

A special called meeting of the Collierville Beer Board was held Monday, August 15, 2016, at 6:00 p.m. in the Board Chambers at Town Hall, 500 Poplar View Parkway.

Vice Chairman Hampton Parr was present and presiding.

The following Members were present: Scott Brack, Scott Tucker, Terri O'Connor, and James Lawrimore. William Jones and Ryan Guess were absent.

Also present was Town Administrator James Lewellen, Town Prosecutor Mark McDaniel, Town Clerk Lynn Carmack, Lieutenant Scott Young, Detective Chris Roberts, and Administrative Specialist Senior Adam Hamric.

CALL TO ORDER:

Vice Chairman Parr called the meeting to order.

PLEDGE OF ALLEGIANCE

Mr. Brack led the Pledge of Allegiance.

APPROVAL OF MINUTES

There were no corrections or additions to the minutes.

Mr. Brack made a motion, seconded by Ms. O'Connor, to approve the August 1, 2016 minutes as presented.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
 O' Connor – yes, Lawrimore – yes. Motion approved.

CLASS II – OFF-PREMISES PERMIT

ALDI Inc. located at 523 W. Poplar Ave.

ALDI Inc. located at 523 W. Poplar Ave. is requesting a beer permit for this retail food store location. The Collierville Police Department performed a background investigation on the applicant and found nothing to deny a beer permit. The building has passed fire and code enforcement inspections. The applicant has supplied a \$2,500 surety bond to the Town.

Ms. Puttkammer introduced herself as general manager of ALDI Inc. located at 523 W. Poplar Ave. She stated that this will be the first store in the area to sell beer.

Ms. O'Connor asked what procedures would be in place.

Ms. Puttkammer replied that the register will require two forms of ID.

Mr. Tucker asked about local training.

Ms. Puttkammer replied that they will be providing local training. She stated that staff is aware that the Collierville Police Department will conduct undercover beer stings. Ms. Puttkammer noted that staff is also aware of the red box that outlines under twenty-one IDs.

Ms. O'Connor made a motion, seconded by Mr. Tucker, to approve a Class II "off-premises" beer permit for ALDI Inc. located at 523 W. Poplar Ave.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
O' Connor – yes, Lawrimore – yes. Motion approved.

HEARINGS ON A VIOLATION OF THE COLLIERVILLE BEER ORDINANCE (TITLE XI, CHAPTER 116) REGARDING THE SALE TO OR COMSUMPTION BY ANY PERSON UNDER TWENTY-ONE (21) YEARS OF AGE [SECTION 116.37(M)] AT THE FOLLOWING LOCATIONS:

Ms. Carmack asked all those present who intended to give testimony to please stand and be sworn in.

Circle K Stores, Inc. located at 829 Poplar Ave.

Mr. McDaniel – The first item before the board tonight, Mr. Parr, would be the Circle K Stores located at 829 Poplar Avenue. Would Ms. McGraw and Ms. Turnmire come forward, please? I've spoken with Ms. Carol Turnmire who is the district manager and Ms. Cheryl McGraw who is the store manager and they are prepared to admit that on June 13, 2016 the Collierville Police Department conducted an undercover sting investigation of beer permit holders in the Town of Collierville. On that day a cooperating individual, working with the Collierville Police Department, who was 19 years of age entered the Circle K Store and purchased a beer from their employee, Yvonne Bruno. The clerk did check the identification before selling the beer. The transaction was witnessed by a Collierville police officer and the clerk was issued a citation. If that's correct, Ms. Turnmire, you did indicate that there would be an admission on the part of the Circle K Store?

Ms. Turnmire – Yes.

Mr. McDaniel – At this time I would move for a motion for the Board to find that this violation did in fact take place as announced.

Ms. O'Conner – I make a motion to find Circle K Stores located at 829 Poplar Avenue in direct violation of the Collierville Beer Ordinance regarding 116.37(M) of selling beer illegally to any person less than twenty-one (21) years of age.

Mr. Brack – Second.

Mr. Hamric – Mr. Brack?

Mr. Brack – Yes.

Mr. Hamric – Mr. Parr?

Mr. Parr – Yes.

Mr. Hamric – Ms. O'Connor?

Ms. O'Connor – Yes.

Mr. Hamric – Mr. Tucker?

Mr. Tucker – Yes.

Mr. Hamric – Mr. Lawrimore?

Mr. Lawrimore – Yes.

Mr. McDaniel – At this time, Ms. Turnmire and/or Ms. McGraw, if you have any statements or comments you'd like to make to the Board for mitigation concerning this matter.

Ms. Turnmire – Um, I would just like to, um, include that we do put our new hires through extensive training in Memphis and in Mississippi. I'm actually a district manager out in Mississippi. Um, they go through a one day training course, um, on how to use the, uh, what the policies and procedures are on the legal age machine and the correct way to use them. They come back to the store where they are on probation for two days and then they are put on the register with the store manager, who also takes them through extensive training and tells them we don't look at IDs we run them through the legal age machine and on that day Yvonne, she'd been with us for about three weeks, just looked at it (the ID) and didn't use the policy we had put forth and we do take it seriously and we do training and follow up with the training and we don't assume. We put them through training and that's our expectations, that they run it (the ID) through the legal age machine, which will help them. They don't even have to figure out the date, so um, we are responsible on that part.

Mr. Brack – When did you...

Mr. McDaniel – I was going to ask a couple of questions. First of all, Ms. Turnmire, how long have you been the district manager for Circle K Stores? And were you the district manager over this store back in 2011?

Ms. Turnmire – No, sir.

Mr. McDaniel – Were you the district manager in 2013?

Ms. Turnmire – No, sir.

Mr. McDaniel – Oh, Okay.

Ms. Turnmire – I've had that store about two and a half years. I've had ten stores in Mississippi and that was Linda (inaudible). I took over her position in early 2014...is when I took over that store.

Mr. McDaniel – I have no further questions.

Mr. Parr – Any discussion from the Board?

Mr. Tucker – You've had two previous violations for the stores in general having to do with distinguishing the difference between cigarettes and, uh, the age for buying cigarettes and alcohol. What systems, do you have anything different to aid the employee in determining the legal age?

Ms. Turnmire – Um, in 2013...I'm trying to think when the legal age machine was in place. I know we upgraded it...um, to where it would not only punch in the ID, but you could scan it. Um, I want to say that's the only change we've made since then. Um, not including the new registers that we have at our store, I have the Shell down the street at 408 Highway 57. Our new registers now will not let you process the sale and those are coming in October. At the time, all we did was update our legal age machine.

Mr. Brack – And that can't be bypassed in any way? By the employee?

Ms. Turnmire – Um...yeah...they can just say they're of age. If the employee don't look at it, and run it through, the new ones, the new register, they don't...um, they can say they're over thirty, because our policy is to card anyone who appears under thirty.

Ms. McGraw – For cigarettes. Everyone gets carded for beer. Even if you come in tomorrow and you were there yesterday, you still need to show the ID and it still needs to go through the legal age machine and they (employees) also sign off extensively saying that they will do that.

Ms. O'Connor – What actions did you take against Ms. Bruno?

Ms. Turnmire – She was terminated.

Ms. McGraw and Ms. Turnmire (simultaneously) – Immediately.

Ms. O'Connor – She had been with your store for three weeks, had she been anywhere else where she had sold beer?

Ms. Turnmire - Um, she had about fifteen years prior experience, was an older lady, she had about fifteen years. She was confident that, you know, I know how and I've been in this business...and didn't look. She didn't do what she was supposed to do.

Mr. Parr – Any further questions? Does staff have a recommendation for the Board?

Mr. McDaniel – Yes. This is the third...actually there are three prior violations to this one. First of which was in 2007, second which was in December 2011, and the third which was in September of 2013. So there seems to be...I won't say it's a pattern, but they keep showing up and so with that being said, in September 2013, the Board's penalty was a fourteen days suspension, uh, we would move the Board for a suspension in the amount of sixty days and if you wish to assess a civil penalty then the civil penalty in lieu thereof should be the maximum, twenty-five hundred dollars.

Mr. Parr – Discussion?

Ms. O'Connor – If this had been all the same manager, I would be leaning towards sixty days with no civil penalty, but we've got a new person...and they have made some changes...I'm hesitant to just do sixty days without the possibility for a civil penalty. The last time they did the civil penalty it was probably the same manager two or all three of those times.

Ms. McGraw – I wasn't the manager those times.

Ms. O'Connor – I know that - I'm trying to speak loud enough for you to hear. Were you the manager in 2013?

Ms. McGraw – No. I've only been the manager since 2015.

Ms. O'Connor – Was the same person the manager in 2007, 2011, and 2013?

Ms. Turnmire – No.

Ms. O'Connor – Any two of those times?

Ms. Turnmire – No.

Ms. O'Connor – Okay. How long have you been the manager?

Ms. McGraw – A year and a half.

Ms. O'Connor – Okay.

(inaudible)

Ms. O'Connor – I'm okay with the sixty days as long as we offer a civil penalty.

(inaudible)

Ms. O'Connor – Can I ask why you recommended going from fourteen days to sixty?

Mr. McDaniel – Because, this...this is the third violation within a period of about five years.

Ms. O'Connor – Okay.

Mr. McDaniel – And even though it's under different management, it's still the same store. It's still the same permit holder. So we've had a thirty days suspension with a civil penalty before. We've had a fourteen days suspension without a civil penalty, uh, I think that, uh, if the Board wishes to set a precedent, then it needs to be set with either a thirty days suspension with no civil penalty, or if you believe a civil penalty is in order, then I think there should be a longer period of suspension with the civil penalty as an alternative.

Ms. O'Connor – The maximum civil penalty regardless of the number of days suspension?

Mr. McDaniel – Correct.

(inaudible)

(inaudible)

(inaudible)

Ms. O'Connor – We're talking about thirty days with no civil penalty.

Mr. Parr – Motion?

Ms. O'Connor – I make a motion that we impose a civil penalty to Circle K Stores, 829 Poplar Avenue of uh revocation, uh, suspension - I'm sorry - of beer permit for thirty days with no civil penalty.

Mr. Hamric – Mr. Parr?

Mr. Lewellen – I'm sorry, you need a second. There was no second.

Mr. Brack – I'll second.

Mr. Hamric – Mr. Parr?

Mr. Parr – Yes.

Mr. Hamric – Ms. O'Connor?

Ms. O'Connor – Yes.

Mr. Hamric – Mr. Tucker?

Mr. Tucker – Yes.

Mr. Hamric -- Mr. Lawrimore?

Mr. Lawrimore -- Yes.

Mr. Hamric -- Mr. Brack?

Mr. Brack -- Yes.

(Motion approved)

Courtyard Collierville located at 4640 Merchants Park Cr.

Ms. Anne-Marie Famalette introduced herself as the general manager of Courtyard Collierville located at 4640 Merchants Park Cr.

Mr. McDaniel read the description on the Board Report of the incident on June 13, 2016, when a 19 year old Confidential Informant (CI) with the Collierville Police Department was sold beer at Courtyard Collierville by Ms. Annie Rodgers.

Ms. Famalette stated an admission to a violation of Town Ordinance.

Mr. McDaniel asked the Board for a motion regarding this violation.

Motion by Mr. Tucker, seconded by Ms. O'Connor, to find Courtyard Collierville located at 4640 Merchants Park Cr. guilty of a violation of the Collierville Beer Ordinance regarding 116.37(M) of selling beer illegally to any person less than twenty-one (21) years of age.

ROLL CALL: Brack -- yes, Parr -- yes, Tucker -- yes,
 O' Connor -- yes, Lawrimore -- yes. Motion approved.

Ms. Famalette stated that the beer ID cards remain in a locked office. She noted that while Ms. Rodgers is responsible for training other employees, she had been preoccupied with her ailing grandfather who then passed away the next morning. Ms. Famalette said signage is in place to assist employees, and employees know they are to card everyone. She stated that the next morning she circulated a memo and required all employees to sign. Ms. Famalette advised that they were aware of the consequences.

Mr. Brack asked what additional procedures are in place.

Ms. Famalette noted that they do not have POS register programs.

Mr. Tucker asked if they are aware of the red border on an underage ID.

Ms. Famalette responded that they were not aware at that time.

Mr. McDaniel made a recommendation to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor.

Motion by Ms. O'Connor, seconded by Mr. Tucker, to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
O' Connor – yes, Lawrimore – yes. Motion approved.

Express Mart 2 located at 3750 S. Houston Levee Rd.

Mr. Salman Noordin introduced himself as the representative for Express Mart 2 located at 3750 S. Houston Levee Rd.

Mr. McDaniel read the description on the Board Report of the incident on June 13, 2016, when a 19 year old Confidential Informant (CI) with the Collierville Police Department was sold beer at Express Mart 2 by Ms. Raven Ivory.

Mr. Noordin stated an admission to a violation of Town Ordinance.

Mr. McDaniel asked the Board for a motion regarding this violation.

Motion by Ms. O'Connor, seconded by Mr. Lawrimore, to find Express Mart 2 located at 3750 S. Houston Levee Rd. guilty of a violation of the Collierville Beer Ordinance regarding 116.37(M) of selling beer illegally to any person less than twenty-one (21) years of age.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
O' Connor – yes, Lawrimore – yes. Motion approved.

Mr. Noordin stated that they own between five and six stores in Collierville. He explained that while they are doing the same thing everyone else is doing to train employees, careless employees continue to make errors. Mr. Noordin stated that there is no explanation for the recklessness of employees. He said that they conduct their own beer stings at least once a month and that employees who fail stings are immediately terminated. Mr. Noordin explained that there is no scanner at this location and that employees must manually entering birthdates into the system. He indicated that upgrades to this system will be implemented in the near future.

Mr. McDaniel made a recommendation to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor.

Motion by Ms. O'Connor, seconded by Mr. Lawrimore, to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
O' Connor – yes, Lawrimore – yes. Motion approved.

Milano's Pizza located at 9947 Wolf River Blvd., Suite 101

Mr. Todd Reese introduced himself as the owner of Milano's Pizza located at 9947 Wolf River Blvd., Suite 101.

Mr. McDaniel read the description on the Board Report of the incident on June 13, 2016, when a 19 year old Confidential Informant (CI) with the Collierville Police Department was sold beer at Milano's Pizza by Mr. Matthew Akins.

Mr. Reese stated an admission to a violation of Town Ordinance.

Mr. McDaniel asked the Board for a motion regarding this violation.

Motion by Mr. Brack, seconded by Ms. O'Connor, to find Milano's Pizza located at 9947 Wolf River Blvd., Suite 101 guilty of a violation of the Collierville Beer Ordinance regarding 116.37(M) of selling beer illegally to any person less than twenty-one (21) years of age.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
O' Connor – yes, Lawrimore – yes. Motion approved.

Mr. Reese stated that he was not present when the violation took place. He noted that while his beer sales are low, approximately \$12,000 annually, it is store policy to card everyone. Mr. Reese explained that the employee took the ID, dropped it behind the microwave, retrieved it, and rushed to complete the transaction. He said that the employee has worked at this location for approximately a year and a half, and that action taken on the employee is pending the result of tonight's violation hearing.

Mr. McDaniel made a recommendation to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor.

Motion by Tucker, seconded by Ms. O'Connor, to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
O' Connor – yes, Lawrimore – yes. Motion approved.

HEARINGS ON A VIOLATION OF THE COLLIERVILLE BEER ORDINANCE (TITLE XI, CHAPTER 116) REGARDING THE SALE TO OR COMSUMPTION BY ANY PERSON UNDER TWENTY-ONE (21) YEARS OF AGE [SECTION 116.37(M)] AND FAILURE TO ALLOW PERSONS OTHER THAN THOSE REGISTERED WITH THE BEER BOARD TO BE LEFT IN CHARGE OF A BEER ESTABLISHMENT OR SELL OR SERVE BEER TO CUSTOMERS [SECTION 116.37 (R) AT THE FOLLOWING LOCATIONS:

Kroger Food Store #387 located at 240 New Byhalia Rd.

Mr. Jim Matousek introduced himself as the manager of Kroger Food Store #387 located at 240 New Byhalia Rd.

Mr. McDaniel read the description on the Board Report of the incident on June 13, 2016, when a 19 year old Confidential Informant (CI) with the Collierville Police Department was sold beer at Kroger Food Store #387 by Ms. Kenyunna Woodard.

Mr. Matousek stated an admission to violations of Town Ordinance.

Mr. McDaniel asked the Board for a motion regarding this violation.

Motion by Ms. O'Connor, seconded by Mr. Tucker, to find Kroger Food Store #387 located at 240 New Byhalia Rd. guilty of violations of the Collierville Beer Ordinance regarding 116.37(M) of selling beer illegally to any person less than twenty-one (21) years of age and 116.37 (r) failure to allow persons other than those registered with the Beer Board to be left in charge of an establishment or sell or serve beer to customers.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
 O' Connor – yes, Lawrimore – yes. Motion approved.

Mr. McDaniel made a recommendation to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor and to impose a 14 days suspension or accept a \$500 civil penalty payment for an employee without a Town beer ID card, with suspensions running consecutively.

Mr. Matousek stated that minors are not allowed to scan or accept payment for beer. He explained that employees have recently completed ABC training in addition to annual computer based training. Mr. Matousek said that measures are in place, but that human error failed them this time. He stated that in twenty-seven years, this is the first time he has experienced a beer violation.

Ms. O'Connor asked if he was aware of the red outline on an underage Tennessee driver's license.

Mr. Matousek responded the Tennessee training includes that information, but noted that military and foreign ID can be confusing.

Motion by Mr. Parr, seconded by Ms. O'Connor, to impose a 14 days suspension or accept a \$500 civil penalty payment for sale of beer to a minor and to impose a 14 days suspension or accept a \$250 civil penalty payment for an employee without a Town beer ID card, with suspensions running concurrently.

ROLL CALL: Brack – yes, Parr – yes, Tucker – yes,
 O' Connor – yes, Lawrimore – yes. Motion approved.

OTHER BUSINESS

No other business.

ADJOURNMENT

With no further business, Vice-Chairman Parr adjourned the meeting at 7:05 p.m.



William Jones, Chairman



James Lewellen, Town Administrator