

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their April meeting in the Commissioner's Public Meeting Room on Tuesday, April 10, 2018 at 9:00 AM. Present for the meeting was Chairperson Lisa Herman, Commissioner Michael Fratz, Commissioner David Moe, Administrator to the Board Deborah Owston and Attorney to the Board M. Elizabeth Georg.

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

Ms. Owston noted that the last public meeting was held on November 9, 2017. No meetings were held in December, January, February or March. The November 9, 2017 meeting minutes were reviewed and approved by the Board. Commissioner Moe made the motion to approve the minutes. The motion was seconded by Chairperson Herman and unanimously approved by Commissioner Fratz.

A violation hearing was held at 9:30 AM for Shorty's Bar & Grill located at 6781 Garrett Highway in Pleasant Valley. Licensee, Bill Finch was present for the hearing as well as Veronica Cross. The violation hearing was the result of a failed inspection on January 18, 2018 conducted by the Comptroller of Maryland Field Enforcement Division and Ms. Owston. The business was cited with violations of the Alcoholic Beverages Article. AB § 6-311, specifically, did unlawfully purchase or keep alcoholic beverages on licensed premises which were purchased from other than a duly licensed manufacturer or wholesaler. AB § 1-408, specifically, did unlawfully fail to keep complete and accurate records of all alcoholic beverages purchased. Attorney M. Elizabeth Georg swore in Mr. Finch and Ms. Cross to testify. Mr. Finch said the business was robbed and the paperwork was thrown around. He also mentioned that paint was spilt on some of the businesses paperwork. In addition, he said the checkbook was stolen and some receipts may have been there. Ms. Cross testified that the invoice paperwork is now organized and will be readily available during an inspection. She admitted to unknowingly getting the alcoholic beverages to make egg nog around the holidays when Mr. Finch was at the hospital. Mr. Finch and Ms. Cross acknowledged that all alcohol must be purchased from a licensed wholesaler. Commissioner Moe made a motion for a letter of reprimand and a \$50 fine due within 30 days. Commissioner Fratz seconded the motion and the affirmative vote of the Board was unanimous by Chairperson Herman. The license holder indicated he would accept the Board's decision and waive his right to appeal the Board's decision to Circuit Court. The fine was paid in full.

A third offense violation hearing was held at 9:45 AM for BFS Foods #31 for the sale of alcohol to a minor during a compliance check conducted on February 28, 2018 by the Maryland State Police. The business is located at 1820 Maryland Highway in Mt. Lake Park. Licensee Howard Goodstein, regional manager Malissa Campbell and store manager Susan Tepper were present for the hearing. Attorney M. Elizabeth Georg swore all those in attendance to testify. Ms. Owston questioned if everyone had a copy of the police report. It

was noted everyone had a chance to review Criminal Investigation Report 18-MSP-005709. Ms. Georg questioned if they agreed with the charges or did they have testimony that they wanted to put on the record. Mr. Goodstein said as far as the actual sale, it is what it is and we don't dispute that. He said he would like to talk about steps that they have taken and that are in place that should have prevented this from happening. He said but as far as the actual sale, obviously what happened, happened. Ms. Georg then asked what they have done since this time. Mr. Goodstein spoke of the employee passing the TIPS class in September of 2017. He also mentioned how they constantly train their employees on this. The employee went through BFS training in January of 2018 where they rehash the policy. He said they are constantly talking about selling to underage people. He said he doesn't know what more they can do as a company then what they are doing. He said they are literally daily talking about this and this individual was TIPS trained and formally retrained a month before hand. He then said they go so far as the management going through the register to look for bogus purchases. They require a birthdate be entered in the register for the sale of alcohol. If they can demonstrate that the information was entered incorrectly, they write people up for it. He asked for any suggestions to prevent this from happening. He said because we are training, we are talking, we are sending them to recommended trainings and at some point, there needs to be consequences for the individual as well so that there is teeth in this thing. He said they continue to do it, they continue to take it serious, continue to talk about it, continue to train and here we are again. He said they would love to hear suggestions from the Board on other steps they can take because they feel like they are more than diligent in their efforts to keep their employees from selling to underage kids. Commissioner Moe asked Ms. Georg what the normal fine or disposition for the offense. Ms. Georg said it up to a 30-day suspension and a \$1,000.00 fine normally for the third offense. Ms. Georg then questioned the license holder as to whether he understood the hearing was administrative in nature and the clerk has been criminally charged and it will go to District Court and this Board does not have any authority as to that part of it. She explained in Maryland law that there are certain jurisdictions she believes they do it that way, but they have one compliance officer that does all of their hearings and Garrett County does not do it that way traditionally. She said historically we don't. Commissioner Moe said that he can't manage their operation and neither can the Board. Commissioner Moe made a motion that the Board impose the fine and the suspension for 30-days. Mr. Goodstein spoke up and said he would like to make a comment or ask is that normal or is that the max because he said I believe you said it was up to a \$1,000 and up to 30 days. Ms. Georg said yes. Mr. Goodstein then said because I don't know what the norm would be. Ms. Georg said it is a \$1,000 and up to 30-days suspension. Commissioner Moe said that's my motion because of the proximity to the previous violations, the closeness of them and obviously your employee didn't get the message. He said that is not our responsibility. Mr. Goodstein said he agreed that it is not the Board's responsibility but we are also not as a company sitting here and not having demonstrated the diligence. He further stated that he felt any reasonable third party would say what you should be doing to train and educate your employees and so while he understands that there needs to be some repercussion, that it's not your responsibility to manage our employees but he thinks there should be some credit given or some credence given into the fact that they have taken affirmative steps consistently to train their employees and at some point, again it is what it is he sold to a minor, but this isn't like we haven't done anything, were not training our employees, were not talking about it. We're doing all this things, so while I don't disagree that there's going to be a fine and there's going to be a suspension, I don't know that I agree it needs to be the maximum either

based on the fact that we have demonstrated that we are making every effort to prevent this. It's not like we're just turning a blind eye to it, and saying whatever happens, happens. He said they are taking it seriously. He said the two managers can speak to it. We are literally doing everything we can to prevent this and perhaps that can be a litigating factor in the number of suspension days. Ms. Georg questioned if he knew anything about the transaction that the clerk did such as did he even ask for his ID. Mr. Goodstein said the clerk did not even tell them about it. Ms. Campbell said they found out the next day from a customer. Ms. Owston asked permission to speak. Ms. Georg said yes to the request. Ms. Owston then asked if they were able to look at the receipt and see how he bypassed the birthdate. Ms. Campbell said he put in his own date of birth. Ms. Georg then asked if he was still employed. Ms. Campbell said was terminated. She said that she and Ms. Tepper the next day watched the video. They brought him in and he was discharged immediately. Mr. Goodstein said they have a zero tolerance policy. When we find out about this, we fire people on the spot for selling to minors. He said again, no one is arguing the fact that it happened, but he feels that there should be some mitigating factors in the number of days of the suspension. He said they are not a company that is just not taking it serious. He said that would be the only agreement he would make. Ms. Campbell said we even installed scanners directly within a week of the last hearing. She said when you scan the license it says yes or no. Commissioner Fratz asked how long the clerk was employed there. Ms. Campbell said he came back to work for them in September. She said he has worked on and off for them for eleven years. Mr. Goodstein then said, he just went to the TIPS training in September. Ms. Owston said she would like to remind everyone that there is a motion. Ms. Georg also acknowledged that there is an open motion. Commissioner Fratz said he would second the motion. Ms. Georg then stated, all in favor. All three Board members agreed by saying aye. Commissioner Moe stated that they could present those agreements to the Circuit Court. Ms. Georg asked if they understood that they have 30 days to appeal to Circuit Court for Garrett County. She said if you choose not to appeal, you have to waive that on the record. She said you can pay your fine today or within 30 days. Mr. Goodstein stated that they would decide later. Commissioner Moe mentioned that the last time they were here they did consider those agreements and they did mitigate. Mr. Goodstein said they wholeheartedly were expecting the whole fine and some days of suspension. He said what he disagrees with is the 30-day suspension. Ms. Owston spoke about the business having a scanner on the counter. She then asked if the employees are using the scanner more. Can they tell if the employees are using it often? Ms. Campbell said she had just been in the store that morning. She and Ms. Tepper had went through the transactions and they just wrote two employees up. She said it is in writing that if an employee violates the store policy and is not scanning the license and they are caught, they will lose their job. She mentioned that the clerk has retired and came back to work for them three times. She said she is amazed. She said she doesn't even know what to say. Ms. Owston spoke about the scanner and wondered why the clerk didn't use the scanner that was available. Mr. Goodstein then stated that they went out and purchased the scanner per the recommendation that they received at the last hearing with the Board. Ms. Owston said she will send out a letter of the hearing results and they will have 30-days to decide if they plan to serve the suspension. She said during a suspension you cannot order any alcohol so keep then in mind if you decided to start the suspension and be aware that you can't move product around in the store. Ms. Owston also provided them with their vendor bag from the Health Department. The ALERT training flyer was given. Ms. Campbell said they will be attending.

There was general discussion in between the scheduled hearings. The Garrett County Alcoholic Beverages Act of 2018 / House Bill 1401 was discussed. The bill has passed both the House and Senate and is awaiting the Governor's signature for final approval. The Comptroller renewal license hold letters were mailed on January 17, 2018. Four licenses were requested to be held. Compliance checks were conducted on November 22, 2017. All six of the businesses who were checked passed. Compliance checks were conducted on February 8, 2018. Sixteen businesses were checked. BFS Foods #31 was not in compliance. The Class B B&W On-Sale 6-day License for Cornish Café Inc. was transferred on December 7, 2017. Midway Discount Beverages served their suspension day on Sunday, November 26, 2017. The fine was paid December 6, 2017. Top Chefs on Alder closed in December and requested the license be placed temporarily on hold until June 30, 2018 for possible transfer of location. The request was approved for the license to be placed on hold. Commissioner Moe made the motion, and Chairperson Herman seconded the motion. All Board members completed the required Maryland Open Meeting Acts training. Shorty's Bar & Grill was inspected on January 8, 2018. Violations were observed on the licensed premise. McHenry Beverage Shoppe submitted a pre-application written proposal for the Wine Festival License for fiscal year July 1, 2018 thru June 30, 2019. Only one pre-application written proposal was submitted. The Board approved McHenry Beverage Shoppe for the festival license to be used at the Deep Creek Art and Wine Festival on September 8, 2018. Ms. Owston noted that the applicant is interested in the proposed Beer & Wine Festival License that will be available July 1, 2018 pending the Governor signing HB 1401. The Maryland State Ethics Commission 2017 Financial Disclosure Forms are due by April 30, 2018. Monkey Business Aerial Adventure Park is still pending final U&O. Greg Abadie will be coming off the Thousand Acres Golf license pending corporate minutes. John Nicholas Clapsaddle will be replacing Chris Tracey as the local licensee of Black Bear Tavern & Restaurant. Chamber of Commerce BAH on February 8, 2018 was held at Western Maryland Dermatology in McHenry. Oakland Mt. Lake Park Lions Club held a fundraiser scholarship dinner on February 18, 2018 at the Oakland Armory. The Deep Creek Dunk was held on February 24, 2018 at Pizzeria Uno. Friendsville VFRD conducted a gun and cash bash on February 24, 2018. Eastern Garrett Co. VFRD conducted a gun and cash bash on March 3, 2018. Oakland VFD conducted a Mega Bash on March 10, 2018. Samantha Funding the Arts conducted a fundraiser on March 24, 2018 at the AG Heritage Hall. Deep Creek VFC conducted a gun and cash bash on March 31, 2018. The Grantsville American Legion was inspected on February 27, 2018. The Comptroller's Office noted alcoholic beverages on site without receipt of purchase. FireFly Farms Matt and Andy Cedro will be resigning. Daniel Porter and Mike Koch will be added to the license. Lake Pointe Inn has applied for a SE for two additional lodging rooms. They also noted Christine Tasker is no longer employed. As a result, a resident licensee change will be required. The Board discussed the District Court hearings for clerks who sold to a minor. It was decided that the Board members may want to attend a hearing in the future.

A new license hearing was held at 10:30 AM for The Manor Steakhouse, LLC dba The Manor Steakhouse. The applications are for a Class "B" BWL On-Sale 7-Day and Draft Beer License. Applicants for the licenses are Mark Greene, Jacques Hourtal and Sandra Bello. The restaurant is located at 830 Memorial Drive in Oakland. Mark Greene was present for the hearing. He said they plan to open in a month or so after the renovations are complete. He mentioned that the building was gutted so they have some work to do. He said they plan

to be open Monday thru Saturday for lunch and dinner. On Sunday they will have a brunch menu with limited hours. They will however be open for lunch and dinner on holiday Sunday's. They may apply for the Catering Option in the future. The licensed premise will include the dining rooms, deck area, the porch and the surrounding grounds with the exception of the gazebo and carriage house. Ms. Owston informed the Board of the outstanding administrative items including the required Transfer Release from the Comptroller's Office. Ms. Owston reviewed the responsibilities and rules & regulations that come with holding an alcoholic beverage license. A discussion took place concerning the Memorial Drive Investments, LLC investors in the company and the Board's opinion of what constitutes financial interest. Ms. Georg gave her opinion on how this could be satisfied. The Board decided that they would wait to approve the licenses at a further date when the majority of the outstanding items have been satisfied. The Board further stated that if this not satisfied by May 1, 2018, the applicants may be required to come back before the Board. Mr. Greene acknowledged their statement. Mr. Greene was instructed to get the required paperwork in the office in a timely manner. Ms. Owston informed Mr. Greene of the renewal process.

A new license hearing was held at 10:45 AM for Gourmet to Go, LLC dba the Alder Street Diner. The application is for a Class "B" BDR Deluxe B&W On-Sale 7-Day License. Applicant, Autumn Newcomb-Shay was present for the hearing. The restaurant is located at 216 East Alder Street in Oakland. This premise was previously the Top Chefs on Alder restaurant. This license will be tied to the Gourmet to Go, LLC Tomanetti's license held by Ms. Newcomb-Shay. Ms. Owston reviewed the responsibilities and rules & regulations that come with holding an alcoholic beverage license. Ms. Owston stated that additional wait staff should have alcohol awareness training since Ms. Newcomb-Shay cannot be at all three locations at the same time. Chairperson Herman made a motion to approve the Class "B" BDR Deluxe B&W On-Sale 7-Day License pending receiving the outstanding administrative items. The motion was seconded by Commissioner Fratz and unanimously approved by Commissioner Moe. Ms. Owston advised Ms. Newcomb-Shay to provide copies of Health Department and Fire Marshal approval as soon as they are available. Ms. Owston informed Ms. Newcomb-Shay that new accounts must be set up with the Maryland alcohol wholesalers due to the BDR Deluxe License not permitting orders to be combined on one account and split between the various locations. Separate receipts of purchase are required for each location. The license renewal process was discussed.

A new license hearing was held at 11:00 AM for Gourmet to Go, LLC dba the Eats on Alder. The application is for a Class "B" BDR Deluxe B&W On-Sale 7-Day License. Applicant, Autumn Newcomb-Shay was present for the hearing. The restaurant is located at 230 East Alder Street in Oakland. This premise was previously the Town Restaurant. This license will be tied to the Gourmet to Go, LLC Tomanetti's license held by Ms. Newcomb-Shay. Ms. Owston reviewed the responsibilities and rules & regulations that come with holding an alcoholic beverage license. Ms. Owston stated that additional wait staff should have alcohol awareness training since Ms. Newcomb-Shay cannot be at all three locations at the same

time. A discussion took place about a potential deck expansion. Ms. Newcomb-Shay was instructed to check with the Town of Oakland and the Department of Planning and Land Development. Chairperson Herman made a motion to approve the Class "B" BDR Deluxe B&W On-Sale 7-Day License pending receiving the outstanding administrative items. The motion was seconded by Commissioner Fratz and unanimously approved by Commissioner Moe. Ms. Owston advised Ms. Newcomb-Shay to provide copies of Health Department and Fire Marshal approval as soon as they are available. Ms. Owston informed Ms. Newcomb-Shay that new accounts must be set up with the Maryland alcohol wholesalers due to the BDR Deluxe License not permitting orders to be combined on one account and split between the various locations. Separate receipts of purchase are required for each location. The license renewal process was discussed and the June 30, 2018 deadline and a possible extension of the Board's approval.

The next regular meeting of the Board of License Commissioners is scheduled for Tuesday, May 1, 2018.

There being no further business to discuss, Commissioner Moe made a motion to adjourn the meeting.

Lisa M. Herman
Chairperson

May 1, 2018
Date