

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

Municipal Building Training Room – Room 104
Monday, May 12, 2014
12:00 noon

PRESENT: Secretary Bailey, Colin Colverson, Darren Osborne, Theresa Scott, Debra Solmonson, Chairman Randy Tedford, and Wendy Williams

ABSENT: None

ALSO PRESENT: Tammy Dunn, Senior Staff Attorney / Staff Liaison to Board; Alan Massengill, Deputy Chief of Police; Christopher Wallace, Oak Ridge Police Officer; Kenny Morgan, Oliver Springs Chief of Police; Gregory Harrison and Allen Schwartz, Attorneys for Lincoln's Sports Grille; Len Hart and VJ Murray, Owners of Lincoln's; Roy McKinnon, consultant for Lincoln's; Lisa Green, Manager of Lincoln's; Dustin Lane, Kelly Harvey, and Sarah Keenan, employees of Lincoln's

AUDIENCE MEMBERS: Michael Foster, Allies for Substance Abuse Prevention; Russell Langley, The Oak Ridger; Bob Fowler, The Knoxville New Sentinel; Nang Crossno, Owner of Back 2 Brewski's; Sgt. Jeremy Huddleston, Oak Ridge Police Department; Lt. John Kelly, Oak Ridge Police Department; Jim Akagi, Chief of Police

ROLL CALL/ATTENDANCE

Chairman Tedford called the meeting to order at 12:00 noon. All members were present.

APPROVAL OF MINUTES

Secretary Bailey moved, seconded by Ms. Scott, to approve the minutes of the April 14, 2014 meeting and the motion carried by a vote of 6-0-1, with Chairman Tedford abstaining from the vote due to lack of attendance at that meeting.

Chairman Tedford moved, seconded by Ms. Scott, to approve the minutes of the April 25, 2014 special meeting and the motion carried by a vote of 5-0-2, with Secretary Bailey and Mr. Osborne abstaining from the vote due to lack of attendance at that meeting.

APPLICATIONS FOR NEW BEER PERMITS AND THEIR ASSOCIATED MANAGER APPROVALS

Application #1497
Kroger #690
Kroger Limited Partnership I, Owner
Martha (Marty) Irwin, Manager
1550 Oak Ridge Turnpike (estimated open date 6/26/14)
Class B Permit

No one was present for this application. [Note – At the conclusion of the meeting, Secretary Bailey moved, seconded by Ms. Scott, to move the application to the June 2, 2014 agenda and the motion carried unanimously.]

Application #1498 and #1499

Tienda Nony #3

Leonor and Daren Martin, Owners

Leonor Martin, Manager

114 Bus Terminal Road

Class B and C Permit

Mrs. Martin and Eva Brown were present to discuss the applications for Tienda Nony #3. The Board confirmed with Mrs. Martin and Ms. Brown that this was a relocation of the business to a new address. The Board reminded Mrs. Martin and Ms. Brown of the parking lot responsibilities. Upon inquiry, Ms. Brown stated there was video at the premises. Also upon inquiry, Ms. Brown stated the Grove Center location (Tienda Nony #4) closed in November 2013. Deputy Chief Massengill reported no issues at the new location. Ms. Dunn stated Community Development informed her that the life safety inspection was passed for off-premises consumption only. Ms. Brown stated she thought they had passed the life safety inspection for both permits. Ms. Dunn stated she would confirm with Community Development.

Having no further questions, Mr. Colverson moved, seconded by Ms. Solmonson, to approve the beer permit applications with the on-premises beer permit subject to passage of the life safety inspection, and the motion carried unanimously.

NEW MANAGER APPROVAL APPLICATIONS

John G. Calvert

Replacement Manager

B.P.O. Elks Lodge #1684

684 Emory Valley Road

Mr. Calvert was present to discuss his application. He explained his professional experience in selling beer and stated he has had an ABC server card for the last five years and both bartenders at the Elks are ABC certified. There was brief discussion about the contiguous patio area where beer may be consumed. Mr. Calvert stated guests must be member sponsored and are checked at the door. He also stated those under 21 are admitted with their family, but have no access to the bar area where beer is sold. Upon inquiry, Mr. Calvert stated they do have video. Deputy Chief Massengill reported no issues at this location.

Having no further questions, Chairman Tedford moved, seconded by Secretary Bailey, to approve the manager application and the motion carried unanimously.

Martha (Marty) Irwin

Replacement Manager

Kroger

380 S. Illinois Avenue (current location)

Ms. Irwin was not present. Her application was postponed to the June 2, 2014 meeting.

Kenneth A. Stroecker

Replacement Manager

Ruby Tuesday

375 S. Illinois Avenue

Mr. Stroecker was present to discuss his application. Mr. Stroecker explained his experience in selling beer (20 years). Upon inquiry, Mr. Stroecker stated there is video at this location. The Board reminded Mr. Stroecker of the responsibilities toward the parking lot and to call the police if needed before issues

got out of hand. Mr. Stroecker stated all employees are ABC certified, new hires must sign an agreement to check IDs, there are in-house meetings every six months, and there is a zero tolerance policy. Deputy Chief Massengill reported no issues at this location.

Having no further questions, Secretary Bailey moved, seconded by Ms. Scott, to approve the manager application and the motion carried unanimously.

Barret Douglas Tanner
Replacement Manager
Centennial Golf Course
101 Centennial Blvd

Mr. Tanner was present to discuss his application. Mr. Tanner explained his experience in selling beer (4 years with Billy Casper Golf Management (BCGM) and 7 years in bar area management). Mr. Tanner also explained the delay in applying for his application, and stated the prior manager was still in a managerial capacity with BCGM. Upon inquiry, Mr. Tanner explained how beer is sold on the golf course through beverage carts and how employees are trained to look for outside alcohol and for signs of intoxication (demeanor, odor, inappropriate activity, etc.). Mr. Tanner also explained those who sell beer are 18 or over and have TIPS and ACE training as well as on-site training with particular focus on ID requirements and how to not over-serve. Deputy Chief Massengill reported no issues at this location.

Having no further questions, Ms. Solmonson moved, seconded by Mr. Colverson, to approve the manager application and the motion carried unanimously.

SHOW CAUSE HEARING

Show Cause Hearing # 2014-01

Lincoln's Sports Grille

119 S. Illinois Avenue

Class "C" Permit #1406, Approved 8/9/10

Class "B" Permit #1439, Approved 11/14/11 (for catering only)

Owners: Edward Green, Lendon Aaron Hart, Mike Lincoln, and Vander J. Murray

Managers: Lisa Green (4/8/13) and Lindsay Bass (4/14/14)

Attorneys: Gregory Harrison and Allen Schwartz

Court Reporter: Joan Roberts

Chairman Tedford called the show cause hearing to order and swore in the witnesses: Deputy Chief Alan Massengill, Officer Chris Wallace, Len Hart, VJ Murray, Dustin Lane, Kelly Harvey, Roy McKinnon, Sarah Keenan, and Lisa Green.

Chairman Tedford asked Officer Wallace for a synopsis of the incident that resulted in the Board calling for a show cause hearing. Officer Wallace stated he was assigned to patrol on April 12, 2014 and was dispatched to a fist fight on the patio at Lincoln's Sports Grille. Officer Wallace stated several officers arrived on the scene. Officer Wallace stated approximately 10-15 subjects were on the patio; however, no one would cooperate with the officers at the time. Officer Wallace did report that video surveillance was received later in response to the show cause hearing. Officer Wallace stated the patrons were separated and sober drivers were found for intoxicated patrons. Officer Wallace stated a sweep of the business was conducted and airplane bottles of whiskey were found in the parking lot where employees normally park. Officer Wallace stated he spoke with management on duty (Sarah Keenan) and recommended the establishment shut down early due to the level of intoxication, to which management agreed. Officer Wallace stated he was told by management that things "just got out of hand" and was also told about one patron (Swicegood) was on a semi-ban and was only allowed to be served beer because liquor made him violent. Officer Wallace stated this patron was identified as the instigator of

the fight, however, he could not locate a reliable, independent sober witness to corroborate that claim. In response to a question from the Board, Officer Wallace stated management should have easily known that patrons were intoxicated. Also in response to a question from the Board, Officer Wallace stated the police report indicates the call to Dispatch was made by Lincoln's.

Gregory Harrison, attorney for Lincoln's, asked Officer Wallace a few questions about Lincoln's in general and specifically about the night of the disturbance call. When asked why no one was arrested, Officer Wallace said officer safety was an important factor in resolving the disturbance rather than making arrests of numerous patrons. In response to other questions, Officer Wallace stated Lincoln's was cooperative in the November 2013 incident. In response to a question by Ms. Dunn, Officer Wallace stated he sent the police report for the April 12, 2014 incident to the Board for review because of the numerous police calls Lincoln's has had recently.

Deputy Chief Massengill stated he watched the video surveillance provided by Lincoln's of the April 12, 2014 incident outside on the patio. From the video, Deputy Chief Massengill saw the gate was wide open and there was heavy foot traffic through the gate. Deputy Chief Massengill stated the patio was an issue when the beer permit was first applied for and owners stated the gate would only be used for emergency access and all patrons would have to enter through the front door. Further, Deputy Chief Massengill stated there is a continued concern about the level of intoxication and over-serving patrons, and there was even a recent event since the show cause hearing was scheduled where an officer saw an intoxicated patron walking out through the patio to leave the premises.

In response to questions from the Board, Officer Wallace stated no field sobriety tests were conducted as a result of the April 12, 2014 incident. Further, when asked, Officer Wallace stated he has not personally noticed an improvement of internal controls by Lincoln's management.

Allen Schwartz, attorney for Lincoln's, asked Lincoln's some questions. Ms. Keenan stated she was cooperative with Officer Wallace and that Swicegood and Ryan Smith (Ryan was the person who was pushed by another patron on the patio as shown on the video) have both been permanently banned from Lincoln's. While it was discussed that the patio is a problem and closure of the gate is a small part in the remedy, Mr. Schwartz asked the Board what else could be done.

Oliver Springs Police Chief Kenny Morgan was sworn in by Chairman Tedford. Chief Morgan stated he was asked by Chief Akagi to look into the number of DUI arrests coming from Lincoln's. Chief Morgan stated he reviewed recent arrests through April and found nine arrests, four of which involved alcohol and one of those was from Lincoln's. When asked by Mr. Schwartz, Chief Morgan stated the arrested person stated she was an employee of Lincoln's and told the officer she was drinking at Lincoln's and had just left Lincoln's. Chief Morgan also stated he would need more facts to determine if this is a pattern. The arrested employee was confirmed to be Lindsay Bass who was recently approved as manager of Lincoln's by the Board. Roy McKinnon, consultant for Lincoln's, asked the specifics of the arrest. Chief Morgan stated the person wrecked a vehicle and left the scene, and her case had not yet been heard in court.

Video surveillance of the outside patio of Lincoln's on April 12, 2014 was then viewed. Video showed the gate wide open and patrons coming in and out through the gate. The video also showed the disturbance outside which involved a male patron (identified as Chris) pushing another male patron (identified as Ryan). Video also showed Lindsay Bass, employee/manager of Lincoln's, outside on the patio at the time of the disturbance and showed her talking to Ryan a few minutes before he was pushed by Chris. Video also shows Lindsay leaving with Swicegood. Lincoln's representatives said Lindsay was not on duty at the time.

While watching the video, Lincoln's representatives admitted the open gate is not appropriate. Officer Wallace stated four officers total arrived on the scene. Roy McKinnon, consultant for Lincoln's, indicated there were 16 cameras on the premises however there was no video available of the inside of the establishment at the time of the disturbance.

At this time the agenda packet was marked as an exhibit to the transcript for the hearing.

Greg Harrison stated a remedial plan would be put in place. There would be a single point of access for ingress and egress through the front door, and the patio gate would be locked with a crash bar for fire safety egress only. The remedial plan proposed the following: (1) to close the business at 1:00 a.m. instead of 2:00 a.m., (2) shorten the time for band sets from four hours to three hours, (3) increase the number of employees on the floor Thursdays through Saturdays by two, and (4) assign an employee to the floor that does not serve that just monitors.

Mr. Harrison stated Lincolns would like to be an active and contributing member of the community and it was not their goal for the police have to come to the establishment all the time. The remedial plan also proposed to (5) increase the number of cameras from 16 to 24, (6) permanently ban individuals (like Swicegood and Ryan) who cause disturbances, and (7) limit bands to 9:00 p.m. to 12:00 midnight Thursdays through Saturdays.

Ms. Solmonson stated her concern about maintaining control, not over-serving, and training employees so that patrons' safety is not in jeopardy. Roy McKinnon stated since he became a consultant for Lincoln's in November 2013, management has conducted 90 minute weekly meetings. Mr. McKinnon stated the business strives to maintain a family friendly clientele. Mr. McKinnon also stated Lindsay Bass is no longer employed in a managerial capacity (Owner VJ Murray confirmed this after the hearing).

Allen Schwartz stated Lincoln's is a family friendly place and the owners have made a large investment and paid significant taxes last year. According to Mr. Schwartz, the bar records would show the patrons were not over-served and if they were that the patrons did that to themselves. Also, the video shows no one was served on the patio.

Mr. Colverson stated Lincoln's has been before the Board three times for show cause hearings in 2013. Mr. Colverson stated the Board is not in the business of taking licenses, but businesses need to be orderly and promote safety in alcohol sales. Mr. Colverson stated he thought Lincoln's needed more time to develop the remediation plan. Mr. Colverson stated he is not sure what other businesses are doing in this area but noted many seem to be doing very well at not over-serving or allowing over-consumption. Mr. Harrison responded that the video was unbelievable and closing the gate should resolve the problem. Mr. Harrison stated training takes place but mistakes can occur. Regardless, Mr. Harrison stated there would be drastic consequences for any server that over-serves a patron. Mr. Harrison stated he will have involvement with Lincoln's management regarding what beer boards and the state alcoholic beverage commission require.

Ms. Scott stated problems seem to occur after 11:00 p.m. with altercations from drinking. Ms. Scott stated she wants to see the business be proactive and not just reactive.

Mr. Osborne stated he has been a patron of Lincoln's and never felt his safety was at issue when there, and he also noted he expected to see more chaos than was shown on the video based on the information provided when the show cause was scheduled. Officer Wallace stated much of the disturbance occurred inside while the officers were present, of which there is no video.

Secretary Bailey commented that in addition to the statements of Mr. Colverson and Ms. Scott, he would like to add that Lincoln's is continuing to say the same things they have said before at show cause hearings but these changes have not come close to offering results. Secretary Bailey suggested Lincoln's consider limiting the number of alcoholic beverage served to a patron and possibly close earlier.

Mr. McKinnon stated alcohol sales amount to 33% of the Lincoln's business.

Chairman Tedford stated he has been in law enforcement for over forty years and public safety is paramount. Chairman Tedford stated safety should be a driving force and he had never seen a business survive three show cause hearings in the past. Chairman Tedford stated the promises in the past fell short.

Deputy Chief Massengill reported that the culture hasn't changed (citing the recent incident of an intoxicated patron trying to leave through the patio) and that needs to occur at a management level.

Ms. Solmonson moved, seconded by Ms. Scott, that Lincoln's had not shown adequate cause for the Board to not take any negative action against the beer permit and the motion carried by a vote of 5 to 2 with Mr. Colverson and Mr. Osborne voting against. Mr. Osborne stated Lincoln's might want to consider hiring security during later evening hours. Ms. Williams suggested Lincoln's operate as a family restaurant until this has been worked out. Chairman Tedford stated he would like to see an emphasis on training before hiring security. Ms. Scott stated it is the business's responsibility not the Board's responsibility to resolve the problems. Chairman Tedford stated the next step is to determine what action to take and he explained the options of revocation, suspension, and civil penalty up to \$1000 in lieu of suspension.

Mr. Colverson moved, seconded by Ms. Solmonson, to suspend the beer permit for two weeks but allow Lincoln's to resubmit a remediation plan at the next regular meeting (June 9, 2014) which will be considered by the Board and, if sufficient, will reduce the suspension to only one week. The motion carried by a vote of 4 to 3 with Chairman Tedford, Secretary Bailey, and Ms. Scott voting against.

Mr. Colverson moved, seconded by Mr. Osborne, to wait on setting the date for the suspension until a later meeting and the motion carried unanimously.

Chairman Tedford called for a brief recess. During the recess, VJ Murray, owner of Lincoln's, told Ms. Dunn Lindsay Bass needed to be removed from the files as a manager of Lincoln's.

NEW / OLD BUSINESS

A. Reports from Oak Ridge Police Department (if any)

Due to the lateness of the meeting, Deputy Chief Massengill gave a brief statement on pending issues and stated the Board could discuss them at a later meeting.

B. Possible Ordinance Amendment – Training Requirements – Item Brought Back to Agenda from March 10, 2014 Meeting

Secretary Bailey moved, seconded by Ms. Scott, to continue this item to the August agenda to allow sufficient time for the Board and Michael Foster, Alliances for Substance Abuse Prevention (ASAP), to talk about ASAP's research and the motion carried unanimously.

ADJOURNMENT

The meeting adjourned at 2:17 p.m. upon unanimous approval after motion by Secretary Bailey seconded by Ms. Scott.

Respectfully submitted,

(Signature on Official File)
Barton Bailey, Secretary