowser reported that they will be obtaining alcohol from Lohr Distributors. The hours of the event will be 11:00 AM until 6:00 PM. Mr. Bowser reported that wristbands will be used. Mr. Bowser also said that several individuals will

be in charge of the beer trailer. Ms. Owston suggested that the Friendsville VFRD may want to actually pour the beer for patrons. Mr. Bowser reported that they manage the event entirely by themselves. Chairperson Gearhart reported that the Deer Park Fire Department will void the ticket of anyone who supplies alcohol to a minor and any minor that attempts to consume alcoholic beverages. Ms. Owston reminded Mr. Bowser that outside alcoholic beverages could not be brought in by attendees. A motion to approve the Special Class "C" BWL 2-Day License was made by Commissioner Crosco seconded by Chairperson Gearhart and made unanimous by Commissioner Fratz. All fees were paid and the license issued.

The Board signed their mileage sheets and then the travel expense reports for July through December 2010 were reviewed and approved. Chairperson Gearhart made a motion to approve Commissioner Crosco's expenses and the motion was seconded by Commissioner Fratz for approval. Commissioner Crosco made motion to approve Chairperson Gearhart's expenses and the motion was seconded by Commissioner Fratz for approval. Commissioner Gearhart made a motion to approve Commissioner Fratz's expenses and the motion was seconded by Commissioner Crosco for approval.

Duane Patton of Old Pike 2, notified the Board in writing that his landlord has sold the building and he will most likely close by January 31, 2011. Mr. Patton requested that his license be placed on hold for the remainder of the license year so that in the event he finds another location, he can transfer the license. Commissioner Crosco made a motion to place Mr. Patton's license on hold until June 30, 2011, seconded by Commissioner Fratz, and made unanimous by Chairperson Gearhart.

A transfer license hearing was held at 9:45 AM for a Class "B" BWL On-Sale w/Sunday Sales Option and Draft Beer license for Black Bear Tavern & Restaurant. Present for the hearing were applicants, Barry G. Clapsaddle, Laura E. Clapsaddle and Christine M. Tracey. The license is to be used at Black Bear Tavern & Restaurant, 102 Fort Drive in McHenry, MD. Mr. Clapsaddle reported that no changes need to be made at this time. He reported that he believes they are purchasing a turn-key operation from Mr. Keith Handyside that is very successful. Mr. Clapsaddle reported that he is trying to make improvements to boost employee morale. Chairperson Gearhart reviewed the Sunday sales regulations with the applicants. Ms. Owston reported that due to the issuance of the Class "B" license they will need to submit sales reports to show the food sales vs. alcohol sales for at least the first year. Mr. Clapsaddle reported that he would turn those reports into Ms. Owston with the Liquor Control Board quarterly. Mr. Clapsaddle reported that they plan to be very pro-active with all reports that will be needed by the Board. Mr. Clapsaddle reported that bartenders use a portable card reader. Ms. Clapsaddle reported that their son, John Clapsaddle will be the facility manager. Mr. Clapsaddle reported that they have kept all staff that were currently in use at the tavern. Chairperson Gearhart asked if security would be in place. Mr. Clapsaddle reported that

the security measures that were currently in place will still be utilized. Commissioner Fratz asked if the business would maintain the same business hours. Mr. Clapsaddle reported that the same hours would be in place. Ms. Owston reported that there are noise ordinances/restrictions. She reported that the zoning regulations could be obtained from Bill DeVore in the Planning and Land Development Department. Ms. Owston reported that only the first floor area is the license premise area. Ms. Owston reported that the licensees would be responsible for any underage sales and sales to a person who is visibly intoxicated. Chairperson Gearhart reported that the Board in no way sees that calling the police as a bad reflection on the establishment. Ms. Owston reminded them that alcohol must be purchased from a Maryland wholesaler and may not be given away. Ms. Owston gave an i.d. checking guide packet and tips for checking identification. Mr. Clapsaddle reported that they will not be employing any person(s) under the age of 21 years. A motion to approve the Class "B" BWL On- Sale License with Sunday Sales Option and a Draft Beer License was made by Commissioner Crosco, seconded by Commissioner Fratz, and made unanimous by Chairperson Gearhart. All fees were paid and the licenses were issued.

A sales to minor violation hearing was held at 10:15 AM for Cindy's Place #10-44. Present for the hearing was licensee, Brenda Robeson. Craig Ingram swore in the attendee. Chairperson Gearhart asked that Ms. Robeson explain the incident. Ms. Robeson reported that she was not present at the time and that her bartender claimed the cadet switched the license that was originally shown for purchase of alcohol. Ms. Owston informed Ms. Robeson that the cadets used are all under twenty-one years of age and are sworn officers using their own valid driver's license. Chairperson Gearhart reported that the penalty for a second offense would be a \$500 fine and up to a 10-day license suspension. Ms. Robeson reported she told her bartender that everyone makes a mistake. Ms. Robeson reported that she had a discussion with the bartender and there were no other penalties to the bartender. Chairperson Gearhart asked if the bartender was given a penalty by District Court. Ms. Robeson reported that the court charged the bartender with \$50 fine. Ms. Owston asked if the underage license examples were used for training purposes and if they had a calendar on the premise showing the birth date of underage persons. Ms. Robeson reported that all of her bartenders have taken the TIPS training in the past. Chairperson Gearhart explained the fines and suspension guidelines for selling alcohol to a person under twenty-one years of age. Chairperson Gearhart explained that they have the right to appeal the Board's decision to the Circuit Court within the next 30 days. Ms. Robeson said she would not be appealing. A motion was made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart to impose the \$100 fine and place a "letter of reprimand" in the license file 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. Ms. Owston gave an i.d. checking guide packet to be used by employees at the establishment. Ms. Owston also recommended that they use the website www.wecard.com for training purposes.

A sales to minor violation hearing was held at 10:30 AM for El Canelo Restaurant #10-02. Present for the hearing was licensee, Lisa J. Hernandez. Attorney Craig Ingram swore in the attendee. Chairperson Gearhart asked Ms. Hernandez to explain the incident. Ms. Hernandez reported the bus person seated the cadet. The cadet asked for a Bud Light off of the menu by pointing to it on the drink menu. Ms. Hernandez further explained that the bus person was trying to help the waiter and retrieved the Bud Light for the cadet. The cadet paid the bus person and the waiter had to ring them out on the cash register. Ms. Hernandez explained that the bus person is not fluent in the English language. Chairperson Gearhart asked that they explain what if any training employees receive. Chairperson Gearhart asked if they spoke with their staff about selling to underage persons. Ms. Hernandez explained that her husband has explained the Maryland driver's license to their servers. Chairperson Gearhart explained what second and third offenses include. Chairperson Gearhart reviewed the underage Maryland driver's license with Ms. Hernandez. Ms. Owston asked if any of the staff at El Canelo are under 21 years of age. Ms. Hernandez reported that none of their staff are currently under the age of 21. Ms. Owston described the rules of servers/bartenders and the ages they need to be. Ms. Owston reported that the bus person received a P.B.J. and a fine in District Court. Chairperson Gearhart explained the penalty for a first offense is a \$100 fine and a letter of reprimand. Ms. Owston explained that they have the right to appeal the Board's decision to the Circuit Court if they oppose the facts as presented. 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 in the license file for the violation of sales to a minor. Ms. Hernandez waived her right to appeal and paid her fine. 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. Ms. Owston gave Ms. Hernandez an i.d. checking guide packet.

A sales to minor violation hearing was held at 10:45 AM for Keyser's Ridge Liquors #10-38. Present for the hearing was licensee, Gerald Perry and manager, Cathy Borrer. Craig Ingram swore in the attendees. Chairperson Gearhart asked that they explain what if any training employees receive. Ms. Borrer explained that she personally tries to train employees on identifying underage persons. Ms. Borrer explained that since the occurrence, the owner has decided to card everyone wishing to purchase alcohol. Ms. Borrer explained that any employees not requesting identification would be fired. Ms. Borrer reported that every employee signs a paper stating that if they sell to a minor they understand their employment will be terminated. Ms. Borrer reported that the employee who sold to the cadet was fired the day that it happened. Mr. Perry reported that their employees need to enter the birth date of persons purchasing alcohol into the cash register. Mr. Perry said that they do monitor the dates entered into the cash register. Ms. Owston suggested that the owner purchase the I.D. Checking Guide. Ms. Owston also reported that the distributors will usually supply a no-cost calendar displaying birth dates for persons who are old enough to purchase alcohol. The Board went into executive session to discuss the suspension period. Chairperson Gearhart explained the Board determined their penalty for this second offense would be a \$500 fine and a five-day license suspension on February 4th, 5th, 7th, 8th and 9th. Mr. Perry

asked that the Board reconsider the dates of the suspension, due to the Super Bowl event being held this weekend. The Board deliberated and referred to Attorney Craig Ingram and Article 2B, 16-101C for their decision process. A motion was made by Commissioner Fratz, seconded by Commissioner Crosco and made unanimous by Chairperson Gearhart to impose the \$500 fine and 5-day suspension February 4th – 9th, 2011 on this license premise for the second violation of sales to a minor. Chairperson Gearhart asked if the license holder wishes to waive their right to appeal or exercise their right to appeal. Attorney Ingram explained the right to appeal the Board's decision to Circuit Court. Mr. Perry reported that they would like to not waive their right to appeal and they would appeal the Board's motion to Circuit Court within 30-days. Since the licensee did not waive their right to appeal, the Board decided to stay their decision. Ms. Owston explained how the suspension would work. Ms. Owston gave an i.d. checking guide packet to the licensee.

A sales to minor violation hearing was held at 11:50 AM for Swanton Grocery #10-54. Present for the hearing was licensee, Robert F. McBee. Attorney Ingram swore in the attendee. Chairperson Gearhart asked if any type of action was taken by the licensee to penalize the employee who sold to the cadet. Chairperson Gearhart also asked that Mr. McBee explain what if any training employees receive. Mr. McBee reported that the employee who sold to the cadet decided to quit after the sale. Mr. McBee reported that the woman who had sold to the cadet was elderly and had a hard time reading the license. Chairperson Gearhart asked if the employees are alcohol awareness trained. Mr. McBee said that it is difficult to keep his employees trained since he has such a high turnover of employees. Mr. McBee did mention that two of his employees will be training soon. Ms. Owston reported that she had an i.d. checking guide packet for Mr. McBee and that they could access www.wecard.com for further training. Mr. McBee reported that the cashier was not fined in District Court. Ms. Owston reviewed the fines and suspension for a third offense. The Board deliberated and a motion was made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart to impose the \$500 fine and 5-day suspension on this license holder for the violation of sales to a minor. Chairperson Gearhart explained the penalty for a second offense is a \$500 fine and a license suspension of 5 days, starting February 4th – 9th. Ms. Owston explained that he has the right to appeal the Board's decision to the Circuit Court within 30-days or agree with the facts as presented and accept the Board's decision. Chairperson Gearhart asked if the license holder wishes to waive his right to appeal the Board's decision. Attorney Craig Ingram explained the right to appeal. Mr. McBee reported that he would like to not waive his right to appeal. Since the licensee did not waive his right to appeal, the Board decided to stay their decision. Ms. Owston explained how the suspension would work. Ms. Owston gave an i.d. checking guide packet to the licensee.

Ms. Owston asked the Board if the results of the Sales to Minor hearings should be published in the Republican Newspaper. The Board decided not to publish the hearing results since the licensees in violation are already published by the Health Department at the end of the compliance checks. Mr. F. Gary Mullich, arriving a little earlier,

suggested that the Board should publish results of hearings as a reminder to other license holders what penalties are handed down.

Following the meeting, a general discussion was held. Ms. Owston reported that she received a call from a concerned citizen alleging that Honey's Pawn Run Saloon had strippers at their establishment on November 29, 2010. Attorney Ingram stated that the license and premises could be revoked for a period of two years with proof of lewd behavior due to Article 2B § 10-404 (c). Ms. Owston reported that there was a cash bash at the Oakland Elks Lodge to benefit the Bryan D. Crosco Medical Relief Fund. Ms. Owston reported that it was brought to her attention that there were many persons hanging out at the cash bash and drinking all day. Ms. Owston reported that the police were called in at 10:30 PM and arrested four persons at the establishment after a brawl broke out at the cash bash. Chairperson Gearhart reported that the Oakland Elks should be called in to the next meeting. Ms. Owston also reported that a patron involved in an automobile accident on January 1, 2011. Ms. Owston is going to circulate police incident reports after they are finalized. Ms. Owston asked if she should ask Mr. Foster of Honey's Pawn Run Saloon to report to the next meeting. The Board agreed that he should be called in. Ms. Owston asked again if the Board would also like to have the Oakland Elks Lodge called in to the next meeting. Chairperson Gearhart suggested that we require all persons be alcohol awareness trained so that they can sell alcohol. Ms. Owston reported that they could possibly attempt to add this to legislation in the future. Ms. Owston reported there was a fight at the Deer Park VFW on evening of Saturday, December 12, 2010 and later that evening after midnight there was an intoxicated patron from the VFW picked up alongside the road near Route 135 and Sand Flat Road. Ms. Owston stated that the police report indicated a patron displayed a knife as a weapon at the VFW and the Sheriff's Office was contacted. Ms. Owston suggested that the VFW be called in for a discussion regarding the incident. The Board reported that they agreed that the VFW should be called in to the next meeting as well. Ms. Owston also reported an automobile accident on January 8, 2011 involving a patron of Black Bear Tavern. Ms. Owston reviewed a Criminal Investigation Report stating that a second-degree assault took place on a patron of the Sugar Shack Tavern on November 12, 2010. Chairperson Gearhart read in the police report that the owner, Mr. Sines, knowing that the persons in the bar were trouble decided to leave the bar in the hands of the bartender anyway. The Board reported that they do wish to call in Mr. Sines for a discussion at the next meeting. In summary, the Deer Park VFW, the Sugar Shack Tavern, Honey's Pawn Run Saloon and the Oakland BPO Elks will all be called in for show cause continuance hearings at the next meeting. There will be legislative bills that are being monitored, including House Bill 234 – Direct Wine Shipper's Permit and House Bill 121 – altering State tax rates for alcoholic beverages sold in Maryland; altering the distribution of the alcoholic beverage tax revenue. Ms. Owston reported that Eileen Gideon is planning to re-open Silver Tree on May 1, 2011. Ms. Gideon currently owns Dutch's Daughters restaurant in Frederick, MD. The Silver Tree will be called Dutch's at Silver Tree. They are expected to attend the April meeting.

The November 4, 2010 meeting minutes were reviewed and accepted. The motion was made by Commissioner Crosco to accept the minutes. The motion was seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. The meetings that were scheduled for December 2, 2010 and January 6, 2011 were not conducted.

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

The next regular meeting of the Board of License Commissioners is scheduled for Thursday, March 3, 2011 at 9:00 AM

Thomas A. Gearhart
Chairperson

March 3, 2011
Date