

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting on June 5, 2008 at 9:00 AM. Present for the meeting were Commissioners Bea Crosco and Mike Fratz, Chairperson Thomas Gearhart, Administrator to the Board, Deborah R. Owston and Administrative Assistant, Rebecca Glotfelty.

The meeting was called to order by Chairperson Gearhart. A motion was made by Commissioner Crosco to approve the minutes and seconded by Commissioner Fratz and unanimously approved. The Board signed mileage sheets. Commissioner Crosco made a motion seconded by Chairperson Gearhart to approve the travel expense report for Commissioner Fratz. Chairperson Gearhart made a motion seconded by Commissioner Fratz to approve the travel expense report for Commissioner Crosco. Commissioner Crosco made a motion and seconded by Commissioner Fratz to approve the travel expense report for Chairperson Gearhart.

Before the meeting there was general discussion. Ms. Owston reminded the Board that Commissioner Fratz's appointment term has expired and as of yet no letter has been received to have him sworn in for reappointment. Ms. Owston updated the Board on the alcoholic beverage license changes and officer changes. A motion was made to approve all alcoholic beverage licenses as submitted by Commissioner Crosco and seconded by Chairperson Gearhart and unanimously approved. The Board was notified that Zip-eez's Delivery Option became effective on May 9, 2008 and all the paperwork for McHenry Beverage's Delivery Option has been received and the request was approved on May 19, 2008. Ms. Owston informed the Board that El Canelo's transferred their license on May 25, 2008 and reopened at their new location on May 30, 2008. The Board was notified that Will O' The Wisp requested on their renewal application to add a new service bar. Commissioner Crosco made a motion to approve the new service bar for Will O' The Wisp seconded by Chairperson Gearhart and unanimously approved. The Board was then notified that Archie's BBQ would like to add the Catering Option to their Class "B" B&W On-Sale License effective with their July 1, 2008 alcoholic beverage renewal application. A motion was made by Commissioner Crosco to upgrade Archie's BBQ to a Class "B" B&W On-Sale with the Catering Option effective July 1, 2008 seconded by Chairperson Gearhart and unanimously approved. Ms. Owston informed the Board of Pawn Run's request to add a new serving area. A motion was made by Chairperson Gearhart to approve the additional serving area for Pawn Run seconded by Commissioner Crosco and unanimously approved. A request was made by Fireside Deli & Wine Shop to consider the removal of the late fee that was applied to their renewal application. The reason for the tardiness of the application was due to a death in the family. Due to the unforeseen circumstances, Chairperson Gearhart made a motion to waive the late fee applied seconded by Commissioner Crosco and unanimously approved. Ms. Owston updated the Board on the recent approval by the Zoning Appeals Board for a Special Exception 390-Outside entertainment at the Harbor Bar for Silver Tree Inn. Ms. Owston reviewed the minutes from the Public Hearing held on April 17, 2008 with the Board. The Board was also informed of the recent approval by the Zoning Appeals Board for a Special Exception 391-Covered outside stage and Special Exception 392-Clarification on closed windows and doors for the Black Bear Tavern. The minutes from the Public Hearing that was held on May 15, 2008 were reviewed with the Board.

A Show Cause Violation Hearing was scheduled for 9:30 AM for Pine Lodge Steakhouse License #07-01-RM Class B” Resort BWL On-Sale and License #07-01D-RM Draft Beer for the alleged employment of an underage bartender. The licensee Jonathan Kessler was unable to attend due to unforeseen circumstances and the hearing was rescheduled for the July meeting. Ms. Owston will notify Mr. Kessler with a letter of the rescheduled date and time. A motion was made by Commissioner Crosco to reschedule a Show Cause Violation Hearing for Pine Lodge Steakhouse for the July 3, 2008 Liquor Control Board Meeting and seconded by Chairperson Gearhart and unanimously approved.

A license hearing was held at 9:45 AM for a Class “B” BWL On-Sale & Draft Beer License issued to Charles Austin Yommer, Jr. and Debra Lee Yommer of D’Acy’s Enterprise, Inc. operating as Ledo’s Pizza, Pub & Pasta. Applicants Charles Yommer and Debra Yommer were present for the hearing in addition to Hugh Umbel. Board Attorney, Craig Ingram swore in Mr. & Mrs. Yommer and Mr. Umbel prior to the beginning of the hearing. Chairperson Gearhart requested an overview of what their plans were. Mr. Yommer responded that they would be operating a pizza restaurant with a pub. The majority of the sales would be generated through the food sales. In someone comes in and orders food, they will be able to get beer or wine with their food but the majority will be food. Chairperson Gearhart questioned the hours of operation. Mr. Yommer indicated that they would be open from 10:00 AM until 11:00 PM Friday and Saturday and 10:00 AM until 10:00 PM the remainder of the week and that the establishment was located in the McHenry Plaza. Commissioner Crosco questioned the number of employees. Mr. Yommer indicated that they would estimate having 35-40 employees. Chairperson Gearhart questioned if it was a franchise. Mr. Yommer replied, yes. Chairperson Gearhart questioned if anyone has had the alcohol awareness training. Mr. Yommer’s responded that both Debra and he are scheduled to attend the training in Cumberland on June 25, 2008. Ms. Owston questioned if they would be onsite management. Mr. Yommer replied, yes. Ms. Owston questioned how they would share the alcohol awareness training with their employees. Mr. Yommer replied that they would convey the training since the Ledo’s policy does not have any training for alcohol awareness. Commissioner Crosco directed a question to Mr. Umbel regarding the officers and Mr. Umbel being listed on the paperwork as president. Mr. Umbel responded that he was at one time residing over the Corporation until they held a meeting, but since then he has been delegated to Vice President. Commissioner Crosco questioned if it was necessary that he be an officer. Mr. Umbel replied that it was not. Commissioner Crosco replied that she would prefer that he was not an officer if he has no financial interest in the business. Mr. Umbel replied that he had no financial interest in the business whatsoever. Attorney, Craig Ingram questioned if it was required by the franchise that he be an officer. Mr. Umbel replied, no. Mr. Umbel stated that he initially initiated the franchise in the business to expedite things; however, the Yommer’s were involved from the beginning. Mr. Ingram questioned that although Mr. Umbel’s name was on the franchise application as president of the Corporation, it was always the intention for it to be the Yommer’s business and as now established he is the landowner and note holder but never the owner of the business. Mr. Umbel agreed. Mr. Umbel explained the situation as to how and why he became involved in the franchise. Mr. Umbel explained that they have since held meetings removing him as president; however, he is still vice-president. He owns no stock; both the Yommer’s own all the stock. His only involvement is a temporary note until the Yommer’s acquire financing for their equipment.

He is holding the note and they will be paying him. He will be landlord only. He will be billing it out. Mr. Ingram confirmed with Mr. Umbel that any money that Mr. Umbel puts into the business couldn't go toward ownership interest in the business; it has to remain as money owed. Mr. Umbel agreed. Mr. Ingram indicated that the paperwork that was sent to the Board was not signed and the Board needs signed copies. Mrs. Yommer had the signed copies of the minutes in her possession and provided the Board with a copy. Mr. Ingram indicated that the Board also needed a signed copy of the second note that has all blanks filled in indicating the interest rate, payments, etc. Chairperson Gearhart would like to make decision contingent on note. Mr. Ingram agreed and also noted the Board would need to make a decision as to complete removal of Mr. Umbel as an officer. Mr. Umbel agreed that could be done also. Commissioner Crosco would like Mr. Umbel's removal as an officer. Mr. Umbel informed the Board that he will have participation to assist the Yommer's in getting open and then he is out. Mr. Ingram confirmed with Mr. Umbel that he cannot step outside of the lease, the rate has to be reasonable rate and he cannot siphon money off the lease. Mr. Ingram also confirmed with Mr. Umbel that he is talking as landlord only and it is not Mr. Umbel's business. Ms. Owston updated the applicants on their responsibilities as a license holder if approved. If a compliance check is conducted and an employee sells to a cadet, they are to notify the office. If law enforcement is called for any reason, they are to notify office. All alcohol is to be purchased from a Maryland Wholesaler and all receipts must be kept on premise. Hours for alcohol sales are from 6 AM until 2 AM Monday thru Saturday. Alcohol awareness training is a requirement and she would like copies of the certificates when received. If any changes are made to the premise, the office will need to be notified. Ms. Owston still needs copies of the Sales & Use Tax number, Traders License and Health Permit. Mr. Ingram also reminded the Board and the Yommer's that the existing minutes need to be signed, they need to hold a meeting and vote Mr. Umbel out and then submit subsequent minutes. Also, the note needs to be completed and signed. Ms. Owston also needs the approved signed copy of the Use & Occupancy Permit. Ms. Owston would also like to have the Workers Compensation binder number or a copy of the document. Ms. Owston also informed the Board of the anticipated opening date of July 1, 2008. Chairperson Gearhart reminded the applicants that the servers, serving a seated customer need to be at least 18 years of age or older; the bartenders need to be 21 years of age or older. Chairperson Gearhart made a motion to approve the licenses contingent on receipt of the Sales & Use Tax number, Traders License, Health Permit, new-signed minutes, and additional minutes noting Mr. Umbel resigning as Vice President, a copy of the Use & Occupancy Permit and a copy of the signed note seconded by Commissioner Crosco and unanimously approved.

After the hearing there was general discussion. Ms. Owston notified the Board of a "fake" website referencing Deep Creek Cellars. The Comptroller's Office is aware of the situation. Ms. Owston provide the Board with a copy of a list of current establishments operating with a Class "D" B&W On-Sale License noting the establishments that operate as a restaurant can be changed to a Class "B" B&W On-Sale License effective July 1, 2008. Commissioner Crosco made a motion to change the license class from "D" to "B" as listed on the provided sheet seconded by Chairperson Gearhart and unanimously approved. Ms. Owston also updated the Board on an anonymous complaint received in reference to Yough Mt. Resort and Wisp Resort complaint. She also informed the Board that approximately 60% of the licenses renewed for 2008 have been pre-paid.

The next meeting date was set for July 3, 2008. There being no further business, Chairperson Gearhart motioned the meeting be adjourned and seconded by Commissioner Crocco.

Thomas A. Gearhart
Chairperson

July 3, 2008
Date