

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting in the Commissioner's Public Meeting Room on January 5, 2012 at 9:00 AM. Present for the meeting was Chairperson Thomas Gearhart, Commissioner Bea Crosco, Commissioner Michael Fratz, Administrator to the Board Deborah R. Owston and Mike Wilburn, Garrett County Health Department.

Chairperson Gearhart called the meeting to order. The Board signed mileage sheets.

The December 1, 2011 meeting minutes were discussed and the Board determined they would review and accept the minutes at the next meeting.

General discussion was held prior to the hearings. Mr. Wilburn discussed with the Board his follow up with the Environmental Health Office sanitarian who cited Wildwater Inn with the Clean Indoor Air Act violations. Ms. Owston stated that on December 30, 2011, the licenses issued to Oakland Golf Club, Inc. operating as the Oakland Golf Club transferred to Autumn Newcomb-Shay, Matt Newcomb and Terry Fram of Gourmet-to-Go, LLC who will be operating the restaurant and lounge area of the club. Ms. Owston further informed the Board that the pending administrative items requested were received. After Craig Ingram reviewed these items, it was determined that a few revisions are needed. However, now licensee, Terry Fram wants to be removed from the alcoholic beverage license so additional executed forms will be necessary to document the changes. Ms. Owston updated the Board on the potential application for the Winnfield Golf Course. It now appears that Kody Kamp will be applying for the license instead of Galen Kamp. The Board approved his established firewood business as meeting the requirement of Article 2B § 9-212 (a). Ms. Owston said that she has been in contact with Barb Williams of Bud's Package Liquors in reference to the clean up to the burned section of building. Ms. Williams said the work is on going and that they may possibly request the Board approve their license be placed on hold until late spring.

A sales to minor first offense violation hearing was held at 9:20 AM for Dutch's at Silver Tree license #11-11 Class "B" BDR Deluxe BWL On-Sale and #11-11D Draft Beer. Present for the hearing was licensee, Terry Boggs and the General Manager, Meagan Till. Chairperson Gearhart asked Ms. Till if she was there when it happened and she said that unfortunately she was not due to stepping out briefly. Ms. Till stated that it was her understanding that the manager at the time was on his way to do a task and the gentleman came into the bar and he was instructed to take care of the guest and he instinctively took care of him and did not card him or do what he was supposed to do. Chairperson Gearhart questioned whether he was TIPS or TAM trained and Ms. Till said that he was trained about a year and half ago in Frederick. Chairperson Gearhart questioned as to whether any corrective action had been taken and Ms. Till mentioned that they have trained eleven members of the staff since then. They have also had meetings with the staff to tell them the severity and importance so that they know on a daily basis that it is something they have to pay attention to everyday. They also have a board in their server area where they now write the DOB for someone just turning twenty-one as a constant reminder. Chairperson Gearhart mentioned that the wholesalers might have calendars for the business as well. Commissioner Crosco said she felt everything had been explained

and did not have any further questions at the time. Commissioner Fratz questioned what time of day did this occur and Ms. Till said it was early afternoon around 3:30 PM. Ms. Till said they were not busy at the time and not to give excuses by any means but they were getting ready for a holiday party and there was a lot of commotion. Chairperson Gearhart asked if she had ever sat down with her employees and gone over a Maryland provisional license line by line and pointed out the three main things they need to look at which are all in red. The birth date is in red, there is a red banner around the box with under 21 alcohol restricted and the date they will turn 21 is displayed in red as well. He also mentioned that the Pennsylvania license is very similar. Chairperson Gearhart asked if any disciplinary action was taken with the employee who did not card the cadet. Ms. Till said he is back working in Frederick at their other restaurant. Ms. Owston showed Ms. Till the cadet's Pennsylvania ID and mentioned that when they are having staff training to try to do some role-playing with dates. Ms. Owston also pointed out that they should be checking the expiration date as well since driver's licenses can now be renewed through the mail and others may be using old licenses. Ms. Owston mentioned the management or person seating the customers could use the wine menu as a visual indicator to the server for carding purposes. She suggested that if a wine menu is not placed on a table the server should then be prompted to card the customers. Chairperson Gearhart reported that the penalty for a second offense would be a \$500 fine and up to a 10-day license suspension and a third offense is a \$1,000 fine and a thirty-day suspension of the license. 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 first offense violation of sales to a minor. Chairperson Gearhart explained that she would have thirty days to appeal the Board's decision to Circuit Court should she choose. Ms. Till agreed with the facts as presented and waived her right to appeal the Board's decision.

A show cause continuance hearing was held at 9:40 AM for Wildwater Inn, Class "D" BWL On-Sale License located at 14452 National Pike. Licensee Judy Broadwater was present for the hearing. The grounds of the hearing were a result of two recent violations of the Clean Indoor Air Act on October 25, 2011 and November 3, 2011. Chairperson Gearhart stated that the Board was copied on the two violation reports documented by the Garrett County Department of Health and Mental Hygiene stating that smoking was taking place inside the bar. Ms. Broadwater stated that they were just smoking; she is guilty. Ms. Broadwater then said that no one is smoking in there now. She questioned if she could smoke while fixing her coal furnace. Ms. Owston explained that that would be determined by what is noted as the actual licensed premise. Ms. Broadwater said that her living quarters are there in the building. She was advised to draw a layout of the entire building and note the separation between the licensed premises and her living quarters so that the licensed premise could be updated now that the Clean Indoor Air Act is in place. The Board went into Executive Session to discuss any possible fines or suspension of the license. Commissioner Crosco made a motion of a \$200 fine for the infractions and a requirement that the measurements indicating the revised license premise are due within one week, seconded by Commissioner Fratz and unanimously approved by Chairperson Gearhart. Ms. Broadwater said she'd have it mailed tomorrow. Chairperson Gearhart informed Ms. Broadwater that she would have 30-days to pay the fine or appeal the fine to Circuit Court. Ms. Broadwater pleaded guilty of the smoking violations and agreed to pay the fine.

A sales to minor second offense violation hearing was held at 10:00 AM for Swanton Grocery #11-54. Present for the hearing was licensee, Robert F. McBee. Mr. McBee said that the employee who sold to the cadet had been working there for the past six months and he must have let his guard down or was pre-occupied or something, but he sold to the cadet. He has since been trained in TIPS. Mr. McBee said he is a good employee and in college and he did not let him go because he is trying and it took him a while to find an employee who was at least twenty-one to help cover the store when he was off. He said the clerk is aware of the seriousness. Chairperson Gearhart suggested going over the various drivers' licenses line-by-line and going over the areas indicated in red to help verify the customer's age. Ms. Owston stated that the cadet had a Pennsylvania driver's license and if the clerk had asked for the ID, the license is very similar to Maryland. It has a red box above the picture and the format of the ID is vertical. Ms. Owston suggested that anytime a customer has a vertical format license that at least two clerks verify the DOB if possible. Ms. Owston discussed training material that may be available from the wholesalers as additional educational items. Ms. Owston emphasized the fact that the clerks need to take control of the situation once they have the ID in hand, take their time verifying the information and put the blame of the delay on management if necessary. Ms. Owston reviewed the suspension guidelines and that the infraction will remain in the license file for two years. The Board went into Executive Session to deliberate the fine and possible suspension of the license for the second sale to a minor within two years. After the Board deliberated, 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 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 January 6th – 11th. Chairperson Gearhart 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. 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 with their decision. Ms. Owston explained how the suspension and appeal process would work.

A sales to minor violation hearing was held at 10:20 AM for Keyser's Ridge Liquors #11-38. Present for the hearing was licensee, Gerald Perry and manager, Kathy Borrer. Ms. Owston updated the Board on her conversation with Ms. Borrer within the past few weeks in reference to Mr. Umstott's concern of the pending District Court hearing for the store clerk being held after this hearing today and the possibility of having today's hearing postponed till after District Court. Ms. Owston said that the clerk's original court date had been postponed per her request and is re-scheduled for February 7, 2012. Ms. Borrer stated that the clerk was disputing the facts of the charges because according to her, in all technicality she carded him, she read the ID back to the officer and she claims that the ID read 5-2-1990 and that was not the same ID that she saw when the officer came back into the store. Ms. Borrer said the clerk had been employed for three months at the time and was scheduled to go to TIPS in January prior to this occurring. They now have a system that requires the clerk to enter a DOB to proceed with the transaction. Ms. Borrer said she did review the security tape recording and the clerk did indeed check the ID. Chairperson Gearhart questioned whether the DOB entered prints on the register tape. Ms. Borrer

said the current system that Mr. Umstott purchased will. Chairperson Gearhart cautioned Ms. Borrer that the clerk could enter his or her own birth date as a short cut and Ms. Borrer agreed. Mr. Perry said that since the last time, a camera above the register has been installed and the new register; they are trying. Ms. Borrer said she has gone over the material that Ms. Owston has provided and is trying to educate the clerk as much as she can. Chairperson Gearhart pointed out the three areas in red that indicate the age of the customer. Ms. Borrer mentioned that she refused the sale of a valid vertical format license as instructed by Mr. Umstott. Ms. Borrer further relayed what the clerk said about the officer coming back into the store and the fact that she never saw the officer make any contact with the cadet to get the cadet's ID. Mr. Wilburn, who was with the cadet and MSP Trooper, spoke up and explained how the compliance check works. Mr. Wilburn stated that the MSP Trooper showed the license to her twice. The cadet briefly came back in to identify the clerk and then remained in the breezeway area as instructed by the Corporal. Chairperson Gearhart explained that the process between the clerk and District Court is independent. Ms. Owston quoted the section of Article 2B 12-108 (f) which does not bar the Board from proceeding administratively against the licensee. Ms. Owston stressed the fact that a vertical format ID should be alerting the clerk to really take his or her time and if needed have another clerk verify the DOB if possible or they say it aloud. She also recommended that they take a good look at the expiration date since licenses can be renewed by mail and the old license may still be used by someone else for attempting to purchase alcohol. Ms. Borrer said the new register would not accept a DOB that does not compute to the customer being at least 21-years of age. She said she will be monitoring this process. Ms. Borrer hopes this is a lesson the clerk will learn from and that she will be a better employee because of the consequences. Commissioner Crosco and Commission Fratz did not have any comments. Ms. Owston reminded them about training opportunities to go over dates and warned them that they cannot attempt to conduct their own compliance checks with a person under 21-years of age. Ms. Owston also handed out some training material including a sample copy of a Pennsylvania driver's license. Chairperson Gearhart explained their penalty for this third offense is a \$1,000 fine and an automatic license suspension of 30 days. Ms. Owston explained how the suspension and appeal process would work. A motion was made by Commissioner Crosco, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart to impose the \$1,000 fine and 30-day suspension January 6th – February 6th, 2012 on this license holder for the 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. Mr. Perry reported that they would like to not waive their right to appeal. Since the licensee did not waive their right to appeal, the Board decided to stay with their decision. Ms. Owston gave an ID checking guide packet to the licensee.

An Administrative session was held at 10:40 AM for Shorty's Bar & Grill in reference to two Incident Reports involving the establishment. Present was licensee, William Finch. Chairperson Gearhart asked Mr. Finch if he was there at the time and Mr. Finch replied that he was not. Mr. Finch explained the situation where a couple came in with their daughter's husband and they ordered drinks. The daughter remained outside in the car. The son-in-law started arguing with some others while in the pool hall, so they put him out. After sometime the father-in-law when out to talk with him and then the mother-in-law went outside to check on them. She came back to the door and asked the bartender to call the law because she was worried about her husband getting hurt. Chairperson Gearhart

mentioned that the bartenders need to be aware of the customer's intoxication and stop them at the door if necessary if they are coming from somewhere else where they had drank. Ms. Owston reminded and explained to Mr. Finch that it is very important to contact the office after such an event because by just reading the Incident Report and not knowing the entire situation, one can make many speculations and maybe we would not be here now had you called. Ms. Owston questioned if they have had to cut many people off from service. Mr. Finch said they know not to over serve. Ms. Owston questioned whether the bartender is TIPS or TAM trained. Mr. Finch said he thinks she has been to it in the past and will probably go to one of the upcoming trainings. Ms. Owston also said to make sure the bartenders are aware that some people can still function after consuming several drinks but the bartenders still must be aware of how many drinks they have served a customer. She also said it is very important to make sure that in between shift changes the bartenders need to communicate on the customers who are in the establishment. Ms. Owston also reviewed a different report where an individual who was picked up by the Sheriff's Office in October stated he had been at Shorty's Bar & Grill; Mr. Finch said he was not aware of the individual or the situation. Ms. Owston provided Mr. Finch with several articles on how to cut off service to a customer and other carding training material. The Board took no administrative action after discussing the Incident Report with Mr. Finch and will note the incident in the license file.

A license hearing was held at 11:00 AM for a Special Class "C" BWL 2-Day License for Friendsville VFRD to be used on February 24th & 25th, 2012. Present for the hearing was applicant, Craig Umbel. The license premise is to be Friendsville VFRD Fire Hall, 122 Walnut Street in Friendsville, MD. Mr. Umbel reported that they would be having their 10th annual gun bash fundraiser. Chairperson Gearhart asked how they would be dispensing the beer. Mr. Umbel stated they would be dispensing the beer from the keg trailers provided by Lohr's and will be serving in cups only, no pitchers. There will be no free reign to the beer; it will be monitored. Chairperson Gearhart questioned how they would be handling under age people attending the event. Mr. Umbel said you must be at least 18 years of age to enter and those 21 years of age and older will be wrist banded. Chairperson Gearhart asked how they would handle if an older person was caught providing beer to a minor. Mr. Umbel said they announce at the beginning that this would result in dismissal. Chairperson Gearhart suggested that they also announce that the ticket will be void if anyone who supplies alcohol to a minor and any minor that attempts to consume alcoholic beverages. Mr. Umbel said since he is the announcer, he would make sure to mention that as well when he states that they would not tolerate any underage drinking and that everyone must go to the beer trailer for their own beer, no one is permitted to get a beer for someone else. One thousand tickets will be sold at \$25/person including beer, food and prizes. The hours of the event will be 10:30 AM until 6:00 PM. Ms. Owston reminded Mr. Umbel to monitor the consumption due to the long hours of the event and to make sure that at the beginning of the event the crowd is aware of any blocked exits if applicable and to consume responsibly. Mr. Umbel said the bash would be held in the bay area of the fire hall. They anticipate around 400 in attendance. Mr. Umbel said they would be selling paper tips as well to benefit the fire department. Ms. Owston

mentioned that BYOB is prohibited as well as selling any beer to go. Ms. Owston questioned if any of the members are currently TIPS or TAM trained, Mr. Umbel replied that a few members were trained. A motion to approve the Special Class "C" BWL 2-Day License was made by Commissioner Crosco seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. All fees were paid and the license issued.

After the scheduled hearings, there was additional general discussion. No update was available on the legislative requests. Chairperson Gearhart mentioned about Black Bear Tavern's food to alcohol ratios; however, no contact was made with the office to be placed on the Agenda to discuss Sunday sales so the Board will take no further steps for this legislative session. Ms. Owston suggested that they review their sales for the first twelve months of operation and decide whether to review their license class and Sunday Sales Option. Ms. Owston noted that Deer Park Sportsman Club started their 15-day suspension on December 23, 2011. The Board reviewed a survey sent by Melvin Thompson of the Restaurant Association of Maryland in reference to the proposed corkage legislation; the Board was of the agreement that that they do not favor any change to Article 2B to allow a customer to bring wine onto a licensed premise.

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

The next regular meeting of the Board of License Commissioners is scheduled for February 2, 2012.

Thomas A. Gearhart
Chairperson

February 2, 2012
Date