

**MINUTES OF THE
OAK RIDGE BEER BOARD**
Regular Meeting

Training Room – Municipal Building
January 14, 2013
12:00 noon

PRESENT: Barton Bailey, Colin Colverson, Pedro Otaduy, Theresa Scott, Debra Solmonson,
Randy Tedford and Wendy Williams

ABSENT: None

ALSO
PRESENT: Tammy Dunn, Senior Staff Attorney
Alan Massengill, Deputy Police Chief

ATTENDANCE

Mr. Tedford, as past chairman, called the meeting to order at 12:01 p.m.

INTRODUCTION OF NEW MEMBERS

Mr. Tedford, as past chairman, welcomed new members Pedro Otaduy and Wendy Williams.

Mr. Otaduy moved to reorganize the Order of the Agenda to hear the applications first. The motion died for lack of a second.

ELECTION OF OFFICERS

Mr. Tedford stated his willingness to continue as chairman, and Mr. Bailey stated his willingness to continue as secretary. Ms. Scott nominated Ms. Solmonson for chair; however, Ms. Solmonson respectively declined the nomination and nominated Mr. Tedford as chair and Mr. Bailey as secretary. Mr. Otaduy nominated himself as chair. Mr. Tedford stated he would like to continue in the office he has held for quite a number of years. Mr. Otaduy stated it was time for a change—stating no disrespect to Mr. Tedford—and asked whether the board should have term limits. Mr. Colverson moved, seconded by Mr. Bailey, to continue with the agenda and the motion carried by a vote of 6-to-1, with Mr. Otaduy voting against.

Election of Chairman:

A voice vote was held for the election of chairman as follows: Mr. Bailey voted for Mr. Tedford, Mr. Colverson voted for Mr. Otaduy, Mr. Otaduy voted for Mr. Otaduy, Ms. Scott voted for Mr. Tedford, Ms. Solmonson voted for Mr. Tedford, Mr. Tedford voted for Mr. Tedford, and Ms. Williams voted for Mr. Tedford. Mr. Tedford was elected chairman by a vote of 5-to-2.

Election of Secretary:

Chairman Tedford moved, seconded by Mr. Bailey, to approve Mr. Bailey as secretary and the motion carried by a vote of 6-to-1, with Mr. Otaduy voting against.

Mr. Otaduy took issue with a non-member of the board (Ms. Dunn) taking notes for the meeting and preparing the minutes, and stated his opinion that she runs the meeting. Mr. Otaduy stated the secretary did little work and questioned whether this was legal. Chairman Tedford stated Ms. Dunn, and sometimes Ms. Oran, takes notes for the board and prepares minutes and Ms. Dunn acts as legal advisor to the board. Mr. Otaduy stated Ms. Dunn has too much influence and encouraged the secretary to take notes/minutes. Chairman Tedford stated this was similar to how the City Clerk, not City Council, prepares minutes for Council's approval. Ms. Solmonson referenced the board's Rules and Procedures that the secretary attests to the correctness of the minutes, but there is no requirement that the secretary prepare the minutes.

Secretary Bailey moved, seconded by Ms. Solmonson, to proceed with the agenda and the motion carried by a vote of 6-to-1, with Mr. Otaduy voting against.

APPROVAL OF MINUTES

Secretary Bailey pointed out a typographical error to be corrected on page 3 of the draft minutes – Mr. Morrison's approval was unanimous by the board and the draft minutes did not reflect that vote correctly. Ms. Solmonson asked a question about reference to the "Ask" program in the minutes. Mr. Otaduy objected to the draft minutes.

Mr. Otaduy asked Mr. Colverson if he moved to approve Application 1466 (Harvest Premium Buffet) subject to passing the life safety inspection (as indicated in the draft minutes) or moved to approve the application without limitation. Mr. Colverson stated his motion was subject to passage of the life safety inspection. Mr. Otaduy asked Secretary Bailey if he moved to approve Application 1469 (Homeland Foods Café) subject to passing the life safety inspection (as indicated in the draft minutes) or moved to approve the application without limitation. Secretary Bailey stated his motion was subject to passage of the life safety inspection. Mr. Otaduy then stated that response was not correct, that he knew for a fact that was not done as he knew someone who was at the meeting and she stated there were no restrictions. Mr. Otaduy moved to amend (Mr. Otaduy used the word "correct") the minutes for Homeland Foods Café to state the application was not pending passage of the life safety inspection. The motion died for lack of a second.

Mr. Otaduy referenced City Code §8-808 in support of his position on the life safety inspections. Ms. Scott asked Mr. Otaduy whether his questions were in reference to Homeland Foods Café and what his relationship was to the owner of that business. Mr. Otaduy stated he knew Ms. Scott was implying a conflict interest. Chairman Tedford asked Mr. Otaduy to answer the question. Mr. Otaduy stated his questions included Homeland Foods Café, owned by his wife. Ms. Scott stated Mr. Otaduy has a conflict of interest in being on the board and questioning the board about his wife's beer permit application. When argument began, Chairman Tedford called the meeting back into order.

Secretary Bailey moved, seconded by Ms. Williams, to approve the minutes as amended (typographical correction mentioned above) and the motion carried by a vote of 5-to-0-to-1, with Ms. Williams abstaining from the vote. Ms. Williams stated she abstained since she was not present at that meeting. No vote was recorded for Mr. Otaduy. Mr. Otaduy asked whether the minutes were amended for Homeland Foods Café and Chairman Tedford explained they were not as Mr. Otaduy's motion died for lack of a second. The minutes were corrected as to the typographical error only.

APPLICATIONS FOR NEW BEER PERMITS AND THEIR ASSOCIATED MANAGER APPROVALS

Application No. 1472

Grove Market

Mahendra Kumar Patel, Owner

Vipul Patel, Manager

133 Randolph Road

Class "B" Permit

Mr. Mahendra Patel and Mr. Vipul Patel were present to discuss their applications.

Chairman Tedford mentioned the beer permit application was missing some personal information on Mr. Vipul Patel as manager, but since the information was contained on Mr. Vipul Patel's manager application the board has sufficient information for the applications. Mr. Otaduy asked why the applications require the information if the board does not require the applicant to complete it, stating this made no sense. Ms. Scott stated the applications were filed on the same date and are contained in the same file, so the needed information is available and she was okay with it. Chairman Tedford stated he believed the lack of information on the beer permit application was not an attempt to deceive or defraud. Mr. Otaduy suggested the application form be amended to add a qualifying statement that not all information must be filled out if the information is available by other means.

Ms. Scott inquired as to the length of time the owner and manager have resided at the addresses given on the applications (2 years and 7 years, respectively), then inquired why their driver's licenses were out-of-state (Illinois and Georgia). Deputy Chief Massengill stated Tennessee law gives a person thirty (30) days to obtain a Tennessee driver's license upon relocation. The owner and manager stated they would comply.

Chairman Tedford explained beer could not be consumed in the parking lot and encouraged the owner and manager to call the police if needed for assistance, and that calls to the police were not looked upon unfavorably by the board. Chairman Tedford inquired about the ID policy and Mr. Vipul Patel stated all purchasers were required to show ID every time. Deputy Chief Massengill stated he has nothing negative to report for this location, and that calls in the past to the area did not originate from this location. When asked about the life safety inspection, Ms. Dunn stated it was completed and passed; however, local background checks were not complete. When asked about taking ownership, Mr. Mahendra Patel stated he was waiting on beer permit approval to take ownership.

Secretary Bailey moved, seconded by Ms. Scott, to approve the applications subject to a satisfactory local background check and sufficient proof of transfer of ownership of the business, and the motion carried by a vote of 6-to-1, with Mr. Otaduy voting against. Mr. Otaduy stated he did not support the motion because there were no grounds for denial and the applications should be approved without conditions.

Application No. 1473

Abdulla Methani, Owner/Manager

Barakat Business, LLC d/b/a Kwik Stop

98 Arkansas Avenue

Class "B" Permit

Mr. Methani was present to discuss his applications.

Chairman Tedford inquired about the ID policy, and Mr. Methani stated he requires ID of all beer purchasers every time. Ms. Solmonson inquired about the number of employees and Mr. Methani stated he will hire one employee in addition to himself. Mr. Otaduy asked Mr. Methani if he received a letter reminding him of today's meeting and Mr. Methani stated he was told of the meeting date when he

submitted the application but did not receive a letter. Ms. Williams inquired about training of employees and Mr. Methani stated he will teach the policies to his employee. Ms. Solmonson inquired about Mr. Methani's formal training in beer sales. In response, Mr. Methani mentioned his prior work experience in beer sales; however, Ms. Solmonson and Mr. Colverson pointed out that on the application Mr. Methani stated he had not been employed at an establishment with a beer permit. Mr. Methani stated the application was incorrect and he made a notation on the application to change his response to that question. Mr. Colverson asked Mr. Methani if he understood he was attesting to the correctness of the statement now by indicating that change, and Mr. Methani said yes. Mr. Methani stated he received training through Eagle Distributing in Tennessee.

Ms. Scott and Ms. Solmonson inquired about ownership and Mr. Methani stated he is working for the current owner and was waiting for the beer permit to be approved before taking ownership. Secretary Bailey inquired about the life safety inspection and background check. Ms. Dunn stated the life safety inspection was completed and passed; however, the local background check was not complete.

Secretary Bailey moved, seconded by Ms. Scott, to approve the applications subject to a satisfactory local background check and sufficient proof of transfer of ownership of the business, and the motion carried by a vote of 6-to-1, with Mr. Otaduy voting against. Mr. Otaduy made a motion prior to the vote on this motion to approve the applications without restriction, and the motion died for lack of a second.

NEW MANAGER APPROVAL APPLICATIONS – None

NEW / OLD BUSINESS

New Beer Permit Application and Manager Approval Forms

Secretary Bailey commented that he liked the application forms. Ms. Scott commented she thought the forms looked clean. Ms. Williams commented she thought the applications were great. Ms. Scott requested the application form include a line for the applicant to indicate the date the business will open or when the owners will begin operation or take ownership. At least a majority of the board seemed receptive to this addition. Mr. Otaduy requested this item be postponed. Mr. Colverson moved, seconded by Chairman Tedford, that the board discuss the application forms but not take any action at this meeting and the motion carried unanimously.

Ms. Scott applauded the Legal Department for referencing State law on the application forms. Chairman Tedford asked whether special event applicants are required to prove their 501(c) status. Ms. Dunn stated they were not and Chairman Tedford recommended the application indicate such a requirement. At least a majority of the board seemed receptive to this addition.

Ms. Williams asked about wine and whether it was included in the beer permit. Ms. Dunn explained State law classifies wine separately than beer, so a beer permit does not give permission to sell wine and such permission must be obtained through the Alcoholic Beverage Commission.

Mr. Otaduy recommended requiring applicants to obtain a certified letter from the nearest church and school that such church/school does not mind if beer is sold at the location. Secretary Bailey stated this was not necessary and that in the time he has been on the board the board has never refused a beer permit for this issue. Ms. Scott stated church and school locations have been discussed at meetings before.

Mr. Otaduy stated he believed 18 year olds could sell beer however the application states those under 21 will not be directly employed in the sale or distribution of beer. The Board asked Ms. Dunn to suggest proper language on State law age limits on selling/serving beer.

Mr. Otaduy commented on the release language at the end of the application form and stated the second sentence was not needed. Mr. Colverson and Ms. Solmonson both stated the language is different. Secretary Bailey and Ms. Scott stated they were okay with the language as written.

Mr. Otaduy requested a line on the approval page to indicate when the reminder letter was sent to the applicant. Mr. Otaduy requested the "conditioned upon" language be removed. Mr. Otaduy stated the life safety inspection process makes no sense as it prevents the sale of beer due to code violations, however, the City has allowed the business to remain open. Mr. Otaduy referenced City Code §8-808 in support of his position. Deputy Chief Massengill responded that the inspection process is beneficial to the City and the board. Ms. Scott also responded that the inspection process has resulted in information being known to the board that otherwise would not have been known.

Mr. Colverson stated all members were appointed by City Council and City Code §8-705 states it is the opinion of the board members that matters for approval of applications, and that all members' opinions are equally relevant.

Mr. Colverson moved, seconded by Ms. Scott, to continue the discussion to the next meeting and determine at that meeting whether to take action, and the motion carried unanimously.

Mr. Otaduy moved that City Code §8-808 did not allow a delay in the permit because of life safety inspections. The motion died for lack of a second.

Verbal Report on Status of Privilege Tax Payments

Ms. Dunn reported that the following business had not paid the annual privilege tax payment: Food City, Food Lion, Hildago, Oak Ridge Revitalization Effort, Oliver's, Smokes 2 Go, Tienda Nony's #4, and Walgreen's. Secretary Bailey moved for a show cause hearing at the next meeting for all businesses that had not paid the privilege tax. Ms. Dunn reminded the board that City Code allows payment until January 31 and then requires a certified letter to be sent giving an additional 10 days to pay from receipt of the letter. Mr. Bailey withdrew his motion.

Newly Required Statistical Report Submitted to Tennessee Alcoholic Beverage Commission

Ms. Williams inquired whether the board could encourage the police department to conduct a sting operation. Ms. Dunn stated the board could make such a recommendation. Chairman Tedford reminded the board that such action required approval of the Juvenile Court Judge. Mr. Otaduy stated he was opposed to such action because it could be entrapment. Secretary Bailey moved, seconded by Ms. Scott, to request the police department to conduct a legal sting operation for the sale of beer to underage purchasers and the motion carried by a vote of 5-to-2, with Mr. Colverson and Mr. Otaduy voting against.

ADJOURNMENT

The meeting adjourned at 1:18 p.m. upon motion of Chairman Tedford, seconded by Secretary Bailey, and unanimous approval.

Respectfully submitted,

Barton Bailey, Secretary