

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting in the Commissioners Public Meeting Room 209 on Thursday, March 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, Administrative Assistants, Amy Baker and Carol Craver and Attorney, Liz Georg.

Commissioner Fratz called the meeting to order at 9:12 AM.

The February 3, 2011 meeting minutes were reviewed and accepted. The motion was made by Commissioner Fratz to accept the minutes. The motion was seconded by Commissioner Crosco and made unanimous by Chairperson Gearhart. The Board mileage sheets were signed.

General discussion was held before the 9:30 AM license hearing. Eastern Garrett VFD Gun, Cash & 4x4 Bash is scheduled to be held on March 5, 2011. The Oakland VFD is scheduled to hold their Mega Bash on March 12, 2011. Grantsville VFD is scheduled to hold a Gun Bash on April 30, 2011. F.O.P. Lodge # 99 is also having a Gun Bash on April 2, 2011. Ms. Owston explained laws on non-profit gaming as related to issues that happened at the BPO Elks Lodge. Ms. Owston also reported crowd manager laws that were alleged to be broken during that time as well. Ms. Owston presented legislative updates on House Bill 234 and 121 and 1313. House bill 1313 would affect the hours of Class "A" licenses, but there is a Garrett County law that would override that. House Bill 1120 was briefly discussed as it relates to wrongfully selling or furnishing alcoholic beverages. Ms. Owston reported that there are a few renewal holds for alleged outstanding tax obligations. Ms. Owston reported that the Pizza Hut transfer license application was received too late for the March meeting and incomplete. If their application is not complete for the April 7, 2011 meeting, they will jeopardize their license being revoked until the process is complete. Swanton Grocery and Keyser's Ridge Liquors adhered to their 5-day suspensions from February 11th – 16th, 2011. Ms. Owston reported that Kim Hamilton from Winner's Circle wants to have on-premise consumption. Ms. Owston informed her that they would need to first request approval with the Town of Mt. Lake Park.

A license hearing was held at 9:30 AM for a Class "D" BWL On-Sale Draft Beer License for JjJAXX, LLC, d.b.a. The Local, at 110 South Main Street, Accident, Maryland. Present for the hearing were applicants, James Flanigan and Lauren Bonar. Mr. Flanigan reported that hours would be 3:00 PM until 1:00 AM. Ms. Bonar has had TAM certification and has had bartender training. Mr. Flanigan reported that he plans to expand the menu in the future. Ms. Bonar stated that they plan to start opening at 11:00 AM in the future and offering a lunch menu. Mr. Flanigan reported that they hope to open on April 1, 2011. The building has been completely renovated. Ms. Owston reported that she needs a sketch of the floor plan including storage and a copy of the Sales & Use Tax Number as well as the approved Health Permit and Use & Occupancy Permit, if applicable. She informed the applicants to contact the Health Dept., Fire Marshal and Permits & Inspections Office as soon as possible to set up any required inspections. Ms. Owston also reported that Ruth Ann Hahn, Accident Town Clerk, has said that the town is in agreement with issuing the license. Ms. Owston reported that any amusement machines are required to have state or county amusement license stickers. Ms. Owston also informed the applicants that all alcohol must be purchased through a Maryland wholesaler and all invoices for the alcoholic beverages must be available for inspections. Ms. Owston reviewed that alcoholic beverage containers cannot be refilled. Ms. Owston reminded them to feel free to call the office with any questions as it relates to the local rules and regulations and the regulations of Article 2B. Ms. Owston recommended that at least one of them take the on-line crowd manager-training course. Ms. Owston also requested that if they ever sell to a minor during compliance checks, please contact the office. Chairperson Gearhart reported that the Board encourages licensees to use the police for any incidents that occur. Chairperson Gearhart reported that use of the police is not looked upon as a bad thing.

Chairperson Gearhart asks that all paperwork be submitted timely. Chairperson Gearhart reported that the licensees should feel free to call Ms. Owston with any questions. Mr. Flanigan reported that they are working with the Mayor of Accident to prevent noise pollution. Ms. Owston suggested they be pro-active with controlling the sound from the establishment since they are located close to a residential area. Ms. Owston mentioned that license renewals are coming up in March and are required to be submitted by May 1st. A motion to approve the Class "D" BWL On-Sale License and Draft Beer License pending receiving various administrative documents was made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart.

A Show Cause Hearing was held at 9:45 AM for Garrett Memorial VFW, which operates under a Class "D" BWL On-Sale License and Draft Beer License. Present for the hearing were licensees, Paul Everly, John Hershman, Ronald N. Umbel and Richard E. Jordan. Those sworn in by attorney Liz Georg were Paul Everly and John Hershman. Garrett Memorial V.F.W. Post 10077 is located at 4107 Maryland Highway, Deer Park, Maryland. The Board held a hearing to review an Incident Report received from the Garrett County Sheriff's Office for a fight that occurred on December 11, 2010 and another Incident Report on December 12, 2010 for an intoxicated person. Mr. Everly reported that he was downstairs at the shooting match and a bartender asked for Mr. Everly's help upstairs. Mr. Everly reported that one of the patrons had his belt unbuckled and was singing and disturbing everybody in the building. Mr. Everly asked that the patron to please sit down and be quiet, finish his beer and someone would take him home. The patron calmed down. A new patron came into the facility and a patron who was shooting pool started an altercation apparently due to a past problem between the two individuals. Mr. Everly then reported that when the fight broke out that he tried to stop it and then he was hit. Once he was hit, three or four people backed him up or calmed it down. Mr. Everly reported that an employee had contacted the Sheriff's Office during this time. Things calmed down and before he knew it, Officer Warnick was there requesting a knife from the first individual mentioned during the hearing. The officer took the knife and gave it to the bartender and the deputies walked out. Mr. Everly questioned what that was all about and the bartender stated that when the fight broke out the first individual pulled a knife out. Mr. Everly stated that the fight had nothing to do with alcohol; it was a personal grievance between the two men. Mr. Everly arranged for the first patron to be taken home where he said he lived. Mr. Everly reported that patron had only been served one beer in the VFW and it was because of a new bartender that did not know his background. Chairperson Gearhart asked if he was a member. Mr. Everly stated that he is a qualified veteran and he was not a member. Chairperson Gearhart asked if he had been a problem before. Mr. Everly said only one time, it was simply for singing and he tends to get loud and create a disturbance. Mr. Everly did report that they have asked the unruly patron not to come back. Mr. Hershman reported that he had invited the patron to the VFW. Mr. Hershman said that they could not turn anyone away that applies for veteran benefits. Further discussion continued on the incident. Chairperson Gearhart reported that an intoxicated person cannot legally be served alcohol. Chairperson Gearhart reported that the VFW can help any individual with veteran benefits; however, they cannot serve any person who is intoxicated. Ms. Owston has also assembled some packets for bartenders on how to serve a last drink to individuals who may have had too much to drink. Ms. Owston reported that they would like to have the bartenders better prepared to handle these types of situations. Chairperson Gearhart reported that anytime the VFW would be called in that all licensees would be held responsible. Commissioner Crosco asked if someone had driven the unruly patron home. Mr. Everly reported that a VFW member drove him home. Commissioner Crosco asked how the patron had arrived at the VFW that day. Mr. Everly was not aware how they had arrived there. Ms. Owston mentioned that this same individual was later found passed along the road as mentioned in the second Incident Report provided by the Garrett County Sheriff's Office. After this discussion, the Board went into executive session to review the incident. Chairperson Gearhart suggested that a letter of reprimand be sent to the VFW.

Ms. Owston suggested that the letter include that any future incidents will be considered a continuance of this hearing and fines and/or suspensions could follow. Commissioner Crosco made a motion to issue a letter of reprimand. This was seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. Chairperson Gearhart called the licensees back into the meeting. Chairperson Gearhart reiterated that an intoxicated person should not be served. Chairperson Gearhart asked if the bartender involved was TIPS trained. Mr. Everly reported that all of the VFW bartenders are TIPS trained. Chairperson Gearhart reported that a letter of reprimand will be sent to the Garrett Memorial VFW. Chairperson Gearhart mentioned that the Board feels the VFW handled the situation very well. Ms. Owston gave packets on crowd management, alcohol cut-offs, etc. and reviewed the importance of the bartender's knowledge of various patrons' behaviors.

A Show Cause Hearing was held at 10:20 AM for Honey's Pawn Run Tavern, which operates under a Class "D" BWL On-Sale License. Present for the hearing was licensee, John P. Foster, Sr. V & J Enterprises, LLC, d.b.a. Honey's Pawn Run Tavern, is located at 485 Boy Scout Road, Oakland, Maryland. The Board held a hearing to review the event on November 29, 2010 that was reported by a unanimous concerned citizen. Attorney Liz Georg swore in Mr. Foster. Ms. Owston stated that Mr. Foster had contacted the office prior to the hearing as to who had informed the office of the activity on the licensed premise. Ms. Owston then mentioned that she contacted the concerned citizen who still wanted to be anonymous. Chairperson Gearhart questioned as to whether or not the person was there. Ms. Owston responded by saying, "no." Mr. Foster reported that a bachelor party with a dancer was held at Honey's Pawn Run. The party lasted about four hours, but the bar was totally closed. Chairperson Gearhart asked if they were strippers and Mr. Foster responded that, "yes, she took her top off." Chairperson Gearhart asked if Mr. Foster was aware that this is against the law and that maybe he should call the Board and check on it prior to the event. Mr. Foster responded that at first he did not know the dancer was going to be there. He found that out about two days prior. He also stated that he did not realize that that was illegal to do; at that, he was sorry. Chairperson Gearhart questioned if Mr. Foster had read the statute, and Mr. Foster replied, "Yes, I have and I messed up." Chairperson Gearhart questioned if Mr. Foster understood the seriousness and what the Board is commissioned to do, and Mr. Foster replied, "Yes, I do and it won't happen again." Ms. Owston stated for the record that at the last Board meeting, Craig Ingram reviewed with the Board Article 2B § 10-405 as it relates to nudity and sexual displays and seriousness of this section of the law. She reported that the license could be revoked because of this occurrence and no license could be issued to the persons or premise of the business for two years. Chairperson Gearhart asked the following question to Mr. Foster, "so as we sit right now as far as the discussion now, you did have strippers and did violate that section of the law" and Mr. Foster replied, "Yes." Commissioner Crosco asked if the bar was closed at the time of the bachelor party. Mr. Foster agreed that the bar was closed to the public at that time. Commissioner Crosco asked if there were alcoholic beverages there, and Mr. Foster replied, "Yes there where." Commissioner Crosco then asked if it came from your bar or outside and Mr. Foster replied, "The bar was closed." Ms. Owston then interrupted and questioned was to whether the bar was closed to the public, and Mr. Foster responded by saying, "I was not selling alcohol that night." Chairperson Gearhart asked where the alcohol was coming from and Mr. Foster replied, "The person who rented the room; which is out front from the actual bar and that is where the stripper was and the alcohol was at." Chairperson Gearhart again asked where did that alcohol come from and Mr. Foster replied, "They brought it with them." Chairperson Gearhart then asked, what day of the week was this and Mr. Foster replied, "Monday and that is my slowest day and I am closed usually on Monday." Commissioner Fratz asked if the area where the bachelor party was held is part of the license premise. Mr. Foster responded, "Not yet, it is still under construction it is pretty much finished and he is waiting to get the final on it." Chairperson Gearhart questioned if he was in the process of adding

a room and Mr. Foster replied that it is an addition. Chairperson stated that since it is attached to the bar it is part of the premise. Ms. Owston reported that the Board approved this section of the establishment a few years ago as part of the Clean Indoor Air Act and then Mr. Foster agreed. Chairperson Gearhart reported that having alcohol brought in from another location is a violation of the law as well. Mr. Foster admitted that he was not aware that they had violated the law in any way but has since read the copy of the statute sent by Ms. Owston. Ms. Owston questioned if there was anyone under twenty-one years of age. Mr. Foster responded that there was no one under twenty-one and that he had a good friend checking for the invite checklist and verified their age. Commissioner then asked how many attended the event and Mr. Foster responded by saying there were 47 in attendance. After this discussion, the Board went into executive session. Article 2B § 12-107 states that alcohol cannot be brought into the license premise. Article 2B § 10-405 was also reviewed and discussed. Chairperson Gearhart suggested a fine of \$100 for alcohol from another location being on the license premise. The Board agreed to that fine based on Article 2B § 12-107. Commissioner Crosco made a motion to instate that fine for Count 1. That motion was seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. The Board also agreed to a fine of \$500 and a 10-day suspension beginning Friday, March 4th, 2011 for lewd behavior mentioned in Article 2B § 10-405 regarding nudity/sexual displays. A motion was made for this second count by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. Chairperson Gearhart explained the fines and suspension to Mr. Foster. Chairperson Gearhart also explained that Mr. Foster has the right to appeal the Board's decision to Circuit Court. Mr. Foster stated he would not exercise his right to appeal the Board's decision. Ms. Owston reviewed the stipulations for alcoholic beverages during a suspension period and that Mr. Foster will need to turn in his license to the Board on the morning of March 4th. The license can then be picked up on the afternoon of March 15th. Chairperson Gearhart stated that in the future Mr. Foster should feel free to call the Board with any questions and concerns involving his license.

A Show Cause Hearing was held at 10:15 AM for Sugar Shack Tavern, which operates under a Class "D" BWL On-Sale License. Present for the hearing was licensee, Robert Sines. Attorney Liz Georg swore in Mr. Sines. Sugar Shack Tavern is located at 269 Maple Street, Friendsville, Maryland. The Board held a hearing to review an Incident Report that was reported by the Maryland State Police on November 12, 2010 involving a customer who had been assaulted at the establishment. The individual who had been assaulted at the Sugar Shack Tavern filed charges at the McHenry State Police on November 17, 2010. Mr. Sines reported that he had been at the bar before the incident occurred. Mr. Sines reported that he had some trouble with one of the ladies accused of the assault before. He said that he had not had any physical altercations involving these ladies before. Mr. Sines reported that he heard that the subject had been pulled off of her bar stool by three patrons of the bar and had been kicked. Mr. Sines reported that he may not renew his bar and keep it open. Chairperson Gearhart asked what action was taken after the incident. Mr. Sines barred the three individuals from returning to the bar ever. Chairperson Gearhart reported that the police report said that the bar had trouble with these individuals before. Mr. Sines explained that the problems did not involve physical altercations. Chairperson Gearhart explained that Mr. Sines had been called in to find out why the individuals were allowed in the bar. Commissioner Crosco asked how often Mr. Sines is in the bar. Mr. Sines reported that he is in the bar daily. Mr. Sines reported that he was not made aware of this incident until the next day. Chairperson Gearhart reported that anytime incidents like this occur that Mr. Sines should contact Ms. Owston. The Board deliberated during an executive session. Ms. Owston asked what action they would like to take. Commissioner Fratz suggested a letter of reprimand. Ms. Owston reported that there is no law stating that the licensee is required to report an incident at the license premise. Ms. Owston suggested that perhaps a log of incidents should be kept on the premise. Commissioner Fratz made a motion to send a letter of reprimand. This was

seconded by Commissioner Crosco. Chairperson Gearhart voted against the letter of reprimand. Chairperson Gearhart explained the motion to Mr. Sines. Ms. Owston suggested that a bar log be kept reporting incidents at the establishment. She also presented Mr. Sines packets on crowd management, alcohol cut-offs articles, etc.

A Show Cause Hearing was held at 10:30 AM for the B.P.O. Elks Lodge #2481, which operates under a Class "D" BWL On-Sale and Draft Beer License. Present for the hearing were licensees, Rick Broadwater and Tracy Harvey as well as Raymond Monk who is the Exalted Ruler. Those sworn in were: Raymond Monk and Rick Broadwater. The B.P.O. Elks Lodge #2481 is located at 100 Elk Street, Oakland, Maryland. The Board held a hearing to review an Incident Report that was reported by the Sheriff's Office on January 29th, 2011 concerning several persons who were involved in a fight resulting in several arrests. Mr. Monk reported that he was at the Elks Lodge on the day of the fundraiser. Mr. Monk reported that the back hall had been rented for the cash bash fundraiser. Mr. Monk stated that it was not as much about a fight as a family feud. Mr. Monk reported that an individual tried to come in without a ticket and then someone brought him in as a guest on his or her ticket for the \$10 cost. Upon his entrance to the premise, he was immediately engaged in a fight with three other patrons. Chairperson Gearhart asked who was in charge of the event from the Elks Lodge and mentioned that the licensees are held responsible for the licensed premise and that they must be aware of what occurs on the premise especially if they are going to have kegs of beer that long. Mr. Monk responded that he was then. Chairperson Gearhart stated that obviously, there was a lot of intoxicated person there and both Mr. Monk and Mr. Broadwater stated that they did not feel the alcohol was the problem. Mr. Broadwater also stated that some of the boys who were arrested were not initially involved in the altercation. Mr. Broadwater stated how they separated the individuals and escorted them outside the back door and the Sheriff's Office and Town of Oakland Police Department were on the scene to assist. Monk reported that they would like to ban all four individuals involved in the fight from returning to the premise ever again. Chairperson Gearhart asked if anyone had been watching the keg. Mr. Monk reported that there were bartenders working the event. Ms. Owston asked if wristbands were used. Mr. Monk stated that wristbands were used. Mr. Broadwater reported that the Sheriff's Office arrived about 2-3 minutes after the incident began as they were escorting the individuals out of the banquet hall. Mr. Broadwater reported that they did try to end the event after the fighting incident occurred. Mr. Broadwater and Mr. Monk reported that they did not observe any persons turned away to be served alcoholic beverages. Chairperson Gearhart reported that it is against the law to serve alcoholic beverages to a visibly intoxicated person. Ms. Owston read part of the police report that stated the event was not managed well. Ms. Owston reported that the Fire Marshal does have a capacity for the premise. Mr. Monk reported that the capacity from the Fire Marshall had not been exceeded. Mr. Monk stated that some of the parking areas had not been plowed; therefore, many people were parked on the street. He also explained the reason some of the doors were closed was due ice hanging off the roof. Ms. Owston asked if this was an Elks sponsored fundraiser. Mr. Monk responded yes and no to the question. Ms. Owston reported that a non-profit organization or the Elks Lodge should conduct any gaming activities held on the premise and then make a charitable donation back to the beneficiary of the event. Mr. Broadwater reported that perhaps they should assign a few members to control each event at the Elks Lodge. Ms. Owston reported that according to the State Fire Marshal a crowd manager is required for events with 50 to 250 persons at a public assembly. Ms. Owston gave a packet regarding crowd management to the licensees. Chairperson Gearhart reiterated that the Elks Lodge is in charge of any events that occur on the license premise. Ms. Owston reported that perhaps a last call needs to be made during the last hour of any event. Chairperson Gearhart reported that all alcohol at these events should come directly from the Elks Lodge after it was purchased from a Maryland wholesaler. Ms. Owston reported that the Elks should be in charge of any gaming event held on the premise, which is not conducted by a qualifying non-profit organization.

Chairperson Gearhart reported that the Board would like to see more control at any events such as this. Ms. Harvey reported that they are working to obtain addresses for those involved in the incident so that they may bar them from the lodge. Commissioner Crosco asked what type of wording is involved in the contract for the hall. Ms. Harvey said that there is no wording involving intoxication and fighting. Ms. Harvey reported that they are now working on revising this contract to include rules on intoxication and fighting. Chairperson Gearhart reported that paperwork should be handled in a timely manner. Mr. Monk reported that Steve Stefan, Tracy Harvey and Harold Cannon are going to be licensees in the renewal process. Ms. Owston reported that she would like to have at least two contacts. Mr. Monk gave Ms. Owston his cellular phone number and said that Larry Smith who is on the Board of Trustees would be the second person to contact at the Lodge since he is normally there during working hours. Ms. Owston reported that anytime the police are called to the licensed premise the licensees should report this to the Board. Chairperson Gearhart reported that the Board encourages the use of police forces to help in any situation. The Board then deliberated during an executive session. Commissioner Crosco made a motion to place a "Letter of Reprimand" for gaming issues and the peace and safety of the community including one of the exit doors being closed and the motion was seconded by Commissioner Fratz and unanimously approved. Chairperson Gearhart reminded the licensees of the seriousness of the closed exit doors and the importance of notifying the crowd at the beginning of the function.

Following the meeting, a general discussion was held. Ms. Owston reviewed the Goose Bumps & Grapes wine tasting event that was held at Pizzeria Uno on the deck of the Honi-Honi. All sales of the wines being promoted to benefit the Maryland Special Olympics was conducted at Arrowhead. There was discussion on The Neighborhood Store located in Kitzmiller since they appear to be closed. Ms. Owston will follow up. The Bud Light concert series held at the Wisp; sponsored by Budweiser is being investigated by the Comptroller's Office.

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

The next regular meeting of the Board of License Commissioners is scheduled for Thursday, April 7, 2011 at 9:00 AM

Thomas A. Gearhart
Chairperson

April 7, 2011
Date