

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting in the Commissioner's Public Meeting Room on December 6, 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.

Commissioner Crosco called the meeting to order. The Board signed mileage sheets.

Travel expense reports for the period of July through December 2012 were reviewed and approved. Commissioner Crosco made a motion seconded by Chairperson Gearhart to approve the travel expense report for Commissioner Fratz. Commissioner Fratz made a motion and seconded by Chairperson Gearhart to approve the travel expense report for Commissioner Crosco. Commissioner Fratz made a motion seconded by Commissioner Crosco to approve the travel expense report for Chairperson Gearhart.

The Board reviewed additional sections of the October 4, 2012 minutes. It was decided that they will give final approval at an upcoming meeting upon corrections and completion.

A discussion session was held at 9:00 AM with Vianne Bell of the Deep Creek Art & Wine Festival. Ms. Bell provided the Board with copies of the event financial reports. Ms. Bell explained the financial process from the beginning purchase date of the wine to the final credits for the returned wine. She also noted the donations from the wineries. Commissioner Fratz questioned if it is always a long process. Ms. Bell stated that the process takes a very long time and is extremely frustrating. Ms. Owston informed the Board that Ms. Bell is also in attendance to discuss the Wine Festival Pre-Application process and the Wisp Resort ownership changes. Ms. Bell said they hope the Deep Creek Art & Wine Festival organization can still partner with the Wisp Resort as the license holder for the festival. She said she will be meeting with Tim Prather of the Wisp after the holidays to pursue a continued collaboration. Ms. Bell spoke of how this partnership has been very significant to the overall success. The Wisp provides the POS register systems, credit card service, staff, etc. Ms. Owston recommended that the Wine Festival Pre-Application decision be decided at the February meeting which will be held on January 31, 2013. Ms. Owston said the transfer hearings for the Wisp will most likely be held that day as well. Ms. Bell spoke of the changes to the American Red Cross and their national headquarters. They are consolidating of all of their bank accounts. She said this will become a major problem for them as a result. Ms. Bell said that Paula Yudelevit who has co-chaired the event with her has resigned from the Deep Creek Art & Wine Festival committee. Ms. Yudelevit is now the executive director of HART for Animals. Ms. Bell said it will be a difficult transition for all of those on the committee. She said she has asked everyone to take it up a step. Two individuals are willing to help fill the co-chair responsibilities. The Board decided to post a Notice of the pre-application deadline of January 25, 2013 on the website.

A license hearing was held at 9:30 AM for a Special Class "C" BWL 2-Day License for Cindy's Fund. Present for the hearing was applicant Sandra Bell. The license is to be used on January 12, 2013 at Garrett College in the auditorium and art gallery as a fund raiser during the Miss America Pageant. She said the purchase price of the ticket would include entertainment and hors d'oeuvres. Also, they would like to be able to offer beer and wine. Chairperson Gearhart asked how many tickets they plan to sell and Ms. Bell said she did not know at this time. Commissioner Crosco questioned if they received approval for alcohol at the college and Ms. Bell acknowledged yes. The hours for the fundraiser will be from 8:00 PM until 11:00 PM. Ms. Bell said they may have the event catered by Autumn Newcomb-Shay. Ms. Owston explained the catering possibilities for food and the purchasing options of the alcohol from a retailer or a wholesaler. Ms. Owston questioned if they were planning on a cash bar and Ms. Bell replied yes. Ms. Owston said that the practice of BYOB on a licensed premise is prohibited. Ms. Owston advised that if they plan on using wristbands to make sure that those of legal age receive them. Ms. Owston provided Ms. Bell with sample forms of ID's for Maryland, Pennsylvania and West Virginia as well as some articles on alcoholic beverage service. Ms. Owston explained that all alcohol must be purchased and not donated for the event. Monetary donations to purchase the alcohol for the event could be accepted. A motion to approve the Special Class "C" BWL 2-Day License to be used on January 12, 2013 was made by

Commissioner Crosco, seconded by Commissioner Fratz, and made unanimous by Chairperson Gearhart. Upon receipt of the license fee the license will be issued.

A discussion session was held at 10:00 AM with Sam Housley representing McHenry Beverage Shoppe to discuss the possibility of returning empty beer kegs on a Sunday to a non-licensed premise. Ms. Owston presented the Board with copies of the various regulations in reference to beer keg registration and a copy of a beer keg sticker. Mr. Housley said it is common that kegs are purchased on a Saturday and the customer would like to return the keg on Sunday when they are leaving the area. Chairperson Gearhart asked how many kegs are dropped off and Mr. Housley said he would have to get back to the Board with an answer. They are trying to improve customer service and would like for customers to possibly be able to return the empty kegs to the loading dock area behind the McHenry Shop N Save. He said the kegs would be stored in a secure area and then on Monday an employee of McHenry Beverage would pick them up. Mr. Housley said they are open to suggestions from the Board on how to handle the return process. Commissioner Fratz asked how the deposit was handled and Mr. Housley said they just credit their credit cards. Mr. Housley acknowledged his previous discussion with Ms. Owston about the possibility of there still being beer in the returned kegs and the concern of alcohol on an unlicensed premise. Mr. Housley said they had considered building some type of storage area behind the building, but then how do you lock it, how do you get keys or a combination. Chairperson Gearhart said he was going to suggest some type of enclosure with a key that the customer could open the storage and then leave their key behind. But then you are depending on someone else to lock it. Chairperson Gearhart asked Mr. Housley to quickly find out the number of kegs involved. Ms. Owston said she does not like the idea of beer still left in the keg and Chairperson Gearhart said he understands. Mr. Housley called the store and found out on average it would most likely be three kegs but that number is sometimes higher on holiday weekends. Mr. Housley found out from the store employee he contacted that taps actually have a greater value than the kegs. So maybe there is a solution. The customer returns the keg to the package store and the tap to the grocery store. Ms. Owston said they may want to consider having an additional pick-up delivery charge for the empty kegs at the place which they were originally delivered to as an alternative option. Mr. Housley said they thought the quickest solution would be to have them dropped off off-site but he sees the liability concerns. Mr. Housley said they may be able to come up with a one-way return box like a video tape return box with an identifier for the return refund information. Mr. Housley questioned if they need to come back in front of the Board with their solution. Chairperson Gearhart said no, as long as you are taking care of it on your premise. Ms. Owston said she would still want to know if you plan on the actual tap itself going to the grocery store. Ms. Owston said when she asked the other LCB offices in the state it is not an issue since they are open. Chairperson Gearhart suggested that in an extreme situation, someone from the grocery store could come over to the package store and put the keg and tap inside. If there was person cleaning at the package store they could accept the kegs. Mr. Housley said they would come back to the Board with their plan.

A sales to minor first offense violation hearing was held at 10:20 AM for Arrowhead, license #12-68, Class "D" BWL Off-Sale. Present for the hearing was licensee, Robert "Jason" Burgess. Chairperson Gearhart asked Mr. Burgess if he was there when it happened and he said that he was not. Mr. Burgess stated that it was his understanding that she scanned the beer and the register then automatically asked for the DOB to be keyed in and she entered "1982" instead of "1992." He said it was a keying error. He said he was more upset that the vertical format was not double checked. He said he was very disappointed when he got the call because, as you all know, we have done a very good job at Arrowhead. He said he has his employees TIPS trained and they really follow through with it. Commissioner Fratz asked if the serving clerk was TIPS trained. Mr. Burgess said she was. Chairperson Gearhart asked if he felt the employee intentionally entered the date wrong and Mr. Burgess said he felt it was an honest mistake. Chairperson Gearhart asked if the month and date were right and she just missed the year. Mr. Burgess said yes. Mr. Burgess said he believed it was an honest mistake and that is why he retained her and did not fire her. He said he put her on a five-day suspension. When she came back he retrained her on the process. He said she is one of his longer employed members of his staff. He believes she is an honest employee who made an honest mistake. Chairperson Gearhart said he was glad to see some kind of disciplinary action. Mr. Burgess said that since she has signed off on her employee file that she is aware that another occurrence would result in termination. It has really scared all of his staff

members. Chairperson Gearhart acknowledged and praised the fact that they spend the money to train everyone. Mr. Burgess said he feels it is important. He said he does not want anyone to go out there and get hurt and it is important to them. Mr. Burgess said he is also in the process of working with his POS vendor to see if they can just scan the ID and take human error out of it. He said he would have to purchase a separate scanner for each register for about \$2,000 each. He is putting that cost into his business plan. 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. Ms. Owston said that scanner would help with tobacco sales as well. 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. Ms. Owston explained to Mr. Burgess that they have thirty days to appeal the Board's decision to Circuit Court should they so choose. Mr. Burgess agreed with the facts as presented and waived his right to appeal the Board's decision. Ms. Owston provided Mr. Burgess with sample copies of provisional driver's licenses for Maryland, Pennsylvania and West Virginia. Ms. Owston acknowledged the fact that Mr. Burgess is aware and agrees that the vertical format should be a major indicator to his staff. Chairperson Gearhart also stressed to make sure that they are aware of the indicators in red on the vertical license as well. Mr. Burgess agreed. Mr. Burgess stated that the clerk's District Court hearing is coming up soon and he hopes that helps her understand the importance of taking her time when carding an individual. Ms. Owston said that her trial will be held on December 11, 2012 at 1:00 PM. Mr. Burgess submitted the fine in the amount of \$100.

A sales to minor first offense violation hearing was held at 10:40 AM for Chestnut Ridge Gas & Liquors, license #12-25, Class "D" BWL Off-Sale. Present for the hearing were licensees, Laurie Turner and Allen "Syd" Turner. Chairperson Gearhart asked if they were there when the infraction occurred and Mr. Turner said they were not. Ms. Owston asked if they would like a copy of the police report and they both replied that they had reviewed it. Mr. Turner said the clerk had been employed about one month and had been TAM trained. Chairperson Gearhart asked if they have all their employees trained and Mr. Turner responded yes. Mr. Turner said he was able to generate a report from the register and the report showed that she skipped entering the DOB. He said by doing so, she had to punch in a code that would be twice as long as entering the DOB. Ms. Turner said that whenever you ring in an alcohol sale, the register automatically prompts you to enter their DOB or you have to put in the code to skip it. Mr. Turner said the code is about thirteen characters. Ms. Turner said she really does not understand why she did what she did. Commissioner Fratz noted that the clerk would have had to turn the ID to see the DOB and that should be an indicator on a vertical ID as well as the red square around the picture. Mr. Turner said the cadet did have a red bannered driver's license. Chairperson Gearhart said they are orientated vertically with the red box which says right on it "under 21 until." Chairperson Gearhart said they need to know the color red and what planet they are on to card them. Mr. Turner agreed that the red should tell them right away to stop. Mr. Turner provided the Board with a copy of the register tape. Chairperson Gearhart questioned what type of disciplinary action was taken. Mr. Turner said they fired her. Chairperson Gearhart asked how many employees they have and Mr. Turner said they are down to a skeleton crew after letting two employees go. They currently have six including him and Ms. Turner. Chairperson Gearhart cautioned them on the possibility of the clerk entering in their own DOB and that they may want to check the register tapes. Mr. Turner asked if there is any type of machine where you could swipe a MD driver's license that works. Ms. Owston said there are machines that can scan the ID, but you still need to be cautious of fake ID's. Ms. Owston said that a licensee mentioned that the cost to add a scanner to his POS system will run about \$2,000 to \$3,000 per register. Ms. Owston said that a second offense within two years would result in a \$500 fine and up to a 10-day suspension of the license which would hurt their business more than others since they operate as package store. Mr. Turner said that every day when he leaves he tells his staff to watch the ID's. Ms. Turner said she attended the TAM class and felt they were more thorough in going over the ID's in more detail than TIPS training. Chairperson Gearhart mentioned that some retailers refuse vertical ID's. Ms. Owston informed the licensees that the District Court hearing for the clerk is scheduled for December 11, 2012. Mr. Turner said he feels the judge should get a copy of the register report showing how she ignored the prompt to enter the DOB. He feels the courts should be a lot harder on cashiers so that they know that if they don't do their job they are going to get a fine and be held responsible for it. Mr.

Turner said he was told the clerk was making jokes about it and even said she was kind of worried about it but then said it is really not my problem, it is not my license. Ms. Turner said they actually give the employees an incentive to check the ID's. They will give the employee \$100 if they pass a compliance check. Mr. Turner said they will give the clerk \$50 if they catch a fake ID and keep it there until he can get to the store or a police officer can get the ID from the individual. He said years ago after they had their suspension it probably cost them \$1,000 for fake ID's the clerks identified. Ms. Turner said it helps that they know all of the kids in town. Ms. Owston cautioned them about the high quality of the fake ID's sold out of China. 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 to the licensees that they have thirty days to appeal the Board's decision to Circuit Court should they so choose. The licensees agreed with the facts as presented and waived their right to appeal the Board's decision. Ms. Owston provided the licensees with sample copies of provisional driver's licenses for Maryland, Pennsylvania and West Virginia.

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 22nd & 23rd, 2013. 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 annual gun bash fundraiser. One thousand tickets will be sold at \$25/person including beer, food and prizes. They anticipate about 750 in attendance. The hours of the event will be 12:00 PM until 6:00 PM. Ms. Owston asked about the licensed premise and Mr. Umbel said they use the whole building for the event. Ms. Owston questioned if there was a smoking area outside where they could take their beer. Mr. Umbel said they could not take their beer outside. Mr. Umbel said they only use one door for entry and there are firemen monitoring the other doors. Ms. Owston informed Mr. Umbel that BYOB is not permitted on a licensed premise. Ms. Owston asked how they would be dispensing the alcohol. Mr. Umbel said they will be using keg trailers. He said they do not allow pitchers. Ms. Owston questioned if they are actually serving the beer and Mr. Umbel said no they can get up and get their own beer. He said there is someone there monitoring the beer trailer. He said they put wristbands on everyone who is of drinking age. He said that everyone entering through the door must provide their license. Ms. Owston followed up by asking if there are minors present and Mr. Umbel replied that there have been in the past. Ms. Owston questioned if any of the members of the fire company were under twenty-one and Mr. Umbel replied possibly two. Ms. Owston asked if any of the members have been trained in TIPS or TAM and Mr. Umbel said that about four or five members have been trained. Ms. Owston suggested that they have the volunteers, selling the paper tips throughout the event, monitor the levels of consumption of those attending the event. Ms. Owston stated that due to the event being six hours they need to pay attention to the levels of consumption. It is illegal to serve a visibly intoxicated person. Ms. Owston mentioned that other fire departments conducting similar events no longer allow self-serve from the beer trailers. By doing so, they found that the area remains cleaner and the amount of consumption is lower. She also said some have moved the beer trailer further away and as a result, they noticed less consumption. Mr. Umbel said that the beer trailer is already located the furthest distance away from the main area. Ms. Owston said that off-premise sales are prohibited. Ms. Owston provided Mr. Umbel with copies of driver's licenses for Maryland, Pennsylvania and West Virginia. Mr. Umbel said they have copies posted at the entrance table. He said before the raffle starts they make all of the appropriate announcements of rules and regulations. Mr. Umbel said that anyone violating the rules will be removed from the building. He agreed with the Board that announcing that the ticket would be voided is a good idea. Mr. Umbel said they will be serving food and snacks at three different times throughout the day. Mr. Umbel said they will be selling paper tips during the event. A motion to approve the Special Class "C" BWL 2-Day License was made by Commissioner Fratz seconded by Commissioner Crosco and made unanimous by Chairperson Gearhart. Upon receipt of the license fee the license will be issued.

There was general discussion after the hearings. Ms. Owston said that the legislative request meeting with the County Commissioners went well. The Board discussed the Refillable Container Permit regulations and decided to leave them as written. The proposed changes to Sunday sales to allow Class "D" taverns was discussed as it relates to the zoning regulations of taverns verses restaurants. Ms. Owston presented the food to alcohol report for Black Bear Tavern & Restaurant. The November report shows that food

sales exceeded alcohol sales for the month. Ms. Owston also stated that for the calendar year they are on track with food sales exceeding alcohol sales. Chairperson Gearhart noted that the changes they have applied to the business operations are obviously working. Ms. Owston reported on the upcoming Wisp transfer. She said that Kristi Newsome has everything they need for the transfer and that at this point they are just waiting to see who the new investors will be. Ms. Owston said that to her knowledge, the management positions will remain in place. Ms. Owston said she sent an email to Ms. Newsome, per her request, stating that the Liquor Board was ok with the new ownership operating under Recreational Industries licenses until the transfer takes place as long as all parties are in agreement. The Board reviewed a packet of reports received from the States Attorney's Office regarding an accident which resulted in a fatality of a customer of the St. Moritz Boardwalk. Ms. Owston stated that Brian Fiscus of St. Moritz Group called the office shortly after the accident to notify the Board that the individuals involved had been at the establishment prior to the accident. The Board decided unanimously to schedule a show cause continuance hearing for the next meeting. The Board reviewed an Incident Report concerning the Sugar Shack Tavern. Ms. Owston informed the Board that an employee of the tavern contacted the office the next morning about the incident that took place. The Board determined that no administrative action was necessary. They felt they handled the situation by contacting law enforcement and agreed to send a letter. The Board reviewed a Report for an incident that took place at Whisper's bar at the Wisp on November 19, 2012 involving an intoxicated patron. Ms. Owston informed the Board that Ms. Vicki Buckel did contact the office after receiving a copy of the report. Ms. Buckel said that she suspended the bartender. The Board unanimously agreed to schedule a show cause continuance hearing for the next meeting. Ms. Owston told the Board that Ms. Becky Williams contacted the office to notify the Board that they called 911 for medical assistance for a patron. Ms. Owston updated the Board on various business documents issued for Long Stretch Market, LLC with different names. She said she will advise them that they may want to consider having the same names to avoid confusion between the various government offices.

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.

The next regular meeting of the Board of License Commissioners is scheduled for January 3, 2013.

Thomas A. Gearhart
Chairperson

January 3, 2013
Date