

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

Municipal Building Training Room – Room 104
Monday, September 9, 2013
12:00 noon

PRESENT: Secretary Barton Bailey, Colin Colverson, Theresa Scott, Chairman Randy Tedford, and Wendy Williams

ABSENT: Debra Solmonson

ALSO PRESENT: Tammy Dunn, Senior Staff Attorney
Alan Massengill, Deputy Chief of Police
Derrick Dalton, Special Agent Tennessee Alcoholic Beverage Commission

AUDIENCE MEMBERS: Nang Crossno, Back 2 Brewski's Owner
Michael Foster, Allies for Substance Abuse Prevention
Bob Fowler, Knoxville News Sentinel
John Huotari, Oak Ridge Today

ATTENDANCE

In the absence of the chairperson, Ms. Dunn called the meeting to order at 12:00 noon. All members were present except Ms. Solmonson who gave prior notice of her absence to the Legal Department and Chairman Tedford who gave prior notice to the Legal Department that he would be delayed. Chairman Tedford arrived during the Show Cause Hearing discussion.

ACTING CHAIRPERSON

In the absence of the chairperson, Mr. Colverson moved seconded by Ms. Scott to nominate Secretary Bailey as Acting Chairman and the motion carried unanimously (4-0).

APPROVAL OF MINUTES

The minutes were revised to reflect grammatical changes. Mr. Colverson moved seconded by Ms. Scott to approve the minutes of the August 12, 2013 meeting and the motion carried unanimously (4-0).

APPLICATIONS FOR NEW BEER PERMITS AND THEIR ASSOCIATED MANAGER APPROVALS

Application No. 1483
St. Mary's Catholic Church
John Slankas, Supervisor of Beer Sales
Fall Festival at St. Mary's Church (327 Vermont Avenue)
October 4-5, 2013
Class "E" Permit

Mr. Slankas was present to discuss the special event beer permit application for St. Mary's Catholic Church. Ms. Williams inquired whether there should be cut off time for beer sales prior to the ending time of the event. Acting Chairman Bailey stated there is nothing in the rules that requires a cut off time. Having no further questions and having assurances the event would be run similarly to those in the past, Mr. Colverson moved seconded by Ms. Scott to approve the application and the motion carried unanimously (4-0).

Application No 1485

**Lehigh Gas-Ohio, LLC, Owner
Regina Sue Jett, Manager
Rocky Top Market #905
20 Jefferson Avenue
Class "B" Permit**

Ms. Jett, Manager, and Jim Gardner, CFO of Rocky Top, were present to discuss the beer permit application and manager application. The Board inquired about the sale of Rocky Top Markets to Lehigh Gas-Ohio, LLC, and the new owner's experience in beer sales. Mr. Gardner stated the corporate policies would remain the same as would Tennessee Responsible Vendor training. Mr. Colverson moved seconded by Ms. Williams to approve the applications and the motion carried unanimously (4-0).

Application No 1486

**Lehigh Gas-Ohio, LLC, Owner
Judd Garbett, Manager
Rocky Top Market #903
1190 Oak Ridge Turnpike
Class "B" Permit**

Based upon the information provided during Application No. 1485, Acting Chairman Bailey moved seconded by Mr. Colverson to approve the applications and the motion carried unanimously (4-0).

NEW MANAGER APPROVAL APPLICATIONS

Andy Keck

**Applebee's
1213 Oak Ridge Turnpike**

Mr. Keck was present to discuss his manager application. The Board inquired how the new policies discussed at the previous meeting were working and Mr. Keck stated they were working well and had been adopted by Knoxville area Applebee's locations as well. Acting Chairman Bailey moved seconded by Ms. Scott to approve the application and the motion carried unanimously (4-0).

SHOW CAUSE HEARING

Show Cause Hearing # 2013-05

**Lincoln's Sports Grille
119 S. Illinois Avenue
Class "C" Beer permit # 1406, Approved: 8/9/10
Class "B" (Catering) Beer Permit #1439, Approved: 11/14/11
Owners: Scott Green, Lendon Aaron Hart, Mike Lincoln, and Vander J. Murray
Manager: Lisa Green (Approved 4/8/13)**

Acting Chairman Bailey announced the show cause hearing and swore in the witnesses. Scott Green, Owner, and Lisa Green, Manager, were present for the hearing on behalf of Lincoln's.

Special Agent Derrick Dalton, Tennessee Alcoholic Beverage Commission (TABC), reported to the Board that the TABC conducted a minor compliance check on March 18, 2013. As part of this compliance check, Lincoln's sold beer to a minor and was issued a citation by the TABC. Lincoln's paid \$1,500.00 to the TABC on March 24, 2013 for the violation. Special Agent Dalton further reported the employee who sold beer to the minor did not check the minor's identification. Special Agent Dalton reported the employee received a citation to General Sessions Court; however, he was unaware of the disposition of the case.

Mr. Green stated the employee who sold beer to the minor was new and in training shadowing another employee. Unfortunately, the employee took it upon himself to serve a patron when his trainer was busy. Mr. Green further stated this was against Lincoln's rules and, while it was a mistake on the employee's part, Lincoln's has a zero tolerance policy and the employee was terminated. Mr. Green also stated the employee was within the 60-day grace period the TABC gives an employee to receive server training. As a result, Mr. Green stated Lincoln's policy has changed and employees cannot begin work at all until the employee has been TABC certified. Mr. Green also stated the manager on duty at the time of the unlawful sale is no longer employed at Lincoln's. Special Agent Dalton confirmed the employee was new and in training and was within the 61-day grace period given by the TABC.

Mr. and Mrs. Green both stated the business does a good job of training employees and neither knew what more could have been done to prevent the unlawful sale because the employee was aware of the rules and went against policy anyway. Mr. and Mrs. Green stated the only additional action Lincoln's could take to prevent this in the future was to change the hiring policy to require employees to be TABC certified prior to beginning any work. Mrs. Green mentioned the business has been tested before by the TABC and passed. Mr. Green stated, while they do not take this situation lightly, it was simply a mistake by an employee not a problem with training.

Ms. Scott and Ms. Williams mentioned the unlawful sale occurred just one week after Lincoln's last show cause hearing in March 2013. At that hearing, business owners said Lincoln's does a good job of carding patron and training employees. Mr. Green stated the situation is unfortunate but he stands by his statement that Lincoln's does a good job of training and nothing Lincoln's did caused this mistake.

Chief Massengill stated there have been some issues in the past with Lincoln's but those issues seem to be settled down. Chief Massengill stated Lincoln's needs to continue to pay attention to crowd control and clientele. [Chairman Tedford arrived after this discussion.]

Mr. Colverson asked about the training the employee had prior to the unlawful sale. Mrs. Green stated the employee was on his first or second shift shadowing. Mrs. Green stated all servers learn phases of the business from bussing to hosting to kitchen/menu and are tested at each phase. Mrs. Green stated this employee had been told there was a zero tolerance policy and all patrons must be carded for alcohol purchases. Mr. Colverson stated his concern was whether this was an isolated mistake or whether this was a result of insufficient or inadequate training.

Acting Chairman Bailey asked how the policy change would prevent an unlawful sale from occurring again. Mrs. Green stated when employees must be TABC certified prior to beginning work the training will be fresh in the employee's mind since it is a five-hour training class where they learn how to card patrons, spot fake IDs, cut patrons off, etc. Then employees will receive training at Lincoln's and will shadow another employee and not approach patrons without supervision until released to work alone. When asked by Ms. Scott, Mr. Green stated he received TABC training around March 2010 and Mrs. Green stated she received TABC training around October 2012.

Acting Chairman Bailey moved that Lincoln's had shown adequate cause as to why negative action should not be taken against the permit. The motion died for lack of a second.

Ms. Scott moved seconded by Ms. Williams that Lincoln's had not shown adequate cause as to why negative action should not be taken against the permit. The Board discussed this motion and looked at prior history for Lincoln's with the Board and the TABC. The motion carried by a vote of 3 to 1 with Acting Chairperson Bailey voting against. Chairman Tedford abstained since he arrived in the middle of the hearing.

After some discussion concerning specific language for a motion, Mr. Colverson moved seconded by Acting Chairman Bailey to suspend the beer permit for one week beginning on September 22, 2013, with Lincoln's having the option to have the one week suspension lifted if Lincoln's will show all employees (servers and bartenders) are TABC certified by September 16, 2013. The motion carried by a vote of 3 to 0. Chairman Tedford and Ms. Williams abstained from the vote. When asked, Mr. Green stated he was fine with this result and would provide information on training to the Legal Department.

At the conclusion of the show cause hearing, Acting Chairman Bailey moved seconded by Mr. Colverson for Chairman Tedford to take over the meeting and the motion carried unanimously.

NEW / OLD BUSINESS

Tennessee Alcoholic Beverage Commission – Five-Year Violation History; Documentation on Establishments that Sold Beer to a Minor on March 18, 2013 as part of the Commission's Minor Compliance Operation; and Request for Information on Results of Future Operations

The Board discussed the five-year history report received by the TABC. After some discussion, the Board voted to hold show cause hearings on the remaining establishments that sold beer to a minor as part of the TABC minor compliance check on March 18, 2013 as follows:

Ms. Scott moved seconded by Secretary Bailey to hold show cause hearings for the Moose Lodge and Hacienda DeGollado at the October 14, 2013 regular meeting and the motion carried unanimously (5-0).

Mr. Colverson moved seconded by Secretary Bailey to hold show cause hearings for Ruby Tuesday, Hidalgo Mexican Restaurant, and Aubrey's at the rescheduled November 18, 2013 regular meeting and the motion carried unanimously (5-0).

APPLICATIONS FOR NEW BEER PERMITS AND THEIR ASSOCIATED MANAGER APPROVALS

(Revisited)

Application No 1484

Free Medical Clinic of Oak Ridge

Robert Bardorf and John Cosgrove, Supervisors of Beer Sales

Taste of Oak Ridge Event at Jackson Square Parking Lot

September 28, 2013

Class "E" Permit

Mr. Bardorf arrived late to discuss the special event application for the Taste of Oak Ridge event; therefore, this application was considered by the Board out of agenda order. Having assurances that the event would be run similarly to those in the past, Chairman Tedford moved seconded by Ms. Scott to approve the application and the motion carried unanimously (5-0).

NEW / OLD BUSINESS

(Resumed)

Possible Ordinance Amendments – Requiring Permittees to Notify the City/Board when Cited by the Tennessee Alcoholic Beverage Commission; and Requiring Training Before Issuance of a Beer Permit

Chairman Tedford moved seconded by Ms. Scott to approve the following language as an ordinance amendment recommendation to City Council and the motion carried unanimously (5-0):

City Code §8-608. Permittees are Responsible for Notifying the Board of any State Violations.

In the event a permittee receives a citation from the State of Tennessee Alcoholic Beverage Commission alleging a violation of state law and/or rules governing the sale of alcoholic beverages, the permittee must submit notification to the Board (or the Board's designee) of the citation and alleged violation within ten (10) calendar days.

The Board also discussed potential options for imposing training requirements on beer permit holders and/or their employees. After some discussion, the Board requested proposed language at the October meeting to incorporate training requirements similar to Anderson County's requirements with the addition of requiring the training every three years and deleting the requirement that the Board approve the training courses.

Michael Foster, Allies for Substance Abuse Prevention, invited the Board to the upcoming task force meeting.

ADJOURNMENT

Mr. Colverson moved, seconded by Chairman Tedford, to adjourn the meeting and the motion carried unanimously. Meeting adjourned at 1:25 p.m.

Respectfully submitted,

(Signature on official copy)

Barton Bailey, Secretary