

## MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting on April 2, 2009 at 9:00 AM. Present for the meeting were Chairperson Tom Gearhart, Commissioners Bea Crosco and Mike Fratz, Administrator to the Board, Deborah R. Owston, and Administrative Assistant, Amanda Klotz.

The meeting was called to order by Commissioner Crosco. A motion was made by Commissioner Fratz to approve the February 5, 2009 minutes and seconded by Chairperson Gearhart and unanimously approved. The March 5, 2009 meeting was not conducted. Mileage sheets were signed by the Board.

Before the meeting there was general discussion. Ms. Owston informed the Board that in addition to the establishments that would be appearing today for hearings for selling to an underage cadet, an employee of Swanton Grocery also sold on March 18, 2009. Of the 74 total licensed establishments, 62 were attempted to be checked; 10 of those were closed. A total of 6 of the 52 checked sold to the cadet which comes out to a 12% failure rate. The renewals have been sent out however, there are holds on a few establishments by the Health Department and Comptroller's Office. There are a few establishments that will need to update their Alcohol Awareness certification prior to the new license being issued. Ms. Owston also reported that the House Bill 334 has passed in the House and is now in the Senate for approval. She also reported that most of the Class W Winery License proposals by counties, including Garrett County, have not made it through the House. She informed the Board that the licenses from the Swallow Falls Store have not been turned back in by Mr. Sweda. Ms. Owston explained that the Special Class C license hearing for the Frostburg Knights of Columbus was not conducted on February 5, 2009 since Mr. Sweitzer was not able to attend the meeting. No event was held by the Frostburg Knights of Columbus due to lack of ticket sales for the event. However, the Avilton Community Association used an event on February 14, 2009. They decided to hold an event since the band that was scheduled for the Frostburg Knights of Columbus was still available. Marty Sine for the Comptroller's Office reported that an inspection at the Long Branch Saloon resulted in no evidence of any violations. Ms. Owston reported that Silver Tree Inn has notified the office that they have chosen to close for the season. They were advised in a letter that they must notify the office when they plan to re-open. Also, they were told that the renewal license application would still be due by May 1<sup>st</sup>, 2009 regardless of whether they were opened back up. The Friendsville Volunteer Fire and Rescue Department upgraded their license to 24 events on February 12, 2009. The Old Mill Restaurant & Convenience Store closed as of March 15<sup>th</sup>, however, official notification has not been received as to whether they intend to put the license on hold or not. Ms. Owston also informed the Board that the Salary Review Commission met recently and did not recommend any salary increases for the members of the Liquor Control Board. The Oakland Volunteer Fire Department recently held a Mega Bash on March 14, 2009 and are looking at possibly sponsoring another event at Broadford Park on June 19, 2009. There is a Gun Bash scheduled for April 4, 2009 at the Oakland Fire hall which will be sponsored by the F.O.P. # 99. The Oakland American Legion Post # 71 may switch back to a Class "C" license due to the fact that they feel that being open to the public isn't helping their business. The Grantsville American Legion Post #214 was found to be in violation of the Clean Indoor Air Act on March 9, 2009. Chairperson Gearhart asked if the other Board

members would mind if he spoke to the members of this Post about the seriousness of this violation. An application has been received for Good to Go convenience store in Friendsville. Ms. Owston also informed the Board that the Health Department will be sponsoring Fake ID training at Garrett College on April 20, 2009 for retailers and law enforcement.

A license hearing was held at 9:30 AM for a Class "D" Beer & Wine On-Sale License to be issued to Swallow Falls General Store & Bishoff Bakery. Applicant Shawn Smith was present for the hearing. Chairperson Gearhart asked Ms. Smith the hours that the store would be open and what the plans were for the store itself. Ms. Smith indicated that the hours of operation would be from 6 am to 9pm in the summer. The store will sell general merchandise, including fresh baked goods, beer, wine and fishing, camping and hiking supplies. Chairperson Gearhart asked if anyone has had alcohol awareness training. Ms. Smith indicated that she had had training in the past and would be taking the next training class. She provided Ms. Owston with her Sales and Use Tax number, Traders' License and Health Inspection. Ms. Owston reminded her that all alcohol must be purchased through a Maryland wholesaler. She also mentioned that if at any point there is any type of problem involving alcohol at the establishment such as selling to a cadet, the Board should be notified. Ms. Smith indicated that she has made the decision that everyone will be carded if they are not familiar to her. Ms. Owston also provided Ms. Smith with a renewal packet. Ms. Owston informed the Board that the premise on the license for this establishment will include the picnic table area behind the building and the porch. Commissioner Crosco made a motion to approve the Class "D" B&W On-Sale License. The motion was seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. The fees were paid and the license was issued by Ms. Owston.

A violation hearing was held at 9:45 AM for Table Rock Inn, license # 08-75, Class "D" BWL On Sale License for the sale of alcohol to a minor during a compliance check conducted on February 5, 2009 by the Maryland State Police. Licensee, Robert Skeweris was present at the hearing. Mr. Skeweris explained that he was present when the violation occurred. The bartender asked to see identification, looked at the ID and served the cadet anyway. Chairperson Gearhart asked if any corrective measures had been taken. Mr. Skeweris indicated that the server was told to never do that again, to look twice and to take more time when reviewing a license. Commissioner Crosco inquired as to whether the server was new to the establishment. Mr. Skeweris indicated that no, she was not new. Chairperson Gearhart suggested that patrons be asked if they are 21 in addition to reviewing the ID itself. Ms. Owston also emphasized that regardless of whether the patron says that they are 21, they should still be carded. She also reminded that if the ID is in the vertical type format, the employee should automatically know to look extra closely at it because that is one major indicator that the person may be underage. Chairperson Gearhart explained that the standard fine for a first time offense is \$100; the penalty for a second offense would be up to 10 day suspension of the license as well as a \$500 fine; and the penalty for a third offense would be up to a 30 day suspension and a \$1000. He also explained to Mr. Skeweris that he would have 30 days to appeal the Board's decision should he wish to do so. Mr. Skeweris indicated that he agreed to the facts set forth in the police report and did not wish to appeal. Commissioner Crosco made a motion to fine the establishment the standard fine of \$100 plus a letter of reprimand.

Commissioner Fratz seconded the motion and Chairperson Gearhart made the motion unanimous. Chairperson Gearhart also explained that a letter of reprimand would also be placed in the file and a copy sent to Mr. Skeweris. Ms. Owston reminded Mr. Skeweris that there is a Fake ID training class coming up on April 20<sup>th</sup> at Garrett College.

A violation hearing was held at 10:00 AM for El Canelo's Restaurant, license # 08-02, Class "B" BWL On-Sale License for the sale of alcohol to a minor during a compliance check conducted on February 5, 2009 by the Maryland State Police. Licensees, Mayra Cisneros and Cynthia DeVore were present at the hearing. Chairperson Gearhart inquired as to what happened on that day. Ms. DeVore indicated that she was present when the infraction occurred. She explained that the cadet walked in and indicated that he only wanted to order a drink and took a seat at the bar. An employee came out of the kitchen to take the cadets order because the other servers were all very busy. He took the cadets ID, but appeared to have held the card horizontally instead of vertically. He then served the beer. The cadet sat at the bar for a few moments and then walked out at which time the State Police came in and notified them that they had sold alcohol to a minor. Chairperson Gearhart inquired as to whether there was any corrective action taken. Ms. Cisneros indicated that he no longer is working at the restaurant and that everyone knows to card and to look closely at the ID. Ms. Owston asked if the employee's hearing had been scheduled. Ms. Cisneros replied that it had been scheduled and she was unsure if she would be able to go with Carlos, whom had been the employee that sold to the minor, but that he would be in need of a translator as his English is not good. Commissioner Crosco made a motion to impose the standard fine of \$100 and a letter of reprimand. The motion was seconded by Commissioner Fratz and made unanimous by Chairperson Gearhart. Ms. Owston explained to the licensees that they had the right to appeal the Board's decision. Ms. Cisneros and Ms. DeVore both indicated that they would not appeal the Board's decision. Ms. Owston explained that they had 30 days to pay the fine and the letter of reprimand would be sent. Ms. Cisneros paid the fine and Ms. Owston will be sending a receipt.

A violation hearing was held at 10:15 AM for Archie's BBQ, license # 08-49, Class "D" Beer & Wine On-Sale License for the sale of alcohol to a minor during a compliance check conducted on February 19, 2009 by the Maryland State Police. Licensees David and Deborah Archer were present at the hearing. Chairperson Gearhart inquired as to what happened. Mr. Archer indicated that Anthony, the employee that sold, called him immediately after it happened and told him all about it. He explained that the cadet had only ordered a beer, which should have been a warning to Anthony because they never have people only order a beer. Anthony asked to see the ID and when he looked at it, the dates just didn't 'click'. He was in a hurry because there was a line and he went ahead and served the cadet. He explained that they have made it a policy to never sell alcohol without a meal and also asked if he has the right to refuse to sell alcohol to anyone under 25. The Board was unsure as to whether or not he could do that legally and suggested that an attorney be contacted in reference to the issue. Mrs. Archer explained that they go over the dates for serving alcohol everyday and Anthony knows that what he did was wrong and he feels terrible about it. Ms. Owston explained that extra time should be taken especially if the ID is in the vertical format and reminded them that there is a training opportunity coming up at the college. Chairperson Gearhart explained that the standard fine for the first offense is a \$100 fine and a letter of reprimand. Commissioner Fratz made

a motion to impose the \$100 fine and letter of reprimand; the motion was seconded by Commissioner Crosco and made unanimous by Chairperson Gearhart. Chairperson Gearhart explained that they would have 30 days to pay the fine. Ms. Owston further explained that they also have the right to appeal the Board's decision to the Circuit Court. Mr. and Mrs. Archer indicated that they did not wish to appeal and would pay the fine. Ms. Owston also mentioned that the letter of reprimand would be sent. She also inquired as to how sales had been on Sundays thus far. Mr. Archer explained that sales on Sunday are very low. They plan to monitor this over the summer and may decide to drop that option. Mr. Archer also asked that the Board consult with their attorney, Craig Ingram, in reference to the possibility of restricting alcohol sales to anyone under 25.

A violation hearing was held at 10:30 AM for the WISP Resort, license # 08-61-RM and 08-61D-RM, Class "B" BWL Resort On-Sale & Draft Beer License for the sale of alcohol to a minor during a compliance check conducted on February 19, 2009 by the Maryland State Police. Licensee Karen Myers and employees, Vickie Buckel and Tim Prather were present at the hearing. Ms. Buckel explained that she was in the dining room when the infraction took place. She said that the server carded that cadet, but still served him. Commissioner Fratz explained that they need to make sure that the server knows how to read the license. Ms. Owston also explained that they need to be sure to read both of the dates on the cards. Ms. Myers indicated that they would like to test their own staff by sending in minors to try to purchase alcohol to see if they are served. Chairperson Gearhart advised that they probably do not want to do that because the minor would be doing something illegal by attempting to purchase and could be arrested. Mr. Prather indicated that the employee that sold is a good bartender, but at the time that the infraction took place, she was very busy and just didn't take enough time. Commissioner Fratz explained that regardless of how busy they are servers always need to take the time to look closely at the ID. Commissioner Crosco asked if a hearing date had been set yet in District Court for the employee. Ms. Myers indicated that her court date was on Monday and Ms. Buckel indicated that she would go if the employee wanted her to. Ms. Owston asked if they would be sending any employees to the Fake ID training on April 20<sup>th</sup>. Ms. Buckel indicated that 3 employees would be attending that training. Ms. Owston explained that the establishment and the employees would benefit tremendously from the training. She encouraged sending as many employees as possible. Ms. Buckel indicated that the bartenders do seem to be showing her questionable ID's much more often lately. Chairperson Gearhart went over the penalties associated with the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> offenses for the sale to a minor. Commissioner Crosco made a motion to impose the standard \$100 fine and letter of reprimand. Commissioner Fratz seconded that motion and it was made unanimous by Chairperson Gearhart. Ms. Owston explained that they have the right to appeal the Board's decision to the Circuit Court if they wish. Ms. Myers indicated that they do not wish to appeal and will pay the fine. Chairperson Gearhart inquired as to how the Sunday sales were going at that establishment. Ms. Buckel indicated that they get a lot of people that do not want to purchase food. Mr. Prather explained that some people try to argue over what constitutes a meal and for this reason; they are airing on the side of caution when it comes to Sunday sales of alcohol.

A violation hearing was held at 10:45 AM for Luke's Liquors, license # 08-57 & 08-57D, Class "D" BWL Off-Sale & Draft Beer License for the 2<sup>nd</sup> Offense for the sale of alcohol to a minor during a compliance check conducted on February 5, 2009 by the Maryland State

Police. Licensee Carol Lantz was present at the hearing. To begin, the Board's attorney, Craig Ingram swore Ms. Lantz in. Chairperson Gearhart then asked Ms. Lantz if she was present at the time of the infraction. She indicated that no she was not present, but that Tina, the employee who sold, thought that the customer was one of her regulars that comes in to get beer and for that reason, she didn't card. Chairperson Gearhart asked if any corrective action was taken. Ms. Lantz said that the employee was fired. Ms. Owston showed Ms. Lantz a copy of the cadet's actual license and pointed out that he was clearly underage. Commissioner Crosco asked how long she had been employed by the establishment. Ms. Lantz indicated that she had been employed about 10 months and had been sent to alcohol awareness training. Ms. Owston indicated that they should consider a new policy requiring that employees card more often even if they think that they recognize the customer. Chairperson Gearhart indicated that the penalty for a second offense is a \$500 fine and up to a 10-day suspension. Upon deliberation by the Board, Commissioner Fratz made a motion to impose a \$500 fine and a 5-day suspension. Commissioner Crosco seconded the motion and it was made unanimous by Chairperson Gearhart. Ms. Owston explained to Ms. Lantz that she does have the right to appeal the Board's decision if she so wishes. If she chooses not to appeal, she will have 30 days to pay the fine. Ms. Lantz indicated that she did not wish to appeal. Chairperson Gearhart then informed her that the suspension would start on the next business day and would be in place on April 3<sup>rd</sup>, 4<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> and they would be allowed to resume business on the 9<sup>th</sup>. Ms. Lantz asked if the licenses need to be pulled during the suspension. Ms. Owston explained that the licenses would need to be delivered to her office in the Courthouse. She also explained that during the suspension there is to be no orders, moving or working with the alcohol at all. She also mentioned that the Fake ID training that is coming up on April 20<sup>th</sup> is highly recommended.

There was general discussion with the Board's attorney, Craig Ingram, on a few subjects. The question that was raised earlier about whether or not Archie's BBQ can refuse to sell alcohol to anyone under 25. Mr. Ingram indicated that the Board shouldn't have an opinion on whether or not they can do this. He also advised that the owner of the establishment should get in contact with his own lawyer because it could be considered a discrimination issue. The Board was also told of a question that had arose concerning Pizzeria Uno's and the Honi-Honi in reference to a Special Exception hearing that may be taking place by the Planning & Land Development Office. Bill Ingram of Pizzeria Uno's would like to be able to serve alcohol from the Honi-Honi tavern building on Sundays with a meal. Mr. Gary Mullich explained that the Zoning Office had asked if the Liquor Board would have any issues if permission was granted for alcohol to be served from the Honi-Honi building. In order to do this, a restriction which currently applies to the Honi-Honi building because it is considered a tavern would need to be removed. Mr. Ingram reiterated the question that was being asked of the Board. Chairperson Gearhart indicated that he would have no issue with it. He then asked if they would have any issues with people having alcohol on the lawn on Sundays at the Honi. Mr. Mullich indicated that if complaints were to start coming in about the issue, the Board may have to take the privilege of selling on Sunday away from the establishment. Mr. Craig Ingram once again asked the Board to let Mr. Mullich know what he could tell the Zoning Office. It was discussed and decided that the Board has no objections to the lifting of the restrictions on the Honi-Honi to allow Sunday Sales with a meal. Ms. Owston mentioned that the Sunday Sales Option was added to the license for El Canelo's restaurant on February 27<sup>th</sup>, 2009 upon approval by the Board.

After general discussion, the next meeting was set for May 7, 2009. There being no further business, Commissioner Fratz motioned that the meeting be adjourned, which was seconded by Commissioner Crocco.

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Thomas A. Gearhart  
Chairperson

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May 7, 2009