

MINUTES

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

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

The March 1, 2012 meeting minutes were reviewed and accepted. The motion was made by Commissioner Crosco to accept the minutes, seconded by Commissioner Fratz and Chairperson Gearhart made the motion unanimous.

Prior to the hearings, Ms. Owston updated the Board on the legislative requests. HB 142 / SB 255 requesting CJIS updates did not advance due similar statewide legislation. The other three bills being HB 223 / SB 585 for Special Class "C" licenses, HB 222 / SB 587 regarding penalties for nudity and sexual display and HB 504 / SB 587 which creates a class "B" beer license have all received favorable results so far. Ms. Owston said the statewide HB 228 / SB 755 for Corkage / Wine BYOB bill is still going strong and HB 1266 for statewide Sunday Sales has received an unfavorable report by Economic Matters.

A new license hearing was held at 9:20 AM for a Class "B" Beer & Wine On-Sale License with Sunday Sales Option and Off-Premise Wine Sales Option for Deep Creek Sweets, LLC operating as Deep Creek Sweets. The license premise is to be 1551 Deep Creek Drive, Suite 1, McHenry, MD 21541. Applicants for the license are Terry Fram and Louis Newcomb. Ms. Fram and Ms. Autumn Newcomb were present for the hearing. Ms. Fram identified herself as the owner of Deep Creek Sweets and Ms. Newcomb identified herself as former owner partner of Deep Creek Sweets and now sole owner of Gourmet to Go, LLC which had previously been owned by both Ms. Fram and Ms. Newcomb, licensed as the Oakland Golf Club, more specifically The Sand Trap Lounge and The Country Club restaurant. Ms. Fram explained how last October herself and Ms. Newcomb were approved for the license at the Golf Club and the fact that in their minutes for Gourmet to Go, LLC they determined that they would reevaluate the company after six months and make any necessary changes. Since that time, it was decided that the two would dissolve their business partnership and Ms. Newcomb would continue with Gourmet to Go, LLC and Ms. Fram would continue with Deep Creek Sweets, LLC. Chairperson Gearhart asked about the business hours and Ms. Fram responded that summer hours would be seven days a week from 9:00 AM until 7:00 PM and then afterwards, she will reevaluate the business operations. Ms. Fram said she intends on promoting wine and chocolate pairings. Commissioner Crosco questioned how many employees Ms. Fram had now and Ms. Fram replied that currently, she has two part-time employees. Ms. Fram also discussed "romance packages" with the rental house agencies. Ms. Fram said they will operate as a café with candy sales. Ms. Owston reviewed the Sunday sales requirements and guidelines. Ms. Fram discussed her "small plates" dining options with the Board. Ms. Newcomb mentioned that they also sell up-scale salads that are more of a dinner salad than a side salad. Chairperson Gearhart asked Ms. Fram what percentage she felt her food sales would be compared to alcohol sales and Ms. Fram stated that the alcohol sales would be small compared to food sales. Ms. Owston said the candy sales should be

accounted for separately from the café food sales in regards to the ratios and Ms. Fram said this is already being accounted for separately. Ms. Owston said that the license class can be reviewed next year at renewal when the sales report is due if necessary. Ms. Owston mentioned that Mr. Newcomb will need to be fingerprinted as soon as possible; she needs an executed copy of the lease, Health Permit and documentation on the changes of ownership / membership for Gourmet to Go, LLC and Deep Creek Sweets, LLC. Ms. Owston explained the Class "B" restaurant privileges and Sunday Sales Option and Off-Premise Wine Sales Option. Further discussion was held on the possibility of the Delivery Option for the wine baskets but it was determined for now the guests will be instructed to pick up the baskets at the store until all details can be worked out. It was suggested a flow chart of the possible scenarios in which the baskets are ordered, prepared, delivered or picked up be submitted for final review. A motion to approve a Class "B" Beer & Wine On-Sale License with Sunday Sales Option, Off-Premise Wine Sales Option and the potential future Delivery Option was made by Commissioner Crosco contingent of receiving the various administrative items, seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. Ms. Owston also reviewed the renewal process and May 1st deadline for the renewal application.

A new license hearing was held at 9:40 AM for a Class "A" Beer Off-Sale License for Thousand Acres Lakeside Golf Club, Inc. operating as Thousand Acres Golf Club. The license premise is to be 255 Thousand Acres Road, Swanton, MD 21561. Applicants for the license are William A. Franklin, Joseph P. Franklin and Constance S. Franklin. Mr. William "Bill" Franklin and Mr. Joseph P. Franklin were present for the hearing. Bill Franklin said the license will be used for off premise sales only from the golf shop; there are no meals it is basically off premise sales for golfers. The hours for the golf shop are from 7:00 AM until 5:00 PM. Chairperson Gearhart asked if they were planning on taking a cart out on the course for beer sales and Ms. Owston interrupted by saying that Zoning will not allow that. Ms. Owston further stated the Planning & Land Development Office reviewed the application and is in agreement that all beer sales must be in a sealed container for consumption off the licensed premise area due to their Special Exception Permit. Ms. Owston said that if they want cart sales in the future, they will have to get permission from the Zoning Office and then the Board would approve this practice and modify the premise if the change in use allows. Chairperson Gearhart questioned if anyone is currently trained in an approved alcohol awareness training course and Bill Franklin responded no, not at this point. He said he has been in contact with Fred Herath who teaches TIPS. Ms. Owston said that there may be a few more classes available this spring that will be an option and recommended to take one as soon as possible. Ms. Owston suggested that the Board approve the license contingent on taking a TIPS or TAM class within a specific period. Chairperson Gearhart reviewed the Maryland provisional driver's license with the applicants and explained the sales to minor infractions for first offense through fourth offense. Ms. Owston further reiterated that the licensed premise area will be the golf shop only; the golf course will not be included in the licensed premise. This license does not allow for Sunday sales, therefore no alcohol can be sold or consumed in the golf shop on a Sunday. Ms. Owston stated that all employees selling beer in the golf shop must be at least twenty-one years of age. Mr. Bill Franklin questioned how old an employee could be to stock the beer and Ms. Owston replied that a person at least eighteen years of age can stock the beer. Ms. Owston reviewed with the applicants the various regulations in place for holding an alcoholic beverage license such

as all beer must be purchased from a licensed Maryland beer wholesaler, copies of the receipts for the beer must be kept in the golf shop and available during an inspection. Ms. Owston advised the applicants that in the event they sell alcohol to a cadet during a compliance check they should notify the office. Ms. Owston reviewed the outstanding administrative items including background checks and favorable responses for all applicants, a copy of the Articles of Organization or updated minutes reflecting the applicants role in the corporation, a copy of the Sales & Use Tax Number and a copy of the certificate of completion of approved alcohol awareness class by a licensee or employee of the golf shop. Ms. Owston stated that it is illegal to serve a visibly intoxicated person or a minor. She also said that BYOB is not permitted on the licensed premise of the actual golf shop building. Mr. Bill Franklin discussed with the Board his decision making process on when they may need the license should they decided to go forward with the licensing the golf shop. A motion was made by Commissioner Fratz to approve the Class "A" Beer Off-Sale License contingent on all outstanding administrative items submitted and the motion was second by Commissioner Crosco and unanimously approved. Ms. Owston presented the applicants with a variety of articles on carding procedures and safely serving a customer, samples of driver's licenses, and the Rules and Regulations of the Board.

A show cause continuance hearing was scheduled for 10:00 AM for Shorty's Bar & Grill in reference to two Incident Reports involving the establishment. Present was licensee, William Finch and his bartender Chastiti Hall. Mr. Finch stated that he was not there at the time and Ms. Hall said she was bartending on the night of January 29, 2012 of Incident Report 12-01017. She said there was a birthday party going on in the back for her mom and some individuals kept trying to go back where the party was going on and they were asked to leave this area. Ms. Hall then told them they would have to leave the bar. Then her mom told them to leave and one of the individuals bent her finger back and she hit him in the eye. As a result, he called the Sheriff's Office. The Sheriff's Office responded and after speaking with everyone, the individuals were escorted out of the bar. Chairperson Gearhart asked how long were they disturbing the place before this went on and Ms. Hall said the individuals were there about half an hour before they were asked not to go in the back and then about another half hour before they called the Sheriff's Office. Ms. Owston said that this is why we asked Mr. Finch recently to contact the office because we see one side of the report and Mr. Finch agreed. Chairperson Gearhart said, remember last time we said if you give us a holler, it will probably save you a trip in here. Mr. Finch said he thinks this happened before he got back and he didn't know that the other people had called the law and his bartender told him that she didn't call the law. Commissioner Crosco asked Ms. Hall if she knew why the individuals wanted to go back to the private birthday party. Ms. Hall said she had known one of the men in the past but has not been speaking with him for a long time. This man had been there earlier before the party and she asked him not to come back if he was going to cause trouble and he went and got a bunch of people and they came back. Chairperson Gearhart suggested that she could have told the individuals who came back a second time, "if you don't leave, that you were going to call Mr. Finch or the law." Mr. Finch said he talked to the guy who said he called the law because he was worried about his buddy who was still inside. He also told Mr. Finch that he did not mean to cause him any trouble. Mr. Finch said he explained to the guy that as a result he will have to go to a hearing since they had asked him to leave and he did not leave and called the law. Ms. Owston reminded them to notify the office. Ms.

Owston then mentioned the second Incident Report 12-01150 alleging from an anonymous caller that an individual had just left Shorty's Bar very intoxicated. Mr. Finch said the person mentioned in the reports has not been in his bar for two years or better. He has dropped off friends or picked them up from Shorty's but has not been inside the bar. Mr. Finch said he talked with the other person who was a passenger in the truck and he said they weren't at Shorty's but he thought maybe his wife had called. Mr. Finch then said no one from his place called. The Board took no administrative action after discussing the Incident Reports with Mr. Finch and will note the incident in the license file.

A discussion session was held with Black Bear Tavern & Restaurant to discuss the food versus alcohol sale ratios as they relate to the business being defined as a "restaurant" by Article 2B §1-102 (22) (l) (1) and the Deep Creek Watershed Zoning Ordinance. Both define a "restaurant" as food sales exceeding alcohol sales. Present for the hearing were licensees Laura Clapsaddle, Barry Clapsaddle and manager Nick Clapsaddle. Barry Clapsaddle presented the Board with a document of their sales and costs history for the business. This was discussed in detail. Ms. Owston spoke to Bill DeVore of the Planning and Land Development Office. Mr. DeVore requested that a copy of the food & alcohol sales report submitted with this year's renewal application be forwarded to the Deep Creek Watershed Zoning Appeals Board for review. The Board went into Executive Session to discuss the Class "B" restaurant license which qualifies the establishment to sell alcohol on a Sunday with a meal and the definition of a restaurant. Chairperson Gearhart made a motion that the Board give them another year since they've only been in business one year and then reevaluate at that point. There was no second on the motion. Chairperson Gearhart asked if there were any other motions. Commissioner Crosco made a motion to wait and see what the Planning and zoning decision is and the motion was seconded by Commissioner Fratz with Chairperson Gearhart opposing the motion. Chairperson Gearhart said it carries and we'll reconsider after the Zoning results. Ms. Owston discussed the Zoning outcome possibilities with the Board. The Board went back into the discussion session and reiterated the motion that the Board will wait until the Zoning Department makes a decision on the matter. Ms. Owston said she will take them next door to the Zoning Office to discuss the issue with Bill DeVore.

A discussion session was held with Black Bear Tavern & Restaurant to discuss two Incident Reports received from the Sheriff's Office. Present for the discussion were licensees Laura Clapsaddle, Barry Clapsaddle and manager Nick Clapsaddle. Nick Clapsaddle first stated to the Board that they realize now, that they should alert the Board when there is an incident involving law enforcement and will do so in the future. Barry Clapsaddle spoke of Incident Report 12-01326 which occurred on February 6, 2012 involving some rowdy patrons who had previously been drinking and arrived at the establishment on foot since they were staying close by in a rental property. He said the report was spot on. Barry Clapsaddle said they were denied service as soon as they arrived at the establishment. He said the bar manager had asked them to leave and they refused to do so at which time other patrons began to assist in removing them and a fight broke out. The Sheriff's Office responded and advised the individuals that they were no longer welcome and were to leave immediately. Barry Clapsaddle stated that they have a very sophisticated surveillance system which was reviewed and was very helpful. Incident Report 12-01797 mentions a male subject who was arrested for DUI on February 18, 2012. The report indicates that the driver said he had been at the Black Bear Tavern and

had just had an argument and was mad and left. The driver said he had approximately five rum & cokes. Barry Clapsaddle said this report bothers them because they pride themselves in not over serving. He said when they received the police report from the Board that was the first time they had heard about the incident. He said now that they have a fairly sophisticated video capability they went through the video and they did not see anyone that matched the report. He did acknowledge that they do not know what the individual looked like, but they were not aware of any incident involving a patron of the Black Bear being in an argument and found nothing in the surveillance capturing such. He said they also reviewed their surveillance for the subject's yellow truck and even checked their POS system and found nothing to substantiate the testimony given in the incident report. He said he is not saying it didn't happen, but they could find no evidence. Nick Clapsaddle said they also questioned the staff about the alleged incident and no one remembered anyone in an argument and leaving Black Bear angry. Laura Clapsaddle stated that no one remembered anyone having five rum & cokes. Nick Clapsaddle said that that particular evening was a great night and there were no problems. Barry Clapsaddle informed the Board of their security staff that monitors all doors as well as the front of the business and the back area. Nick Clapsaddle expressed that currently the entire staff is trained in an alcohol awareness course and they all know that even if over serving has occurred or even if someone has worked the system, that once that person looks like they are leaving they have the door guy go over and make sure that person is not driving. Barry Clapsaddle also mentioned that in the summer and on Friday and Saturday nights they have a local cab company outside that they compensate him with a retainer fee for possible service. The licensees also discussed with the Board their recent letter from the Health Department noting that they had recently passed a Compliance Check. They said they have an incentive for their staff in regards to prevention of alcohol sales to a minor and as a result, they gave two of their employees \$50 for their good work and dedication. The Board took no administrative action after discussing the Incident Reports with licensees and manager and will note the incidents in the license file.

There was general discussion after the hearings. Ms. Owston said that Joy Thrasher replaced Theresa Hamilton as the local licensee on St. Moritz Boardwalk's license on March 5, 2012. Zip-eez's notified the office of a corn hole tournament to benefit the Cody Ferguson Scholarship. Wildwater Inn submitted their fine on March 8, 2012. The Board reviewed an upcoming event at Table Rock and determined that they need to seek approval from the Permits Office and Health Department prior to the Board's approval. The Board reviewed an event at Our Town Theatre in which no notification was given to the office prior to selling alcohol. The Board advised Ms. Owston to send a letter. The Board reviewed an upcoming event at the Fort in McHenry involving several licensed establishments and determined that the association needs to seek approval for the event from the Zoning Board and then they will make any additional decisions on the event.

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 May 3, 2012.

Thomas A. Gearhart
Chairperson

May 3, 2012

Date