

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

Municipal Building Training Room – Room 104
Monday, July 15, 2013
12:00 noon

PRESENT: Theresa Scott, Debra Solmonson, Chairman Randy Tedford, and Wendy Williams

ABSENT: Secretary Barton Bailey and Colin Colverson

ALSO
PRESENT: Tammy Dunn, Senior Staff Attorney
Alan Massengill, Deputy Police Chief
Daniel Freytag, Police Officer
John Thomas, Police Officer

AUDIENCE
MEMBERS: Mark Watson, City Manager
Michael Foster, Allies for Substance Abuse Prevention
John Huotari, Oak Ridge Today
Pedro Otaduy, Citizen

ATTENDANCE

Chairperson Tedford called the meeting to order at 12:03 p.m. All members were present except for Secretary Bailey and Mr. Colverson.

ACTING SECRETARY

In the absence of Secretary Bailey, Chairman Tedford nominated Ms. Solmonson to be Acting Secretary and the nomination was seconded by Ms. Scott. By unanimous vote, Ms. Solmonson was elected Acting Secretary for the meeting.

APPROVAL OF MINUTES

Chairman Tedford asked if there were any objections to voting on the minutes of May 13, 2013 and June 10, 2013 meetings together. Acting Secretary Solmonson inquired if she could vote on the May 13, 2013 meeting minutes since she was absent from the meeting. Chairman Tedford stated she was not prohibited from voting on the minutes. Chairman Tedford moved, seconded by Acting Secretary Solmonson, to vote on the minutes collectively and the motion passed unanimously.

Ms. Williams pointed out a typographical error on page 1 of in the May 13, 2013 meeting minutes regarding a vote (listed as 5-0-1 when it should have been 4-0-1). The typographical error was corrected.

Chairman Tedford moved, seconded by Acting Secretary Solmonson, to approve the corrected minutes of the May 13, 2013 meeting and the June 10, 2013 meeting and the motion carried unanimously.

APPLICATIONS FOR NEW BEER PERMITS AND THEIR ASSOCIATED MANAGER APPROVALS

Application No. 1479

Bread Box #3471

680 Emory Valley Road

GPM Southeast, LLC – Owner

Donna Kay Mayberry – Manager

Class “B” Permit

Ms. Kathy Yeazel, representative of owner, and Ms. Melanie Butts, manager, were present to discuss the beer permit application. Ms. Mayberry was not present for her manager application as she is no longer employed with the business. Ms. Butts is the new manager and will complete a manager application for consideration at the next regular meeting of the board.

Chairman Tedford inquired about the ID policy. Ms. Yeazel stated IDs will be required for all beer purchases and the employees are TIPS certified. Chairman Tedford inquired about knowledge of the City's beer ordinances and Ms. Yeazel stated she is aware of the ordinances. Chairman Tedford reminded them of the parking lot responsibilities regarding no beer consumption and of the need to call the police when trouble arises. Ms. Williams had a question on one application not being stamped by a notary, however, it was determined that the application without the notary stamp was the manager application which is no longer under consideration by the board.

Chairman Tedford moved, seconded by Acting Secretary Solmonson, to approve the beer permit application. Prior to the vote, Pedro Otaduy inquired whether the public had a right to speak at the meeting. Chairman Tedford allowed Mr. Otaduy to speak provided the comment was germane to the issue. Mr. Otaduy inquired of the applicant if she received a letter from the City reminding her to be present. Ms. Yeazel stated she was the local representative of the owner and was told by headquarters to appear at the meeting and that it was also on the City's website. Mr. Otaduy stated he wanted to know if the City was following their rules.

The Board resumed the vote on the beer permit application and the motion carried unanimously.

Application No 1480

Comfort Inn

433 S. Rutgers

Mitesh Patel and Ricky Patel – Owners

Kate Groover and Renee Golden – Managers

Class “D” Permit

Ms. Groover and Ms. Golden were present as representatives of the owner and in their capacity as managers. Ms. Williams inquired about how beer sales would take place and Ms. Groover stated it would be for manager receptions, guests, and special occasions. Ms. Groover inquired about the hours of sale for a Class D Permit and Ms. Dunn informed Ms. Groover of the hours of sale per City Code.

Chairman Tedford reminded Ms. Groover and Ms. Golden about the responsibilities both inside and outside the premises pertaining to beer sales/consumption. Acting Secretary Solmonson inquired about the purchase of beer to take to an individual's hotel room. Ms. Groover stated patrons will be allowed to take beer back to their rooms. Chairman Tedford inquired about how they will control beer from being handed to an underage person. Ms. Groover stated they cannot control that in hotel rooms, but they do check routinely at the pool. Ms. Groover stated they also have employee walkthroughs and may request security for special events inside the hotel.

Acting Secretary Solmonson and Deputy Chief Massengill had concerns over the location of and access to beer inside the hotel. After discussions and other members' concerns, Ms. Groover stated they would place beer in a separate cooler that could be locked and also place the cooler in a more secure location. Ms. Groover also stated that video is kept for a designated length of time and would be available to the Police Department if needed. Ms. Scott had concerns about buying beer to take to a hotel room, but neither Ms. Groover or Ms. Scott knew what other hotels did in order to ensure beer is not being given to underage persons in a hotel room.

Mr. Otaduy asked to speak. Chairman Tedford stated he could but his comments needed to be directed to the board. Mr. Otaduy wanted to know if the applicants understood a specific state law provision. Chairman Tedford stated the applicants signed the application, which was notarized, indicating they understood and would follow the state laws and city ordinances pertaining to beer.

Chairman Tedford moved, seconded by Acting Secretary Solmonson, to approve the beer permit application and the manager applications subject to the beer being secured and the motion carried unanimously.

Application No. 1481
Free Medical Clinic of Oak Ridge
Tanya H. Vargas – Director
Fundraiser Event at St Mary's Life Center
August 11, 2013
327 Vermont Avenue
Class "E" Permit

Ms. Vargas was present to discuss the application. Ms. Vargas stated the event would be run the same as last year and the only change is the location of the event. Chairman Tedford asked if the event was a ticketed event for adults (21 and up), and Ms. Vargas stated it was. Ms. Vargas also stated they will monitor everyone who comes inside and there is only one entrance. The board commented that there were no problems at last year's event.

Acting Secretary Solmonson moved, seconded by Ms. Scott, to approve the beer permit application and the motion carried unanimously.

Application No 1482
Boys and Girls Club of Oak Ridge
Ann Likens and Lisa Green – Supervisors
Fundraiser Event at Lincoln's Sports Grille
July 27, 2013
119 S. Illinois Avenue
Class "E" Permit

Acting Secretary Solmonson stated she would recuse herself from this application due to her affiliation with the Boys and Girls Club of Oak Ridge. Ms. Green was present to discuss the application, as was Mr. Green (owner of Lincoln's). Ms. Green stated this was a ticketed event that was closed to the public. Mr. Green stated patrons would be ID'd and wristbanded for beer sales. Mr. Green also stated it would be business as usual for the employees to check IDs for beer sales as well.

Having no issues with the last event, Ms. Scott moved, seconded by Chairman Tedford, to approve the application and the motion carried by a vote of 3-0, with Acting Secretary Solmonson abstaining.

NEW MANAGER APPROVAL APPLICATIONS

Barry Bergren
Eagles
1650 Oak Ridge Turnpike

Mr. Bergren was present to discuss his application and explained his absence from the last two meetings. Chairman Tedford commented on some confusion regarding the statements on the application and Mr. Bergren explained that, as a trustee, he is a volunteer not an employee which is why he answered a particular question the way he did. Mr. Bergren also stated the bartenders are TIPS certified and they have monthly meetings. He also stated he has a zero tolerance policy. Deputy Chief Massengill stated the police have not had any issues at this location except for noise complaints, which Mr. Bergren said has been resolved.

Acting Secretary Solmonson moved, seconded by Ms. Scott, to approve the manager application and the motion carried unanimously.

Katherine I. Todd
Red Lobster
359 S. Illinois Avenue

Ms. Todd was present to discuss her application. When asked by Ms. Williams, Ms. Todd stated she has worked for Red Lobster for many years, but was recently transferred back to this location as manager in May 2013. Deputy Chief Massengill stated there have been no issues at this location.

Chairman Tedford moved, seconded by Ms. Williams, to approve the application and the motion carried unanimously.

Chairman Tedford moved, seconded by Ms. Scott, to move the discussion on Applebee's to the end of the agenda and the motion carried unanimously.

SHOW CAUSE HEARING

Show Cause Hearing # 2013-03
Back to Brewski's
144 Randolph Road
Class "C" Beer Permit #1457, Approved: 7/9/12
Owner: W. Nang Crossno
Manager: W. Nang Crossno and Wanda Reagan

Mr. Crossno and Ms. Reagan were both present for the hearing. Chairman Tedford swore in the witnesses and then explained the procedure for the hearing.

Officer Daniel Freytag testified to his experience in law enforcement with the City of Oak Ridge. Officer Freytag explained the circumstances that led him to arrest a man for public intoxication outside of Back 2 Brewski's in the early morning hours of April 14, 2013. Upon his arrival to a disturbance call, Officer Freytag was told one of the participants in the disturbance had left the premises and the other remained inside. Officer Freytag noticed a suspicious person outside the establishment hiding behind a pillar, who was determined to be intoxicated and was arrested for public intoxication. Officer Freytag stated this person was in no condition to safely walk home. Officer Freytag testified that the person indicated he had been drinking at Back 2 Brewski's and had three beers.

Ms. Williams stated she was amazed that the business allowed this patron to leave. Mr. Crossno stated the patron was erratic and did not pay his tab, but he did not see him falling over and did not see him as a danger. Mr. Crossno stated he asked the bartender to ask the patron to leave and at that time the patron was not incapable of leaving. Mr. Crossno brought the patron's tab with him to the hearing but could not answer Ms. Scott's questions regarding when the tab was started though Mr. Crossno expected it was about 10:00/10:30 p.m.

Officer John Thomas testified that he arrived to the same disturbance call and talked to on-site security. Officer Thomas testified he was given the names of the patrons involved in the disturbance, one of whom left the premises prior to the officer's arrival. Officer Thomas testified he observed the remaining patron and stated the patron was injured from the fight, smelled of alcohol, and his mannerisms were consistent with being intoxicated. Officer Thomas stated the patron refused to give details of the disturbance and asked to go to jail. Officer Thomas searched the patron incident to arrest and found approximately 5 grams of marijuana on his person. Officer Thomas later took the patron to the hospital. Officer Thomas testified the patron did not deny the marijuana was his. Officer Thomas gave some details on the start of the fight, which appeared to begin in the restroom.

Ms. Scott asked Mr. Crossno if he knew when this patron arrived at the establishment. Mr. Crossno was not sure, but stated the patron generally arrived at 10:00 p.m. but was now banned from the premises. Mr. Crossno estimated 20 people were inside the establishment that evening and that a manager was on duty along with two security/bouncer personnel. Officer Thomas estimated 20 people outside and 10 people inside when he arrived.

Acting Secretary Solmonson asked who called the police about the disturbance. Mr. Crossno stated he requested the call and Ms. Reagan called the police. Mr. Crossno stated he did not see the beginning of the fight but did suggest the one patron finish his game of pool and then leave.

Deputy Chief Massengill stated there have been past issues at the establishment including motorcycles driving inside the premises. Mr. Crossno stated he was the one who called the police when that happened. Mr. Crossno stated it involved two motorcycles driven by patrons who thought it would be funny. Mr. Crossno also stated he did not expect his bouncers to physically stop a motorcycle.

Ms. Scott referenced newspaper articles mentioning Back 2 Brewski's where Mr. Crossno stated he was trying to make a good bar. Ms. Scott also referenced newspaper articles where arrested individuals said they were drinking at Back 2 Brewski's.

Acting Secretary Solmonson inquired why the cameras were not working properly. Mr. Crossno stated he was in a dispute with the company because the cameras did not operate as promised. Acting Secretary Solmonson stated she was a strong supporter of this business because it was a small business and she has stood behind them, however, she had concerns.

Ms. Scott brought up past issues where Mr. Crossno promised to repair a window in February 2012 and the window was still unrepaired. And now the cameras are not operational.

Mr. Crossno stated his business has declined which he believes is in response to his no tolerance policy, which he accepts because he wants a safe place. Mr. Crossno stated it is the nature of the business to have issues, but he is diligent about ID'ing patrons and cutting them off. Mr. Crossno stated he believes he does this better than most.

Deputy Chief Massengill emphasized that—as with other businesses—most calls involve problems due to patrons with high levels of intoxication. On this night, two patrons were beyond where they should have been before being cut off from beer consumption. Further, if there were drugs in a patron's system, it was still Mr. Crossno's responsibility to monitor the intoxication level. Deputy Chief Massengill stated other businesses are under similar scrutiny by the Police Department.

Deputy Chief Massengill stated his concern is that the establishment is not cutting off patrons when they should.

Ms. Scott moved, seconded by Chairman Tedford, that Back 2 Brewski's has not shown sufficient cause for the board to not take negative action against the beer permit.

Mr. Crossno stated he has spent a lot of time trying to turn the business around and will definitely address the issue of cutting patrons off when needed. He stated he communicates with his bartenders by text. He also stated he would hate to lose his investment, and will do everything he can to abide by the regulations. He also stated 90% of his business is beer sales and it would shut down his business if he lost his permit.

Ms. Scott gave her reasons for making the motion that the business had not shown sufficient cause. She stated there was a disturbance which involved two intoxicated patrons and there were drugs. She stated this was a safety issue and she does not see any proof that they were operating as responsible managers/bartenders/owners at the time. She also stated she was not suggesting the business be shut down.

Mr. Crossno stated he could not completely eliminate the issues because it was the nature of the beast. He stated he believed he handled everything properly. Ms. Williams inquired what time the business closed and Mr. Crossno stated he closed at 3 am but last call was around 2:20 am. Ms. Williams stated he may want to consider last call at an earlier time and posting notice to that effect.

Ms. Scott inquired of Mr. Crossno when was the last time he took a training class and Mr. Crossno could not remember the date and said it had been awhile.

Acting Secretary Solmonson stated she understood their struggle but she does not see any internal controls in place to solve this problem.

The motion carried unanimously that Back 2 Brewski's had not shown sufficient cause for the board to not take any negative action against the beer permit.

Chairman Tedford reminded the board of their options to revoke, suspend, or issue a \$1,000.00 civil penalty in lieu of suspension. Chairman Tedford stated the time had come where the issues could not be overlooked by the board.

Ms. Williams asked how long it would take to complete some training and suggested a suspension, but no civil penalty.

Deputy Chief Massengill wanted the Police Department's perspective to be clear. The business should recognize when to cut patrons off from drinking alcohol. In this instance, a patron was personally injured. He would like to see business owners step up, deal with the specific instance of cutting off patrons, and see the business owners testify regarding disturbances, etc., so the police can make arrests.

Ms. Scott stated Mr. Crossno signed the beer permit application indicating he would not serve intoxicated persons, and that he needs to take a class.

Ms. Scott moved, seconded by Ms. Williams, to suspend the beer permit for two weeks and to not offer a civil penalty, and the motion failed with a tie vote (2-to-2) with Ms. Scott and Ms. Williams voting in favor and Chairman Tedford and Acting Secretary Solmonson voting against.

Chairman Tedford moved, seconded by Acting Secretary Solmonson, to suspend the beer permit for two weeks beginning September 1, 2013; however, the second week of the suspended would be lifted if Back 2 Brewski's (1) submitted a list of all employees who have not had recent (within one year) training classes in alcohol sales and/or did not have valid server permits to the Legal Department by 5:00 p.m. on July 17, 2013, and (2) said employees—including Mr. Crossno and Ms. Reagan—completed such training and submitted proof thereof to the Legal Department by 5:00 p.m. on August 30, 2013. The motion carried unanimously.

NEW / OLD BUSINESS

Applebee's Neighborhood Bar & Grill

On June 13, 2013, the City's Legal Department received communication from the State of Tennessee Alcoholic Beverage Commission regarding a sale of beer to a minor at Applebee's Neighborhood Bar & Grill in violation of Tennessee Code Annotated §57-4-203(b)(1)(B). According to the State, this was the second offense for sale of beer to a minor within a one year period.

Ms. Scott moved, seconded by Ms. Williams, to hold a show cause hearing for Applebee's for sale of beer to a minor at the next regular meeting and the motion carried unanimously. The motion included a requirement for the following persons to be present at the hearing: the manager, regional manager, bartender on duty at the time of the unlawful sale, and the employee who made the unlawful sale.

ADJOURNMENT

Ms. Scott moved, seconded by Chairman Tedford, to adjourn the meeting and the motion carried unanimously.

Respectfully submitted,

(Signature on official copy)

Barton Bailey, Secretary