

## MINUTES

The Garrett County Board of License Commissioners / Liquor Control Board held their regular meeting on December 4, 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, Administrative Assistant, Rebecca Glotfelty and Board Attorney, Craig Ingram.

Chairperson Gearhart called the meeting to order. A motion was made by Chairperson Gearhart for approval of the November 6, 2008 minutes with changes as suggested, seconded by Commissioner Fratz and unanimously approved. The Board signed mileage sheets. Chairperson Gearhart made a motion to approve the travel expense report for Commissioner Fratz the motion was seconded by Commissioner Crosco and approved. Commissioner Fratz made a motion to approve the travel expense report for Commissioner Crosco the motion was seconded by Chairperson Gearhart and approved. Commissioner Crosco made a motion to approve the travel expense report for Chairperson Gearhart the motion was seconded by Commissioner Fratz and approved.

Before the meeting there was general discussion. Ms. Owston notified the Board that the Review of Salary Commission would be meeting on Tuesday, January 13, 2009 at 5:15 PM. Copies of the Delivery Forms to be questioned at a later hearing were distributed to the Board for review along with copies of the official Sunday Sales Referendum results. Ms. Owston reviewed legislative items for the upcoming session that were submitted to the Garrett County Commissioners to present for the Board. The Board then went into Administrative Session to discuss the Sunday Sales Option. Ms. Owston suggested that the public / licensees be notified that additional rules and regulations are forthcoming. Chairperson Gearhart would also like to let them know that if other situations arise, the Rules & Regulations could be changed again. Chairperson Gearhart feels that if an establishment is checked and it is found that there are receipts for alcohol only, then they will lose the privilege to serve on Sundays. The Board decided that utilizing an approved Catering Option on a Sunday should be in the election district of the licensee only. The licensee should not be allowed to cater outside of their district on a Sunday. As for a pre-arranged event, the nature of the event should be determined prior to and approved by the Board.

A Show Cause hearing was held at 10:00 AM for Wildwater Inn, Class "D" BWL On-Sale License located at 14452 National Pike. Licensee Judy Broadwater was present for the hearing and was sworn in by Board Attorney, Craig Ingram. The nature of the meeting was to discuss the alleged sales to intoxicated persons, alleged sales to minors and alleged smoking ban violation. Ms. Broadwater replied that the sales to underage people are not true. Chairperson Gearhart notified Ms. Broadwater that she was not being convicted, the Board just wanted to hear her side. Ms. Owston then informed Ms. Broadwater of the details of the complaints received. She also notified Ms. Broadwater that the complaints were then reported to Tina Buckel at the Health Department and Ms. Buckel did confirm that during a routine inspection, smoking was taking place in the bar. Ms. Broadwater admitted that sometimes people do light up a cigarette. However, she does not sell to underage people and the people that are probably in question of being intoxicated were already intoxicated when they are dropped off at the bar. Ms. Owston informed Ms. Broadwater that her bartenders who are trained in alcohol awareness should know the signs of intoxication and can refuse to serve to individuals that appear intoxicated and should also be carding. Ms. Broadwater indicated that she would address this issue with her bartenders. Chairperson Gearhart told Ms. Broadwater that he has spoke to some of her patrons who have seen other patrons smoking. Chairperson Gearhart advised Ms. Broadwater to enforce the no smoking policy. It is putting her license in jeopardy. Ms. Broadwater indicated that the no smoking policy is affecting her business and her sales are down. Ms. Owston informed Ms. Broadwater that there is a waiver that she can apply for at the Environmental Health Office. Mr. Gearhart then advised Ms. Broadwater that bartenders need to remain sober behind the bar. Commissioner Crosco questioned if she has minors loitering. Ms. Broadwater responded that she does have kids in the bar on Thursday nights eating wings, but they are with their parents only. She does not allow kids in the bar without their parents. Chairperson Gearhart made a motion to put a letter of reprimand in the license file of the Wildwater Inn, seconded by Commissioner Crosco and unanimously approved.

A discussion session that was scheduled for 9:30 AM was held at 10:30 AM for McHenry Beverage Shoppe, Class "D" BWL Off-Sale License and Draft Beer License located at 24465 Garrett Highway, Suite 1 in McHenry. Manager, George Collins, was present for the discussion and was sworn in by Board Attorney, Craig Ingram. The purpose of this meeting was to discuss the Delivery Forms and the Boards expectations for the forms. Mr. Collins was made aware of the process for developing the Delivery Form in which there were public hearings and the forms were made available for review. There were no protests on the requirements of the forms. The Board would like the forms submitted by McHenry Beverage to include more specific information, i.e.: not just "beer, wine or liquor", but the brand and amount delivered such as "1 case Miller Light". They need to verify that if the delivery is for a keg, they have the appropriate keg stickers affixed to the kegs. Samples of Delivery Forms in question that were submitted by McHenry Beverage were addressed and discussed with Mr. Collins. Commissioner Crosco expressed concern of a Delivery Form with an out of state delivery address. Mr. Collins clarified that it was the home address of the customer and not where it was actually delivered. The Board also expressed concern with the type and quantity of alcohol being delivered not being specified on the forms. Mr. Collins indicated that for large orders, he could put a scan of the products ordered along with the delivery sheet. The Board indicated that they would accept the scan as an attachment. Commissioner Crosco feels it is necessary to document what was delivered in the case of situations that may involve the law. Ms. Owston advised that when making a delivery; if no ID is available, deny delivery. Chairperson Gearhart indicated that he would however, be satisfied with an affidavit if need be. Mr. Collins was advised to make the customer aware of the proof of ID requirement when the order is being placed before the delivery takes place. Advisor to the Board, Gary Mullich, questioned a delivery of three particular kegs if it was for personal consumption. Mr. Collins replied that it was for a wedding and not for personal use. Ms. Owston advised; under keg law, kegs need to be registered to the customer. They cannot be registered to a person purchasing and reselling the alcohol; as that would be a violation. Therefore, the person from the wedding party purchasing the alcohol who is accepting responsibility for the alcohol should sign for the delivery. Chairperson Gearhart indicated that he is all right with the owner, where the delivery is being made, signing for the delivery instead of the wedding party, as long as receipts are kept to verify that the wedding party has paid for the delivery. Ms. Owston expressed concern that keg stickers need to be signed by the customer. Mr. Collins expressed his concern of taking a telephone order from a person whom he personally knows and can vouch that they are indeed of age to purchase alcohol wanting the delivery of the order to someone else for the purpose of gift giving. It was determined that both names need to be on the Delivery Form and something of detail attached indicating the item and quantity delivered along with completion of the Delivery Form from the person receiving the products.

The Board then had general discussion again in reference to Sunday Sales before the public session. The question was, "What is a meal." Mr. Ingram feels that the owner needs to define that a meal is a legitimate meal. Commissioner Fratz indicated that he is o.k. with the server determining what a meal is. Chairperson Gearhart made a motion that at this point; to allow the licensee / server to define what a legitimate meal is, seconded by Commissioner Fratz and unanimously approved. Ms. Owston also indicated that there is a need to monitor at the door ticket sales at scheduled events that are open to the public on Sunday.

Approval on the Sunday Sales Option was open to the public at 11:00 AM. The Board received letters requesting the Sunday Sales Option added to existing Class "B" Beer & Wine On-Sale and Beer, Wine & Liquor On-Sale alcoholic beverage licenses. In addition, almost all those seeking approval submitted sales reports for their restaurant as recommended from the Board. The following restaurants are requesting the Sunday Sales Option: Cornish Manor, Silver Tree Inn, Pizzeria Uno's, Will O' The Wisp, Smiley's Pizzeria, Pine Lodge Steakhouse, Mountain State Brewing Company, Archie's Barbeque, Perkins, Wisp Resort, Pumphouse Café at the Wisp, Hen House, Santa Fe Grille and Ledo's Pizza. Representatives and licensees from several licensed establishments were present for the hearing and voiced opinions and concerns for the Sunday Sales Option. Chairperson Gearhart discussed the referendum bill for the Sunday Sales Option that was sponsored by the Chamber of Commerce. He mentioned that it was the Boards opinion that the intent of the law is a few drinks with a meal rather than someone sitting at the bar

getting drunk and that any infractions on a Sunday will carry a lot more weight and violations of the law will result in the loss of the Sunday Sales privilege. Mr. Ingram read the referendum and Article 2B § 11-512 (c) as it relates to Sunday sales. "Sunday sales may be made only when the consumer places an order for a meal simultaneously or prior to placing an order for an alcoholic beverage or the consumer is otherwise entitled to a meal on the premises as part of a prearranged event, such as a banquet, where the alcoholic beverage is served. Bar or counter sales may be made as long as the consumer complies with the requirement of this paragraph." The discussions went back and forth on what is a meal, how would it best to monitor the situation, how would banquets and prearranged events be handled, where could the Catering Option be used on a Sunday and the hours of selling / serving alcohol. Ms. Owston went over the total cost for the Sunday Sales Option. Once the license upgrade is approved, payment can be submitted and the upgraded licenses will be available for pick up at the office or to be mailed on December 15, 2008. Sunday, December 21<sup>st</sup> will be the first day for selling alcohol on a Sunday with a legitimate meal in Election District 1, Election District 6, Election District 7 and Election District 9. The previous issued license will need to be returned to the office. Chairperson Gearhart made a motion to approve the Sunday Sales Option for Smiley's Pizzeria, Pine Lodge Steakhouse, Mountain State Brewing Company, Archie's BBQ, Ledo's Pizza, Wisp Resort, Wisp Pumphouse Café, Santé Fe Grille, Silver Tree, Perkins, Pizzeria Uno's, Hen House, Cornish Manor and Will O' The Wisp and the motion was seconded by Commissioner Fratz and unanimously approved.

A discussion session was held at 12:00 PM with Paul Roberts, licensee of Deep Creek Cellars; Class "A" Light Wine license. Kevin Atticks, Executive Director of the Maryland Wineries Association, initially contacted Ms. Owston proposing a Class "W" Winery License. The plan is to introduce this into legislation in January. Mr. Roberts explained that the wine industries intent is to address issues and government that have hindered the growth. The law replaces 10 pages with less than 2 pages that allow the winery to serve samples, selling by the bottle in unlimited amounts and offer food that would naturally accompany wine a tasting environment. So far, they are getting a lot of support with no opposition. Mr. Atticks has made the presentation to Delegate Edwards and he seems favorable. Mr. Ingram expressed concern with being open seven days per week. Garrett County would have to be six days unless a referendum for Sunday sales was approved. Mr. Mullich replied that this would be equivalent to the provisions of Article 2B § 11-512 (b) (2) regarding the hours for a Class E Steamboat License issued by the Comptroller's Office. Chairperson Gearhart questioned whether the bill is passed as written and nobody objects, then they can operate seven days; correct. Mr. Ingram indicated that if so, then Delegate Beitzel and Senator Edwards would have to monitor and take accountability for the new regulations. Mr. Roberts indicated that he is looking for the Boards approval of support. Ms. Owston stated that issuing fees would apply in Garrett County and addressed sections (G) and (H). She also indicated that as far as section (H) of the proposal, Garrett County does not allow two licenses on one premise. Mr. Ingram responded that this section could be removed due to it being in another section of Article 2B. A Garrett County section would need to be added indicating issuing fees, Sunday sales and two licenses on one premise. Ms. Owston questioned if the law passes would the Board allow two establishments to operate on one premise. Chairperson Gearhart responded, if the law passes. Ms. Owston then questioned would the Board object. Commissioner Crosco replied, "well sure we would." Chairperson Gearhart replied, "why not, what would it hurt for two establishments to use the same equipment?" As for section H (2) the state will allow two licenses on the same premise and would take precedence to current law. Mr. Roberts indicated that he would get clarification and get back to the Board on the intent. Chairperson Gearhart questioned if this is primarily for manufacturing? Mr. Roberts feels that it is not clear. Commissioner Crosco then questioned the size of the samples and variety of samples not listed in Class "W". Mr. Roberts feels that the County would not want to regulate and a Class 4 license issued by the Comptroller's already limits sampling via state law. Commissioner Crosco then questioned if someone purchased a bottle of wine and drinks a partial amount, can they take the partial bottle? Ms. Owston indicated that this may possibly fall under the doggie bag bill and she would confirm. Ms. Owston questioned if Mr. Roberts envisions events? Mr. Roberts replied that a Class 4 allows, but has no plans to do so. Further review indicated that number 5 of the proposal refers to Frederick County, number 3 would be when they have an event and number 4 refers to sell and serve. Ms. Owston questioned if the Board has a problem? Chairperson Gearhart has no concerns at this time. Ms. Owston then questioned the days and hours

rule. Mr. Ingram feels that the local rules prevail. If the Board supports, Mr. Ingram suggested that the Board make a Garrett County section with the issuing fee, Sunday sales, etc. Chairperson Gearhart feels that it is o.k. to go as is. Mr. Ingram would like to be certain that the version approved by the Board is the one submitted by the wine industry for the upcoming legislation. Mr. Roberts will get the new version along with any other changes and present them back to the Board. Ms. Owston questioned section H (3) as it allows the winery to operate in another location approved by the Board. Mr. Roberts was not positive on the intent but thought it may allow the winery to have a manufacturing facility in one location and a satellite location somewhere else to sell. Mr. Ingram said that other establishments still can sell your products through a distributor. It was determined that more clarification of this section would be needed prior to support of the legislation. Chairperson Gearhart questioned if everyone was ok with the annual fee. Commissioner Crosco stated that they would get a lot more privileges for just an additional \$50. Mr. Ingram reminded everyone that a copy of the final version of the bill is needed before submitting a response. Mr. Roberts said, "would you feel more comfortable if we approached Delegate Beitzel and Senator Edwards together?" Chairperson Gearhart responded, "not for me." Commissioner Crosco was thinking about it when Mr. Mullich said that, "I think clarification needs to be given and which section takes precedence on the Sunday Sales regulations or the Class W Winery regulations." Chairperson Gearhart told Mr. Roberts to get the final bill and that he has no problem with the way it is now. Mr. Roberts discussed the consequences of Delegate Beitzel and Senator Edwards introducing it as is. Ms. Owston discussed the districts for approved Sunday sales and the fact that the alcohol is with a meal to served on-premise. Mr. Mullich said that more information is needed to determine if the Class "W" Winery regulations trump the Garrett County Sunday regulations. Mr. Ingram agreed with Mr. Mullich saying that the legislation may have a better chance if the days and hours are regulated similar to the Steamboat License since Sunday is treated as different day in many counties.

The Board then went back into general discussions and reviewed the final items on the Sunday Sales Option to complete the proposed Rules and Regulations for Garrett County. Chairperson Gearhart made a motion that Sunday Sales must be accompanied by a legitimate meal, no off-premise sales, all pre-arranged ticketed events open to the public will be approved in advance by the Board and any infractions will result in a 12 month suspension of Sunday Sales privileges, seconded by Commissioner Fratz and unanimously approved. The Board discussed the cost of an application fee for an alcoholic beverage license. Chairperson Gearhart made a motion to increase the application fee from \$75 to \$150 based on final approval at the public hearing, seconded by Commissioner Fratz and unanimously approved. Also discussed was the upcoming Wine Festival License available in the 2009-2010 license year. The Board decided to place a public notice on the acceptance of the pre-application for the available license. The pre-application paperwork would be due by the next meeting.

The next meeting date was set for January 8, 2009. There being no further business, Chairperson Gearhart motioned the meeting be adjourned and seconded by Commissioner Fratz.

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Thomas A. Gearhart  
Chairperson

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January 8, 2009  
Date