

MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting on November 6, 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.

Chairperson Gearhart called the meeting to order. A motion was made by Commissioner Fratz to approve the August 7, 2008 minutes seconded by Commissioner Crosco and unanimously approved. A motion was made by Commissioner Crosco to approve the September 4, 2008 minutes seconded by Commissioner Fratz and unanimously approved. The October 2, 2008 monthly meeting was not conducted. The Board signed mileage sheets.

Before the meeting there was general discussion. Ms. Owston reviewed the "Unofficial" Sunday Sales Referendum election results with the Board and explained to them that it appears several establishments do not completely understand who qualifies and think that they can sell. Ms. Owston would like to send a letter that says "If you are this" you qualify and "If you are this" you do not qualify in conjunction with the News Year's Eve extended hours letter of notification. After the election results are canvassed, the first day for the law will go into effect is December 15, 2008. Sunday Sales will be permitted starting December 21, 2008. Ms. Owston updated the Board on the MALA Fall Conference with a successful turnout of over 100 attendees. The Spring Conference will be held in Ocean City, Maryland. The Board also discussed Legislative items for the upcoming session. A summary of the 2009 Legislative issues was given to the Board. Items at hand are updates to Article 2B, Section 12-301 and Article 2B, Section 8-406.1(a). The Board presented no questions and recommended no additional changes. Ms. Owston informed the Board that the Governor has officially reappointed Commissioner Fratz. Ms. Owston presented the option of extending hours of operation for this New Years Eve, which falls on a Wednesday, for establishments with on-sale privileges only to 4 AM as previously approved in prior years. Commissioner Fratz made a motion to approve the extended hours as mentioned and seconded by Chairperson Gearhart and unanimously approved. Ms. Owston will send notification to those licensees that it applies to. The Board was presented with a list of meeting dates for the 2009 calendar year. Commissioner Crosco made a motion to approve the meeting dates as presented, seconded by Commissioner Fratz and unanimously approved. Ms. Owston informed the Board of all upcoming events scheduled for Special Class C License holders. North Lake Café is officially closed and Ms. Owston received their alcoholic beverage licenses on October 1, 2008, they are now null and void. The Deer Park V.F.W. has had officer changes and a new alcoholic beverage license has been issued. The Board was notified of a burglary that occurred at Old Pike 2. There was an advertisement in the Republican Newspaper for GALS for a function that they will be having on Saturday, November 8, 2008 at Jan's Florist. The add states "Appetizers, Drinks & DIY". Ms. Owston notified them that an alcoholic beverage license is needed if the ticket cost included alcoholic beverages. Also, this license is only available to qualifying organizations. They indicated that they would not be providing any alcohol - it will be an alcohol free event. Ms. Owston then discussed a coupon entry form to win a bottle of Dom Perignon from McHenry Beverage. A letter was sent to licensee, Mr. Hugh Umbel, in reference to the said coupon stating that alcohol cannot be free. A response was received from George Collins, on behalf of Mr. Umbel, indicating that he did not know how it happened and it will not happen again. Mr. Collins indicated that a nominal fee would be charged for the Dom Perignon. Ms. Owston advised the Board that this occurrence was reported to the Comptroller's Office.

A hearing was held at 9:30 AM for the issuance of a Special Class "C" 2-day BWL License to be issued to Knights of Columbus #1771. James McMenamain was present for the hearing in lieu of applicant, John R. Toston, who was not able to attend. Mr. McMenamain informed the Board that they would be having a Beef and Shrimp Roast, selling no more than 200 tickets. They plan to serve beer and will be observing all laws of the County. Food will be served from 6 PM until 9 PM, and they plan to close at 10 PM. Tickets will also be sold at the door this year. Ms. Owston then advised that the alcohol could be purchased from a retailer or Maryland Wholesaler and Mr. McMenamain was provided with an ID checking pamphlet for Maryland driver's licenses. Commissioner Crosco made a motion to approve the Special Class "C" BWL 2-Day License to be used on November 8,

2008 seconded by Commissioner Fratz and unanimously approved. Fees were paid and the license was issued.

A hearing was held at 9:45 AM for issuance of a Special Class "C" BWL Multi-Event (5) License to be issued to Dove Center. Applicant, Pam Trickett was present for the hearing along with Sherry Ross from the Festival of Trees. Ms. Trickett informed the Board that they would be having a VIP Kickoff party on November 25, 2008 and also a party and auction on November 29, 2008 at the Oakland Armory. The party and auction event will be called "Mistletoe Magic" and all attendees under the age of 21 will be stamped or banded. This event will be held from 7 PM until 11 PM. They will provide appetizers and have a cash bar with DJ Johnny Rock. Tickets will cost \$25.00 per couple or \$15.00 per person. Rob Michael will be the auctioneer. Commissioner Fratz made a motion to approve the Special Class "C" BWL Multi-Event License for five events seconded by Commissioner Crosco and unanimously approved. Fees were paid and license was issued.

A license hearing was held at 10:00 AM for a Special Class "C" BWL Multi-Event (12) License to be issued to Friendsville Volunteer Fire & Rescue. Terry Spear was present for applicant Edward B. Kelley. Mr. Spear reported that they would like to have wing night back on Friday nights. They will be doing chicken wings every Friday night except for the day after Thanksgiving. They will be offering beer and wine coolers to drink. Six of their members have been TIPS trained. The hours of operation will be from 6 PM until 9PM. No BYOB will be allowed. They will have a policy that customers must come and leave empty-handed. Commissioner Crosco made a motion to approve the Special Class "C" BWL Multi-Event License for 12 events seconded by Commissioner Fratz and unanimously approved. Mr. Spear informed Ms. Owston that Craig Umbel would be in later to pay and pick up license at that time.

A discussion session was held at 10:15 AM with Thomas M. Hickey of Bud's Package Liquors in reference to transfer of location options for his establishment. Mr. Hickey is planning to possibly move to another location in the same voting district. Mr. Hickey asked the Board whether a complete transfer application would be required. Chairperson Gearhart indicated that he would prefer that new signatures be obtained. Chairperson Gearhart would also prefer that this move be re-advertised. Commissioner Crosco showed concern about the church in the area opposing the move. Ms. Owston informed Mr. Hickey that she would mail him a transfer packet. He advised the Board that he would obtain new signatures. Ms. Owston informed Mr. Hickey that a Bulk Transfer Permit would not be necessary due to the fact that he will be taking his own stock to a new building in the same election district. Ms. Owston advised Mr. Hickey to also get in contact with the Health Department and the Fire Marshall. Mr. Hickey indicated that he would not be having food and would not have a kitchen. It was then finalized with both Mr. Hickey and the Board that new signatures would be needed. The Board agreed to have a hearing for the location transfer ahead of time, prior to Mr. Hickey committing to a new lease agreement.

A discussion session was held at 10:30 AM with Keith Handyside of Black Bear Tavern in reference to changing his current license class to a "B" BWL. Also present was Kathy Hall, General Manager. He notified the Board that he was here today to see what the possible avenues/requirements were to separate their business to apply on the restaurant side for a Class "B" license as quickly as possible and maintain Class "D" license on the nightclub side. Chairperson Gearhart advised Mr. Handyside that there would be a problem with holding two licenses in the State of Maryland. Mr. Handyside was under the impression that because the properties were contiguous that he could do so. Chairperson Gearhart replied that there is a footage requirement between the two. Ms. Owston advised the Board that he currently occupies four suites. Mr. Handyside informed the Board that they had merged some of the suites on the upper level. Mr. Gearhart then corrected that the footage requirement is for an additional serving area. Ms. Owston informed Mr. Handyside that Town Center Zoning supersedes the Board's ruling, not only with restaurant requirements, but also the structure requirements. Mr. Handyside indicated that he understood he would need to have two separate liquor licenses, trade names and two tax identification numbers. Chairperson Gearhart questioned if there was any reason why Mr. Handyside would not be able to obtain a resort license. Ms. Owston replied that he would have to meet zoning permits and layout requirements. Mr. Handyside told the Board that

he would like to pursue obtaining two alcoholic beverage licenses on the same premise. The question then arose if Mr. Handyside could hold two licenses, both a Class "D" and Class "B". A Resort license is for Class "B" only. Mr. Handyside then questioned what a resort license was and Chairperson Gearhart read the regulations. Which then brought up the question of Mr. Handyside having a Class "D" and Class "B", when a resort is for Class "B" only. Mr. Handyside then indicated in order to meet the criteria of zoning, which is more food sales over liquor sales, he would have to separate the businesses. After some discussion, Ms. Owston replied that Board Attorney, Craig Ingram needs to be notified and an opinion received. Mr. Handyside then questioned if Kathy could hold one of the licenses and Ms. Owston responded as long as it is her business and Mr. Handyside has no financial interest. Ms. Owston also replied that the key to obtaining a Resort License is holding a Class "B". Chairperson Gearhart questioned putting the other license type on the Resort Licenses (legislatively). Ms. Owston then questioned the Board for their thoughts on presenting additional legislation to add Class "D" License Tavern or Package Store "On-Sale" or to allow two separate licenses and would you allow employees to still have access from one location to the other in a non-public area. Commissioner Crosco felt that it was a lot of questions and a lot of discussion. Mr. Handyside then questioned if he could or could not hold two separate licenses. Ms. Owston replied that you couldn't have financial interest in more than one license and the only expectance to this rule is to have a Class "B" Deluxe or the Class "B" Resort. The key is the Class "B". Ms. Owston reiterated that she would like to get the opinion of the Board Attorney prior to making any final decision. Mr. Gearhart expressed his interest in helping Mr. Handyside any legal way the Board could. Mr. Handyside then got clarification of what was meant by financial interest. Chairperson Gearhart would also like to question Board Attorney, when Planning & Zoning defines something such as for a tavern and restaurant, how much bearing does that have on what class license the Board issues. Ms. Owston replied that you have to abide by all State Laws. Ms. Owston also advised that due to Black Bear being in a zoned area, they have to meet all zoning requirements prior to Board approval. Ms. Owston indicated that you would have to prove that you are not a nightclub to zoning. Mr. Gearhart then informed Mr. Handyside that the Board would get with the Board Attorney and advised Mr. Handyside to keep the Board posted. Mr. Handyside indicated that he would be getting with the Zoning Office. Mr. Handyside then questioned if there was any other agency that he would need to contact. Ms. Owston replied, Health Department, Public Utilities and Fire Marshall. Mr. Handyside would like for Ms. Owston to keep in touch with him for the next meeting deadline. Ms. Owston then informed Mr. Handyside that the next meeting is December 4, and an application would need advertised; therefore the deadline for the application with approved signatures would be by November 18, 2008. Mr. Handyside then questioned the next formal step for the Board. Ms. Owston advised Mr. Handyside of the proper procedures that they should take. Chairperson Gearhart then questioned if the license class could be changed if Zoning would approve the change to a restaurant to save the issuance of two separate licenses. Mr. Handyside will get with the Zoning Office and then get back to the Board

Both between and after the hearings there was general discussion. During this time a discussion took place on delivery forms. Present was Gail Bosley of Zipeez. Ms. Owston distributed copies of some delivery forms to the Board for review. Ms. Owston advised the Board of her concern that the section of what product is being sold needs to be indicated. Ms. Owston indicated that customer names need to be clear and no nicknames. Delivery address needs to be address of delivery in Garrett County, no other state such as the customers home address should be in this section. No sharpies should be used when completing the form; the form needs to be legible. Ms. Owston informed the Board that Mr. Collins of McHenry Beverage has people commenting on the expiration date and also having concern of having a full sheet of items listed when having catering events. Ms. Bosley informed the Board of an occurrence when a gentleman had no license, no proof of ID; but was obviously of age. This has occurred twice. Mr. Gearhart advised that an ID is required at time of delivery and that they should inform customers prior to delivery. Mr. Gearhart suggested that if there are repeat customers, the form could be completed "having all necessary information" prior to delivery. Saving the delivery person time at delivery. All forms need to be filled out and you are not allowed to write "info on file". Ms. Bosley advised the Board that she has had customer's voice concern of having the types of purchases they make listed on a form, due to confidentiality. Chairperson Gearhart responded that this is a requirement for the delivery. As for the customers with no ID, Ms. Owston recommends that they have the customer sign a record of documentary proof.

She will run this past the Board Attorney, Craig Ingram. The Board also discussed Mr. Handyside's situation with Commissioner Gearhart questioning the reasoning that the Board of License Commissioners cannot make a decision independent of a decision made by the Zoning Board, more specifically, "Why can't an establishment be classified as a tavern by zoning and a restaurant by the Liquor Board?" Ms. Owston explained that article 2B states that these types of decisions must follow the local regulations and that would include decisions made by the Zoning Board. The question was also asked as to why the establishment can't be split with half being a night club and the other half a restaurant. Ms. Owston explained that there are rules that Article 2B set forth that would also limit the possibility of splitting the establishment in this manner. The Board was also informed of a complaint that was received in reference to an establishment which will require further investigation. The Comptroller's Office has been made aware of this complaint and the Board chose to wait for the Comptroller's Office to act on this complaint before the Board pursues it at all. The Board also made the decision to call Ms. Broadwater of Wild Water into the next meeting for a Show Cause Continuance hearing to discuss the complaints that have been received against her. Ms. Owston is to send a letter to Ms. Broadwater informing her of such.

The next meeting date was set for December 4, 2008. There being no further business, Chairperson Gearhart motioned the meeting be adjourned and seconded by Commissioner Fratz.

Thomas A. Gearhart
Chairperson

December 4, 2008
Date