

## MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting on May 1, 2008 at 9:00 AM. Present for the meeting were Commissioners Bea Crosco and Mike Fratz, Administrator to the Board, Deborah R. Owston and Administrative Assistant, Rebecca Glotfelty.

The meeting was called to order by Commissioner Crosco. A motion was made by Commissioner Fratz to approve the minutes and seconded by Commissioner Crosco and unanimously approved. The Board signed mileage sheets.

Before the meeting there was general discussion. Ms. Owston presented the Board with a copy of a letter from the State's Attorney, Lisa Thayer Welch, with her opinion on the request that was made from a local business to have a "secret shopper". The letter advises that it is illegal for anyone under the age of 21 to possess or attempt to possess alcohol and would be considered a violation of the law and will prosecute if attempted. Ms. Owston informed the Board that Wisp Resort has now provided an aerial copy of their premise area for the Pumphouse Café. Ms. Owston explained to the Board that she did advise licensee that alcohol being catered by the Wisp cannot be taken on to the Pumphouse Café premise. The Board was then advised that Senate Bill 221 Class "B" Beer & Wine On-Sale with available catering option became law without the Governor's signature and goes into effect July 1, 2008. Senate Bill 292 Sunday Sales Referendum became law without the Governor's signature and will go on the November ballot. If passed, this will take effect December 15<sup>th</sup>. The Sunday Sales option is only available for Class "B" and Class "C" license holders. Ms. Owston informed the Board that, as of today, 17 alcoholic beverage license renewals were outstanding. She will not be making telephone calls to remind licensees of the deadline. The Board was advised Pine Lodge Steakhouse has been scheduled for the June 5, 2008 meeting for their violation hearing. As of today, Ms. Owston has not heard any further information on the possible transfer of license for Curt's Corner. Ms. Owston presented to the Board the option of changing the July 3, 2008 meeting to another date if needed due to the July 4<sup>th</sup> holiday. The wine festival hearing is currently scheduled for the July meeting. The Board chose to keep the meeting for the already scheduled date of July 3, 2008. It was brought to the Board's attention that Tina Buckel from the Garrett County Health Department informed the office of possible additional serving areas at Will O the Wisp and Silver Tree Inn. Upon receipt of Will O the Wisp's alcoholic beverage renewal application, it was noted requesting an additional serving area. This will need to be approved by the Board. Effective April 17, 2008 Zip-eez's officially opened for business. Sorrelle's is also open. There have been no deliveries made as of yet due to not receiving a completed registration form. Ms. Owston informed the Board that compliance checks were conducted again on April 7<sup>th</sup> & 14<sup>th</sup>, 2008. On the first round of checks 17 establishments were closed and 10 on the second round. However, no establishments sold on the second round. Ms. Owston advised Commissioner Fratz that his term will expire on May 31, 2008 and questioned if he would like to be reappointed. Commissioner Fratz indicated that he would like to remain on the Board. Ms. Owston would like for Commissioner Fratz to notify her upon receipt of his letter of reappointment. Ms. Owston informed the Board that she received a request from McHenry Beverage Shoppe for permission of the Delivery Option. Ms. Owston indicated that the Board would need to make a motion on this decision. McHenry Beverage Shoppe currently has 3 employees trained in alcohol awareness. Both Commissioner Crosco and Commissioner Fratz would like to have additional information in writing. Ms. Owston will notify them to submit something to the Board in writing. Ms. Owston questioned if, after submittal of additional policies, the Board would then like to talk with the licensee? It will be based on the information submitted, per Commissioner Crosco. Lastly, Ms. Owston updated the Board on the HART Fundraiser to be held at Adventure Sports Center on May 24, 2008 and catered by the Wisp Resort.

A license hearing was held at 9:30 AM for the issuance of a Class "D" Beer & Wine On-Sale License to Archie's Barbeque. Applicants Deborah A. Archer and David Archer were present for the hearing. Mr. Archer explained to the Board that when they initially opened, they did not seek an alcoholic beverage license at that time due to receiving incorrect information. They listened to their patrons and received an overwhelming request to get beer and wine. They would like to set up a policy for limiting the beer and wine to on premise only – not selling thru the drive-up window or off premise sales. They would also

like to develop a policy to require the alcoholic beverage be served with an entrée only. They have three individuals currently TIPS trained and all are over the age of 21. Commissioner Crosco questioned if they would be open on Sundays. Mr. Archer replied, yes. Ms. Owston questioned what the hours of operation were. Mr. Archer replied the establishment is open Monday thru Thursday from 10 AM until 10 PM, Friday and Saturday from 10 AM until 3 AM, Sunday 11 AM until 10 PM. Ms. Owston advised the applicant that hours of operation in conjunction with their alcoholic beverage license for alcohol sales are from 6 AM until 2 AM. After 2 AM no alcoholic beverages may be served or dispensed and all alcohol must be off the tables, consumed or put away. All alcohol must be purchased through a licensed Maryland wholesaler. Ms. Owston also informed the applicants that a Class "D" license allows 25% of sales to be off-premise and the wine "Doggie Bag" bill permits a customer, along with their receipt, to have an opened bottle of wine re-corked and put in a brown bag and taken with them. The Archers were also informed that if during a compliance check, they fail; it is their responsibility to notify the office. Mr. Archer informed the Board that it is their intent to keep their business family oriented. Ms. Owston questioned how the alcoholic beverages would be stored. Mr. Archer replied that they would be stored in a walk-in refrigerator and cooler behind the counter. There will not be any free access to this area. Ms. Owston also reminded the applicants that in a restaurant atmosphere, the server could be 18 years of age or older to serve from a service bar to a seated customer. Anyone bartending must be 21 years of age or older. Mr. Archer replied that they have no servers. Ms. Owston also reminded the applicants that alcohol couldn't be brought onto the licensed premise. All receipts for alcohol must be readily available and all licenses should be displayed. Ms. Owston then informed the Board that all required documents were in order with the exception of the background checks. Commissioner Crosco made a motion to approve the Class "D" Beer & Wine On-Sale License and the motion was seconded by Commissioner Fratz and unanimously approved. After the appropriate fees were paid, the license was issued.

A transfer license hearing was held at 9:45 AM for a Class "B" BWL On-Sale License issued to Myra Cisneros and Cynthia DeVore. Present for the hearing were licensees Myra Cisneros and Cynthia DeVore. Ms. Cisneros explained to the Board that they would be relocating from their current location on Second Street to Third Street. They would like to relocate by the end of May or shortly after Memorial Day if possible. Ms. Cisneros informed the Board that the new location is a bigger place; they are currently finding it hard to accommodate the customers. Ms. DeVore explained to the Board that moving to the new location would be good; currently customers have to wait and are not happy. The new building will have a larger seating area. Ms. DeVore provided the Board with a floor plan drawing. They would like to use the deck to seat customers. The Board informed Ms. Cisneros that she will have to check with the Fire Marshall for permission to use the deck and how many seats they can have. Ms. Owston questioned the hours of operation. Ms. Cisneros replied they are open Monday through Saturday 11 AM to 10 PM and currently closed on Sundays. Ms. Owston questioned the total square footage of the new building. Cynthia replied 2,391 square feet including the deck and kitchen. The kitchen is 760 square feet and patio is 480 square feet. Ms. Owston questioned if the new lease was an annual lease? Ms. Cisneros indicated that it was a 2-year lease. Ms. Owston informed the Board of the pending Health Permit must be received prior to opening the new establishment. Ms. Cisneros indicated that she has to be out of her current location by May 31, 2008. Ms. Owston then advised that Ms. Cisneros couldn't operate her business at both locations at the same time. Ms. Owston also advised that no Bulk Transfer Permit is required if not operating at both locations simultaneously. Ms. Owston questioned if Ms. Cisneros would be using draft beer. Ms. Cisneros replied, not right now. Ms. Owston then advised that this would take a separate license if desired. She also advised that anyone bartending must be 21 years of age or older and servers have to be 18 years of age or older and receive the alcoholic beverages from the bartender if they are not at least twenty-one years of age. Ms. Owston informed Ms. Cisneros that the Board will need a copy of the Health Permit and an approved Use and Occupancy Permit, if applicable, prior to the license transfer and the fee will be \$20.00. Commissioner Crosco made a motion to approve the alcoholic beverage license transfer of the Class "B" BWL On-Sale license for El Canelo's pending the administrative documents requested and the motion was seconded by Commissioner Fratz and unanimously approved.

A violation hearing was held at 10:00 AM for Oakland Exxon, license #07-67 Class "A" Beer & Wine Off-Sale License for the sale of alcohol to a minor during a compliance check

conducted on February 25, 2008 by the Maryland State Police. Licensee, Richard Stuck along with manager, Cheryl Litten, employee, Jennifer Stone, retail managers, Steve Stuck and John McCormick were present for the violation hearing. Also, in attendance from the Garrett County Health Department were Kendra Todd, Nancy Brady and Diane Lee. Board Attorney, Craig Ingram, swore in all present for testimony. Mr. Richard Stuck informed the Board that all staff present came voluntarily and apologized for the failure. He also informed the Board that they do have procedures in effect. The ID was taken and mishandled by taking a shortcut and not following the in-house procedures. Cheryl Litten, the manager at the Oakland Exxon informed the Board that they have trained everyone on their policy; however, it was not as foolproof as she had thought. A customer cannot be waited on without a license regardless and they have had customers to leave mad. They have notices on the windows, doors and everywhere that ID is needed. She advises that crewmembers are to card and not to give in. The loophole that was found is now fixed. Employees will be on camera at all times. Employee, Jennifer Stone at Oakland Exxon explained to the Board that she did card, but instead of putting the birthday into the register, she hit “#” to override and figure it out in her head. She was one year off. Commissioner Crosco questioned Ms. Stone as to her age. Ms. Stone replied, 25. Ms. Owston questioned if they have an actual calendar that shows them the date to look for on the license that makes the customer o.k. to sell to. Ms. Stone replied, yes. Ms. Owston then explained that the driver’s licenses of individuals under the age of 21 have a colored block around their photo. The format of this card should be a strong indicator to someone to stop and check very closely. Ms. Owston then asked Ms. Stone if she was trained in an alcohol awareness course. Ms. Stone replied, no. Cheryl Litten is trained but was not present at the time of the compliance check. Mr. Stuck then indicated that if the employee had not hit the “#” key to void, she would have had to enter the date of birth into the system and the date of birth would have been denied. Mr. Steve Stuck then advised the Board that they have spent over \$6,000 in surveillance cameras at the store. There is always someone randomly watching for alcohol sales and making sure that the ID is being taken. He understands that this is their third violation and it was not their intent to have another sale to a minor violation and they are very disappointed to be here when they have taken measures to avoid this. Ms. Owston questioned if they had any policy of reprimand? Mr. Richard Stuck replied, first offense is suspension without pay for 5 days and a second offense is termination. This also applies to tobacco sales. Ms. Owston then showed all present a copy of an ID checking guide and explained the purpose and importance of having this information available for employees along with making sure that employees who are TIPS or TAM trained share their knowledge with their co-workers. Commissioner Crosco went over the sales to a minor fines and suspension guideline as written in the Rules and Regulations handbook. Mr. McCormick then informed the Board that they have tried hard to prevent this occurrence and effective yesterday they will begin doing their own internal audit. If an employee is seen not carding, they will receive a three-day suspension. Ms. Owston advised Mr. McCormick of the recent opinion from the States Attorney Office in reference to this type of activity and not allowing anyone under the age of 21 to be involved in such an audit. Ms. Kendra Todd from the Garrett County Health Department questioned as to if the person conducting the audit could stop short of the sale prior to the exchange of money if they are under 21 years of age. Ms. Owston replied that this would still qualify as an attempt to possess and then proceeded to read the letter from the States Attorney, Lisa Thayer Welch. The Board then went into Executive Session to discuss all information given and make a motion. After Executive Session, Commissioner Crosco made a motion that this being the 3<sup>rd</sup> violation the Board will impose a \$1,000 fine and 30-day suspension. They have the right to appeal and if they choose not to appeal, the suspension will begin tomorrow, Friday, May 2, 2008 and will end on Sunday, June 1, 2008 and Commissioner Fratz seconded the motion. Mr. Richard Stuck waived his right to appeal and also informed the Board that he was aware that he could appeal and that there was a holiday coming up. He understands and does not want to appeal. Ms. Owston then informed the licensee that their alcoholic beverage license was to be brought into the office by 9:30 AM tomorrow morning. There is to be selling, giving away or handling of the alcoholic beverages during the suspension as well as no ordering of any alcohol from a wholesaler. Mr. Stuck would like to move the product completely off of the shelf. Ms. Owston advised them to do this today prior to the start of the suspension. She also questioned if Mr. Stuck would like to have the letter of suspension both mailed and faxed. Mr. Richard Stuck replied, yes. Ms. Owston notified them that the fine is due in 30 days or postmarked by June 1<sup>st</sup>. She also advised them that a 4<sup>th</sup> offense could be up to a one-year suspension and the maximum fine. Mr. Stuck questioned how often compliance

checks are conducted. Ms. Owston responded that they are based on Health Department grant funding. Mr. Stuck was then provided with an updated copy of the Rules and Regulations for Garrett County.

After the violation hearing there was brief general discussion and the Board was introduced to Erin Croake-Arnett. She will be a licensee for Mountain State Brewing Company who was not able to attend the hearing on April 3, 2008 for the establishment.

The next meeting date was set for June 5, 2008. There being no further business, Commissioner Fratz motioned the meeting be adjourned and seconded by Commissioner Crocco.

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Thomas A. Gearhart  
Chairperson

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June 5, 2008  
Date