A regular meeting of the Beer Board was held September 10, 2013 at 6:00pm in the Board Chambers at Town Hall, 500 Poplar View Parkway.

Mr. Crews, called the meeting to order.

**INVOCATION**

Mrs. O'Connor gave the invocation.

**PLEDGE OF ALLEGIANCE**

Mr. Crews led the Pledge of Allegiance.

The following members of the Board were present: Walter Crews (Chairman) Scott Brack (Vice-Chairman), Kim Perry, Terri O'Connor, Walter Jones, Brandy Thompson, and Hampton Parr.

Staff present were the Assistant to the Town Administrator Josh Suddath and Town Administrator James Lewellen.

**APPROVAL OF THE MINUTES – July 16, 2013**

Mr. Crews asked for any corrections or additions needed to the Beer Board minutes from July 16, 2013. There were no corrections or additions requested.

Mr. Jones made a motion, seconded by Mrs. O'Connor, to approve the minutes as written from the July 16, 2013, Beer Board meeting for the Town of Collierville.

Mr. Crews asked Mr. Suddath to call the roll.

**ROLL CALL:** Thompson – yes, Brack – yes, Jones – yes, Perry – yes, O'Connor – yes, Parr - abstain.

**CLASS II – OFF-PREMISES BEER PERMIT – SHELBY FOOD MART, 9125 EAST SHELBY DRIVE**

Mr. Suddath stated that the owner, Mr. Hassain Mawani, of Shelby Food Mart, is in attendance tonight.

Mr. Suddath stated that this is for the approval of a Class II – Off-premises Beer Permit for Shelby Food Mart, located at 9125 East Shelby Drive. This establishment has been turned over a couple of times over the past few years. A background check has been performed for him and everything is satisfactory. The Fire Department has signed off, and the Building & Codes Department has signed off. Mr. Mawani was present with the Surety Bond.

Mr. Suddath stated that staff recommends approval.

Mr. Crews asked Mr. Mawani to step forward to the podium and identify himself.

Mr. Mawani introduced himself.
Mr. Crews asked Mr. Mawani has he ever had any complaints or offenses registered this year? Mr. Mawani answered, No.

Mrs. O’Connor asked is this his first business in Collierville? Mr. Mawani answered yes.

Mr. Crews asked has Mr. Mawani has he read and understand Collierville Beer Ordinances and regulations? Mr. Mawani answered yes.

Mr. Crews asked what type of training does he provide for his employees? Mr. Mawani answered, before we hire we make sure they understand all Collierville Beer Ordinances and they do not sell beer to anyone without their birthdate entered into the register and they also make sure they are registered and certified with the town to sell beer.

Mr. Crews asked what is the legal age to sell beer? Mr. Mawani answered, 21.

Mrs. O’Connor asked how many employees does Mr. Mawani have? Mr. Mawani answered 3.

Mr. Crews asked will all 3 employees have permits? Mr. Mawani answered yes.

Mr. Crews asked does he understand that the police will do stings from time to time? Mr. Mawani answered yes he understands.

Mr. Mawani also stated that they have invested in scanners that scan driver’s license, an extra measure they have taken to insure against the selling of beer to minors.

Mr. Crews asked are there any further questions from the Beer Board?

There were none.

Mr. Crews called for a motion.

Mrs. O’Connor made motion to approve the Class II – Off premises Beer Permit for Shelby Food Mart, located at 9125 East Shelby Drive.

Mr. Brack seconded it.

Mr. Crews asked if there were any further discussion?

Mr. Crews asked Mr. Suddath to call the roll.

ROLL CALL: Thompson – yes, Brack – yes, Jones – yes, Perry – yes, O’Connor – yes, Mr. Parr-yes.

Mr. Mawani thanked the Beer Board.

The Beer Board thanked Mr. Mawani.
Violation/ Circle K Store 829 Poplar Avenue

Mr. Suddath asked if the board would allow him to go over a few key points with the Beer Board and the audience. He wanted to make sure that the Beer Board understands its responsibilities, know what avenues they are open to and what they are allowed to do through the Beer Ordinance and State Law.

Mr. Suddath talked to the people in the audience facing civil penalties or suspensions of their permits about what to expect and let them know what they should do next.

Mr. Suddath stated that the Beer Board may revoke or suspend a permit if they are found guilty of selling beer to an underaged person. However, per state law, Beer Board may only permanently revoke a person’s permit if 2 violations in a 12 month period have occurred.

He also stated that after deciding upon a suspension period the Beer Board may offer the permit holder the option to pay civil penalties. State law specifies that the maximum penalty can only be $2500.00 per offense for selling to minors and $1000.00 for any other offenses and this includes those found without a Beer ID. You will have 7 days to come in and pay fines in full which will be Tuesday September 17, 2013 and if those fines are not paid in full, then there will be automatic suspension and the Collierville Police will come and take all beer and you will not be able to sell. Any suspensions will come effective on September 25, 2013 at 12:01a.m.

Mr. Suddath asked that the Beer Board deliberate first on the length of the suspension and vote. If you decide to offer the violator the option to pay the civil penalty, then deliberate on that and vote on that as well so that it is clear on the intent of the Beer Board is clear.

Mr. Suddath stated that if the Beer Board finds you guilty and lays a civil penalty against you, you have 7 days to pay all your fees or the suspension becomes effective automatically and your Beer permit will be suspended. You will have until September 17, 2013 to pay fines and fees in full.

Mr. Suddath then turned it over to Mr. McDaniel, Town Prosecutor.

Mr. McDaniel asked permission to proceed with two violations. One is to Circle K Store at 829 Poplar Avenue and Collierville Express Mart at East Highway 72, Mr. McDaniel asked that all persons giving testimony to stand. Mr. McDaniel asked permission to administer an oath jointly.

Mr. McDaniel proceeded with the oath.

Mr. McDaniel asked permission to proceed with the first violation for Circle K Store at 829 Poplar Avenue. Mr. McDaniel asked the violators to come forward and identify themselves.

(1st person) “Good evening my name is Jason Newman store manager. (2nd person) “Good evening my name is Mrs. Morrow market manager for the area.

Mr. McDaniel asked the police to come forward, the officer stated his name as Detective Smith of the Collierville Police Department.
Mr. McDaniel on or about July 25, 2013 Collierville Police Department did a sting on off premises establishments in Collierville. They utilized a willing individual under the age of 21, specifically 18 years of age. While observed by the detectives this individual entered into the Circle K Store on 829 Poplar Avenue at 2:34 p.m. and purchased a Magnum Malt Liquor Beer from the cashier, later identified as Mrs. Bowen and Mrs. Bowen sold the cooperating individual the beer. She checked the confidential informant’s identification and still made the sell.

Mr. McDaniel stated that he had spoken to Mr. Newman and Ms. Morrow prior to the hearing and they were ready to plead guilty to the said allegations.

Mr. McDaniel asked Mr. Newman if he agrees, Mr. Newman said yes.

Mr. McDaniel asked permission to pass forward a photo of the identification used by the informant. He asked Detective Smith to identify the photo as the photo used by the informant, Detective Smith said yes.

Mr. McDaniel asked that the photo be used as an exhibit in the hearing.

Mr. McDaniel asked that the motion state that a violation was found in the Beer Ordinance regarding the sale and or the consumption of beer or alcohol by any persons under the age of 21 at the location Circle K Store located at 829 Poplar Avenue.

Chairman Crews asked Mr. Newman what did he have to say about the matter, Mr. Newman answered, nothing other than the incident did occur.

Mr. Newman also stated we take steps to make sure that this doesn’t happen. We have multi-tier training, monthly, weekly, and even daily meetings to do everything we can, we have legal aid machines to identify that the person on the identification is indeed the person standing before us. The person’s name, age, and birth date pops up on the screen, so with our systems this really shouldn’t occur, but unfortunately it did.

Chairman asked if Mrs. Morrow if she had anything to add?

Mrs. Morrow answered she has been working with Circle K for about year and most of the employees interview through her. She said she makes sure that the person is aware of the laws in the State of Tennessee. They must follow all policies and procedures for Circle K and the state of Tennessee. They must ID all persons purchasing alcohol and run the ID through the machine, if the person standing in front of you is not that person you can not proceed with the sell. When they go through training, they make sure that the person knows and understands the all the policies of Circle K and the State of Tennessee. When they come back to the store after training they have to go through another course of training called the alcohol awareness program, they have to make 100 to pass and go out onto the floor and sell alcohol. Once a month we have an outside agency that comes in and makes sure that employees are asking for identification and if they fail to do so they are automatically terminated and everybody onsite is retrained and sent back through the alcohol awareness program. Once a month they randomly select an employee and scan their whole shift, and it is sent off to an outside security and if found not asking for identification they are automatically terminated from Circle K company and everybody onsite is retrained and sent back through the alcohol awareness program.
Mr. Crews asked on October 11, 2011, was Mr. Newman here for the same incident, Mr. Newman answered yes he was.

Mr. Crews asked Mr. Newman was the same scan machine used, Mr. Newman answered yes everything was pretty much the same.

Mr. Crews asked Mr. Newman was he present when this incident occurred, Mr. Newman answered no he was not there.

Mr. Crews asked Mrs. Morrow was she present when this incident occurred, she answered no she was not.

Mr. Crews asked Detective Smith what time did this incident take place, Detective Smith said approximately 2:34 p.m.

Mrs. O’Connor asked whether the employee still works for Circle K. Mrs. Morrow answered no, they were automatically terminated.

Mr. Newman stated that about 25 minutes after the incident occurred the employee called and notified him about selling to another informant and she was aware of the consequences. Mr. Newman also stated they are pretty clear about their expectations and if you are found not carding or if you fail a sting you are automatically terminated.

Mrs. Morrow added you can clearly see she asked for identification but did not run it through the system, had she followed procedure she would have seen he was under age.

Mrs. O’Connor asked had she ran the Identification through the system would it have disallowed her to make the sell, Mrs. Morrow answered yes it would have terminated the sell.

Mrs. O’Connor asked you can’t override that? Mrs. Morrow answered there is no way to override that.

Mr. Crews asked if the machines stops you when they are not the right age will it not stop you for not entering or scanning the identification? Mrs. Morrow answered that procedure is not in place because, in case the system breaks down you are supposed to be able to manually type the information in. But in the case of a system crashing it is immediately put on a 24 hour hot list to get it repaired so that this doesn’t have to take place. Everyone is required to follow procedure and those that get caught are not following procedures or the state law. Even if she didn’t get caught by the sting operation if her shift was randomly selected for a scan operation she still would have gotten caught that way and automatically terminated.

Mrs. O’Connor asked do you feel you have everything in line to where this does not happen even against free will, Mrs. Morrow answered even if this didn’t happen other things could have taken place like identification was stolen and the police want to take a look at our systems we would have to answer to whatever they find in our system, so it is very important that you follow procedures and policies. Regardless if you are caught by the city or whomever you are automatically terminated.
Mr. Parr asked Mr. McDaniel if the cooperating individual purchased a Magnum Malt Liquor Beer correct? Mr. McDaniel answered yes, Mr. Parr stated that the Beer Ordinance has jurisdiction over beer that is 5 percent because that Magnum malt liquor contained 5.6% alcohol, Mr. McDaniel answered we have jurisdiction over all beer sold in Collierville, we have no jurisdiction over liquor and wine and so forth but beer we do.

Mr. Suddath stated that there are different ways to measure alcohol, by weight and by volume. The state of Tennessee says that it has to be 5% or less to be sold in convenient stores anything over that has to be sold in liquor stores. The Magnum Malt liquor beer is meeting the requirements to be sold in a convenient store, which the state intends for us the Beer Board to regulate.

Mr. Crews asked Mr. Newman what they called the Magnum malt liquor beer, Mr. Newman answered, beer.

Mr. Crews asked Mr. Newman what percentage of his revenue is this, Mr. Newman answered about 25%.

Mr. Crews asked if there was anything Mr. Newman wanted to add?

Mr. Newman stated that he regrets to be standing before the Board again and they take their role as responsible retailers very seriously and they appreciate the chance to give their side of the matter. Mr. Crews states that it is evident that Mr. Newman has taken the appropriate steps and additional ones to keep this from happening.

Mr. Crews asked Mr. McDaniel what is the city's position on this? Mr. McDaniel said that Mr. Crews and the Board want to be consistent and look at the history of Circle K and this is the 3rd violation in 6 years. On behalf of the city our position is we want responsible retailers and we also don’t want sells to minors.

The recognition of the Board is because this is the 2nd violation in less than 2 years seems that the logical would be a 14 day suspension.

Mr. Crews asked if anyone had anything to add to that?

Mr. Parr stated that a 3rd offense typically gets a 30 day suspension and a civil penalty.

Mr. Jones made a motion that the 2nd violation in less than 2 years deserves a 14 day suspension of permit and no civil penalty.

Mrs. O’Connor seconded the motion

Mr. Suddath call roll: Thompson- yes, Brack- yes, Jones- yes, Crews- yes, Perry- yes, O’Connor- yes.

VIOLATION/ COLLIERVILLE EXPRESS MART 100 EAST HIGHWAY 72:
Mr. McDaniel asked to proceed with the next Violation.
COLLIERVILLE EXPRESS MART 100 East highway 72

Mr. McDaniel asked that all individuals in this case come forward.

Mr. McDaniel asked Mr. Elaina to introduce himself to the Board.

Mr. McDaniel asked Mr. Elaina was he the owner, he answered, yes. Mr. McDaniel also asked if

Mr. Elaina understood that his store has been cited for 2 violations of the Beer ordinance. 1 being selling and or consumption of alcohol to a person under the age of 21, and the 2\textsuperscript{nd} being leaving an un-registered person to run the store and make sells without a beer license. Do you understand what the charges are? Mr. Elaina answered yes he understands.

Mr. McDaniel states to Mr. Elaina that the 1\textsuperscript{st} charge is the sell and or consumption of alcohol of a person under the age of 21, Mr. Elaina plead guilty to this charge. 2\textsuperscript{nd} charge is leaving an un-registered person in charge of the store, selling alcohol. Mr. Elaina plead guilty to this charge.

Mr. McDaniel states that on or about July 25, 2013 at approximately 1:10p.m. Detective Smith observed a cooperating individual enter Collierville Express Mart at 100 East Highway 72 and purchased a Corona beer from cashier later identified as Sitra Abdosh. Mrs. Abdosh sold the informant the beer, she checked his identification and still sold the individual the beer and Ms. Abdosh does not have a beer ID as well.

Mr. McDaniel asked Detective Smith to identify the photo that was used in this sting as the identification of the informant, Detective Smith confirmed that was indeed the the identification used by the informant.

Mr. McDaniel asked Mr. Elaina what did he know about the matter, Mr. Elaina stated that the employee had just started that week and he showed her what to do. She was not supposed to sell any alcohol while in training. She was told to go obtain her beer permit prior to being hired, she was told all the procedures and told to become familiar with the laws and regulations. He said what happened was the other lady there went to the bathroom and Ms. Abdosh made the sale herself.

Mr. McDaniel asked Mr. Elaina was he there, he said yes in his office, she should have come and gotten him to make the sell but she didn’t.

Mr. McDaniel asked what kind of training does he provide at his store?

Mr. Elaina stated that they send them to an alcohol class and makes sure they know and understand the laws and regulations. He now has that individual employee under surveillance and she is still employed there and has obtained her beer license.

Mr. McDaniel asked Mr. Elaina if he has a business anywhere else? Mr. Elaina answered yes.
Mr. McDaniel asked has Mr. Elaina had any other violations, Mr. Elaina answered no. He stated that he has been in Memphis for 14 years and has been in Collierville for 9 years and has never had this happen.

Mr. Crews asked will there be any further questions?

Mr. McDaniel stated Mr. Elaina has been a permit holder since 2004 and has had numerous stings at his store location and has never had any issues or any violations from any of them.

Mr. Crews asked what is the City’s position?

Mr. Jones answered the City’s position would be consistent with any 1st time offender, a 14 day suspension.

Mr. Jones also state that because they are 1st time offenders the Board considers a Civil Penalty and a 14 day suspension up to $2500.00 on the charge of selling alcohol to a person under the age of 21 and $1000.00 on any other offense thereafter, two 14 day suspensions coming out to be 28 days in all and a civil penalty.

DISCUSSION OF THE BOARD

Mr. Jones stated that he preffered a $2500.00 civil penalty.

Mr. Brack motioned that they find Collierville Express Mart guilty of selling alcohol to a person under the age of 21 and sets a 14 day suspension and a civil penalty of $1500.00.

Mrs. Thompson seconded the motion.

Mr. Suddath called roll: Thompson- yes, Brack- yes, Jones- yes, Crews- yes, Perry- yes, Parr- yes, O’Connor-yes.

Mr. Parr motioned that they find Mr. Elaina guilty of leaving a un-registered employee without a beer license to run the store and has been set a $500.00 penalty.

Mrs. O’Connor seconded the motion.

Mr. Suddath call roll: Thompson- yes, Brack- yes, Jones- yes, Crews- yes, Perry-yes, Parr- yes, O’Connor- yes.

Mr. McDaniel stated that Mr. Elaina has 7 days to pay all fines and fees in full.

Mr. McDaniel stated that we have about 60 permit holders and only 2 violators in this last phase, we are making progress.

Mr. Crews asked if there was any additional business to come before the Board

Mr. Suddath stated there was none.

ADJOURNMENT