

SOUTH AYRSHIRE LICENSING BOARD.

Minutes of a meeting in the County Buildings, Wellington Square, Ayr,
on 7th March 2013 at 10.00 a.m.

Present: Councillors Ann Galbraith (Chair), Andy Campbell, Peter Convery, Allan Dorans, Ian Douglas, Sandra Goldie, Mary Kilpatrick and Rita Miller.

Attending: K. Briggs, Depute Clerk to the Board; G. Lauder, Senior Environmental Health Officer; C. Andrew, Licensing Standards Officer; P. McCarroll, Licensing Standards Officer; and J. McClure, Committee Services Officer.

Also Attending: Inspector W. Ramsay and Sergeant D. McIntosh, Strathclyde Police.

1. Declarations of Interest.

Councillor Rita Miller advised that, in relation to items 8(a) and (b) of these minutes when a letter from SafeAyr had been submitted, she was Chair of the Community Safety Partnership, however, as she had no input in discussions or in formulating the letter, she would remain in the meeting to take part in the Board's deliberations.

Further discussions on this matter took place at item 8(a) on Page 5 of this Minute.

2. Date of Next Board Meeting.

The Chair advised that the next Board meeting would be held in the County Hall, County Buildings, Ayr on Thursday, 18th April 2013 at 10.00 a.m.

3. Minutes of Previous Meeting.

The Minutes of the Meeting of South Ayrshire Licensing Board of 7th February 2013 (issued) were submitted.

Decided: to note the Minutes of the previous meeting.

4. Update from Licensing Standards Officer.

P. McCarroll, Licensing Standards Officer advised

- (1) that since the previous Board meeting another joint initiative between Strathclyde Police, Trading Standards Officers and the Licensing Standards Officers had taken place to promote the need to 'Challenge 25';
- (2) that 'Challenge 25' had been a mandatory condition of the premises licence from October 2011 and since then premises were required to request photographic ID such as a passport, driving licence or Young Scot card from anyone who appeared to be under the age of 25 when attempting to purchase alcohol;
- (3) that this was a repeat of an earlier integrity testing initiative which had been carried out last year using an 18 year old Council employee acting as a customer in an attempt to purchase age restricted alcohol and tobacco products;

- (4) that failure of this testing procedure did not in itself present any breach of the law, however, it potentially showed a failure in the premises Challenge 25 policy and/or the training used;
- (5) that, of the 16 premises tested, 11 had refused the sale when the 'customer' was unable to produce identification and would receive a letter confirming the visit and their performance, however, 5 premises had made the sale of alcohol and tobacco products without any questioning and these premises were then the subject of a Police test purchase which they had all passed;
- (6) that, whilst it was disappointing to note that a third of those tested had failed, there was some positivity in that the exercise examined the self service facilities provided at some of the major supermarkets in South Ayrshire and had gone some way to offset the anecdotal evidence that these areas were a source of alcohol for underage customers; and
- (7) that the premises which had failed the integrity test would be subject to a follow up visit by Licensing Standards and Trading Standards Officers when the correct procedure would be explained and reinforced.

Decided: to note the report from the Licensing Standards Officer.

5. Applications for Transfer Granted Under Delegated Powers.

There was submitted a report (issued) of 21st February 2013 by the Clerk to the Licensing Board advising of the following determination of applications for Transfer of a Licence between the last Board meeting and the present one:-

- (1) 1 Morrison Gardens, Ayr; and
- (2) 125-127 Lochside Road, Ayr.

Decided: to note the transfers granted under delegated powers.

6. Scottish Government Consultation on Further Options for Alcohol Licensing.

There was submitted a report (issued) of 5th March 2013 by the Clerk to the Licensing Board seeking approval for the submission of a response to the Scottish Government to a consultation on further options for alcohol licensing.

Decided: to approve the submission of a response to the Scottish Government as detailed in Appendix 1 to the report.

7. Letter from Local Licensing Forum.

There was submitted a letter (issued) of 6th February 2013 from the Chair of the Local Licensing Forum, on behalf of the Forum,

- (1) seeking further information on a number of points, namely
 - (a) whether the Board would be taking any action regarding extended hours of premises, particularly in Troon following a recent press article about late night incidents there;

- (b) whether the Board intended to re-examine its Policy to generally permit an additional hour's trading over the festive period to any premises who applied, regardless of its terminal hour; and
 - (c) whether the Board had carried out any research or if there had been any reports made to examine the 'benefits' of additional trading hours against the licensing objectives, in particular whether any additional funding had been required for SafeAyr over the festive period to cope with the increased trading hours;
- (2) requesting that the Board consider the effects of premises being granted later opening hours including hospital admissions, police resources, taxis, street litter, crime and the costs of funding initiatives such as SafeAyr; and
- (3) advising
- (a) that the general opinion of the Forum was that members were not concerned that there were premises that operated until 2.30 a.m., as had been the case for several years but were concerned at the number of premises that now seemed to be granted later hours and, as the Forum could not recall such headlines previously, it was assumed that the reports of disorder and public nuisance were not a result of the terminal hour but due to the number of premises with a late/early terminal hour; and
 - (b) that the Forum did not feel that the current policy/practice of granting later hours to a variety of premises across South Ayrshire was meeting the five licensing objectives.

Decided: to note that the Board's response would be considered at the next Forum meeting on Wednesday, 17th April 2013, outlining

- (i) that, although the Board was aware of the recent press reports regarding Troon, the Board had received no adverse reports from Strathclyde Police, residents or Community Councils on this;
- (ii) that the Board was aware of the submissions by Strathclyde Police regarding Ayr Town Centre and these submissions would be the subject of a report to the Leadership Panel;
- (iii) that the Board treated all applications on their own merits; and
- (iv) that all matters would be looked at when the Board was reviewing its Statement of Licensing Policy.

8. Licensing (Scotland) Act, 2005.

(a) Applications for Variation of Premises Licences.

The Board agreed to hear evidence from the representative on items (1) and (2) and then adjourn to consider both of these applications together:

<u>Applicant</u>	<u>Premises</u>
(1) Crestcourt Limited	Club de Mar 1-5 Arthur Street Ayr

Existing Licensed Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	7.00 p.m. to 2.00 a.m.	N/A
Tuesday	7.00 p.m. to 2.00 a.m.	N/A
Wednesday	7.00 p.m. to 2.30 a.m.	N/A
Thursday	7.00 p.m. to 2.00 a.m.	N/A
Friday	7.00 p.m. to 2.30 a.m.	N/A
Saturday	7.00 p.m. to 2.30 a.m.	N/A
Sunday	7.00 p.m. to 2.00 a.m.	N/A

Proposed Licensing Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	7.00 p.m. to 2.00 a.m.	N/A
Tuesday	7.00 p.m. to 2.00 a.m.	N/A
Wednesday	7.00 p.m. to 3.00 a.m.	N/A
Thursday	7.00 p.m. to 2.00 a.m.	N/A
Friday	7.00 p.m. to 3.00 a.m.	N/A
Saturday	7.00 p.m. to 3.00 a.m.	N/A
Sunday	7.00 p.m. to 2.30 a.m.	N/A

Change to core hours as above.

Reference was made to the Minutes of 20th December 2012 (Page 2, paragraph 6(a)(1)) and 7th February 2013 (Page 3, paragraph 7(a)(1)), when it had been decided to continue consideration of this application to this meeting to allow further information to be sought on the effects that granting this application would have on the operation of the SafeAyr Group and on late hours catering premises.

As a preliminary point, the applicant's representative commented on Councillor Miller's participation in consideration of the following two applications.

Following discussion, Councillor Miller left the meeting during consideration of these two applications.

The Board heard the applicant's representative amend the application to remove that part of the application for opening hours from 7.00 p.m. until 3.00 a.m. on a Wednesday and then heard from Strathclyde Police, the applicant and the applicant's representative.

Following the adjournment to consider both items, in relation to item (1) the Board, having regard to the Board's Statement of Licensing Policy on this issue, refused the applicant's request for opening until 3.00 a.m. and approved the hours as follows:-

Granted Licensing Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	7.00 p.m. to 2.00 a.m.	N/A
Tuesday	7.00 p.m. to 2.00 a.m.	N/A
Wednesday	7.00 p.m. to 2.30 a.m.	N/A
Thursday	7.00 p.m. to 2.00 a.m.	N/A
Friday	7.00 p.m. to 2.30 a.m.	N/A
Saturday	7.00 p.m. to 2.30 a.m.	N/A
Sunday	7.00 p.m. to 2.30 a.m.	N/A

Applicant

Premises

- | | | |
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| (2) | Westclub Limited | West of the Moon
11-13 Arthur Street
Ayr |
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Existing Licensed Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Tuesday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Wednesday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Thursday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Friday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Saturday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Sunday	11.00 a.m. to midnight	noon to 10.00 p.m.

Proposed Licensing Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Tuesday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Wednesday	11.00 a.m. to 1.30 a.m.	11.00 a.m. to 10.00 p.m.
Thursday	11.00 a.m. to 2.00 a.m.	11.00 a.m. to 10.00 p.m.
Friday	11.00 a.m. to 1.30 a.m.	11.00 a.m. to 10.00 p.m.
Saturday	11.00 a.m. to 1.30 a.m.	11.00 a.m. to 10.00 p.m.
Sunday	11.00 a.m. to midnight	noon to 10.00 p.m.

Change to core hours as above. Serving of breakfast Monday to Saturday commencing at 10.00 a.m. (no alcohol to be served).

Reference was made to the Minutes of 20th December 2012 (Page 3, paragraph 6(a)(1)) and 7th February 2013 (Page 4, paragraph 7(a)(2)), when it had been decided to continue consideration of this application to this meeting to allow further information to be sought on the effects that granting this application would have on the operation of the SafeAyr Group and on late hours catering premises.

The Board heard the applicant's representative amend the application to remove that part of the application for opening hours from 11.00 a.m. to 1.30 a.m. on a Wednesday and from 11.00 a.m. until 2.00 a.m. on a Thursday and heard from Strathclyde Police, the applicant and the applicant's representative.

Following the adjournment to consider both items, in relation to item (2), the Board approved the hours as follows:-

Granted Licensing Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Tuesday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Wednesday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Thursday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Friday	11.00 a.m. to 1.30 a.m.	11.00 a.m. to 10.00 p.m.
Saturday	11.00 a.m. to 1.30 a.m.	11.00 a.m. to 10.00 p.m.
Sunday	11.00 a.m. to midnight	noon to 10.00 p.m.

The applicant's representative then requested a Statement of Reasons under Section 51 of the Act for both items (1) and (2) which was granted and sought a Direction under Section 32 for both items to allow the applicant to reapply within 12 months and this was also granted.

Councillor Miller rejoined the meeting at this point.

The Board agreed to continue consideration of items (3) and (4) to a future Board meeting:

<u>Applicant</u>	<u>Premises</u>
(3) Daleglade Ltd.	Madisons Nightclub 38A Carrick Street Ayr

Existing Licensed Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	2.00 p.m. to 2.00 a.m.	N/A
Tuesday	2.00 p.m. to 2.00 a.m.	N/A
Wednesday	2.00 p.m. to 2.30 a.m.	N/A
Thursday	2.00 p.m. to 2.00 a.m.	N/A
Friday	2.00 p.m. to 2.30 a.m.	N/A
Saturday	2.00 p.m. to 2.30 a.m.	N/A
Sunday	2.00 p.m. to 2.00 a.m.	N/A

The Board considered the following applications:

<u>Applicant</u>	<u>Premises</u>
(5) Haven Leisure Limited	Mash and Barrell Craig Tara Heads of Ayr Dunure Road Ayr

1. Incorporating the current outside decking area into the internal of the building.
2. Additional fixed and removable seating added to the Mash and Barrell.
3. New outside decking seating areas added to either side of the new additional internal building (old external decking seating area).
4. General internal refurbishment to update the Mash and Barrell.

Having heard the applicant's representative, the Board granted the above application.

(6) Castlehill Residential Lettings Ltd.	Crumbs and Cocktails 58 Kyle Street Ayr
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Existing Licensed Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Tuesday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Wednesday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Thursday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Friday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Saturday	11.00 a.m. to 12.30 a.m.	11.00 a.m. to 10.00 p.m.
Sunday	11.00 a.m. to midnight	11.00 a.m. to 10.00 p.m.

Proposed Licensing Hours

	<u>On-Sales</u>	<u>Off-Sales</u>
Monday	11.00 a.m. to 1.00 a.m.	11.00 a.m. to 10.00 p.m.
Tuesday	11.00 a.m. to 1.00 a.m.	11.00 a.m. to 10.00 p.m.
Wednesday	11.00 a.m. to 1.00 a.m.	11.00 a.m. to 10.00 p.m.
Thursday	11.00 a.m. to 1.00 a.m.	11.00 a.m. to 10.00 p.m.
Friday	11.00 a.m. to 1.00 a.m.	11.00 a.m. to 10.00 p.m.
Saturday	11.00 a.m. to 1.00 a.m.	11.00 a.m. to 10.00 p.m.
Sunday	11.00 a.m. to 1.00 a.m.	11.00 a.m. to 10.00 p.m.

Change name to "Crumbs and Cocktails".

Change of core hours.

Activities to include restaurant facilities to expand food sale.

To open at 8.00 a.m. to allow sales of breakfast and teas and coffees.

To allow children to stay until 10.00 p.m., under 15s to be accompanied by an adult at all times.

Additional sales of arts and crafts, grocery items, takeaway foods and deli foods, musical instruments and antique sales.

Having heard from the applicant, the Board granted the above application on condition that the Licensing Standards Officer be satisfied with the proposals for 16 and 17 year olds being on the premises.

(b) Application for Personal Licence.

The Board agreed to continue consideration of this application to a future Board meeting to allow the applicant to attend:-

<u>Application Number</u>	<u>Applicant</u>
SA/13/00002/LAPRS	John Walsh

(c) Application for Extended Hours.

The Board considered the following application:-

<u>Applicant</u>	<u>Premises</u>
Buzzworks Leisure Ltd.	Elliot's Bar & Restaurant 132 Main Street Prestwick

31/03/13 – Club Night for Bank Holiday – midnight to 2.00 a.m.

Having heard from the Licensing Standards Officer and from the applicant, the Board granted the above application on condition that the applicant sell alcohol from noon on that date and not from 11.00 a.m.

(d) Request Under Section 40 of the Act.

The Board considered the following request:-

<u>Licenceholder</u>	<u>Premises</u>
The Daring Gentlemen Ltd.	Forte Bar 39 South Harbour Street Ayr

Reference was made to the Minutes of 22nd November 2012 (Page 8, paragraph 4(g)) when it had been decided, having considered all of the evidence heard,

- (1) that the grounds for review had been established and that the premises licence should be varied so that;
 - (a) there should be no music on the premises;
 - (b) the televisions should be muted in line with the Licensing Objective of Preventing Public Nuisance; and
 - (c) no-one should be on the premises half an hour after closing time; and

- (2) that, should further soundproofing work be carried out, an application could then be made to the Board to vary the conditions,

and the Board then considered a request from the licence holder's representative that the conditions on the licence relating to the restriction of playing music at the premises and playing the televisions on mute be lifted.

Having heard from the applicant's representative and the Senior Environmental Health Officer, the Board agreed to lift the conditions (a) and (b) above previously placed on the licence on condition that the televisions only be played through the juke box speakers with the limiter. Condition (c) above relating to no-one being on the premises half an hour after closing time is to remain on the licence.

(e) Requests for Review.

The Board considered the following applications for review and decided that as the two reviews to be considered related to the same incident, the Board would hear the evidence relating to both before reaching its decision on these.

(i) Request for Review of Premises Licence Under Section 36.

<u>Licenceholder</u>	<u>Premises</u>
Montana Leisure Ltd.	McArthurs 7-9 Arthur Street Ayr

Following a Request for Review from Strathclyde Police under Section 36(3)(b) of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to these premises.

There were submitted a letter from Strathclyde Police dated 19th February 2013 (issued to Members only) outlining the background to this review; and a report from the Licensing Standards Officer dated 27th February 2013 (issued) advising of various visits she had made to the premises.

The Board then heard from Strathclyde Police in relation to the reasons for requesting the review and from the Licensing Standards Officer regarding her visits to the premises and discussions with the Premises Licence Holder.

The Premises Licence Holder then advised the Board

- (A) that, having been out of the licensed trade for seven years, procedures had changed and she now realised that she should have undertaken the training course prior to commencing in these premises; and
- (B) that when she previously worked in the licensed trade happy hours and staff drinks after closing time were acceptable but she was now aware that this was not permitted.

Questions were raised by Members in relation to

- (I) whether the thirteen people on the premises after closing time were staff members and Strathclyde Police advised that some of the people present were staff and some were not; and
- (II) when the last drink had been served as the till had been checked and totalled at 1.06 a.m. and Strathclyde Police advised that they had been unable to gain an answer to this.

(f) Request for Review of Personal Licence Under Section 84.

<u>Licenceholder</u>	<u>Licence Number</u>
Sean McPhail	SA/11/00238/LAPRS

Following a Request for Review from Strathclyde Police under Section 84A(1) of the Licensing (Scotland) Act 2005, the Board held a hearing in relation to the personal licence holder, Sean McPhail.

There was submitted (issued to Members only) a letter dated 19th February 2013 from Strathclyde Police outlining the background to this review.

The Board then heard from Strathclyde Police in relation to the reasons for requesting the review.

The Board then adjourned for consideration of both applications for review.

Upon reconvening, with reference to the Review of the Premises Licence, the Board determined that the grounds for review had been established and requested that the Clerk to the Board issue a written warning to the Premises Licence Holder

With reference to the Review of the Personal Licence, the Board determined that the grounds for review had been established and decided to endorse the Licence Holder's Personal Licence.

9. The Gaming Act 2005

Application for Licensed Premises Gaming Machine Permit.

The Board granted the following application:-

<u>Applicant</u>	<u>Premises</u>	<u>Number of Machines</u>
Turnberry Holiday Park Limited	Turnberry Holiday Park Turnberry	Cat C - 1 Cat D – 8 Total – 9

The meeting ended at 12.10 p.m.