

## **Beer Board Meeting Minutes**

The Shelbyville Beer Board met in Regular Session on Wednesday, May 11, 2016 at the City Hall Annex Courtroom, 109 Lane Pkwy. Chairman Reeves called the meeting to order at 6:00pm and the following members were present: Chairman Reeves, Member York, Member Finney, Member Hughes, and Member Fisher. Also in attendance was Acting City Recorder Anna Mai. City Attorney Ginger Shofner was absent.

The first item of business was approval of the agenda. Member Finney made a motion to rearrange the order of the items under new business so that the two applications could be heard before discussion on the policies and procedures. Member Fisher seconded and the motion carried unanimously by oral vote. Member York then made a motion to approve the agenda as amended, Member Hughes seconded and the motion carried unanimously by oral vote.

Next was approval of the minutes from the April 13, 2016 meeting. Chairman Reeves asked for any revisions, additions or deletions. Hearing none Member Fisher made a motion to approve, Member Finney seconded the motion and it was carried unanimously by oral vote.

Member Finney took a moment to ask Attorney Norton if in fact the point of sale register system had been installed at Citgo D&T Market within 7 days of the April 13<sup>th</sup> meeting as Mr. Norton stated at the time would be done, and as is reflected in the minutes of the April 13<sup>th</sup> meeting. Mr. Norton stated that yes they had been installed but he had no documentation with him, but that he would be able to provide that documentation quickly to Attorney Shofner.

Old Business was next on the agenda.

The first item under old business was consideration of an application to sell beer (package) by M & N Market Naim Abulaban. This item was deferred from the April 13<sup>th</sup> meeting so that members of the board could have more time to review the application. Mr. Abulaban came before the board and was sworn in by Acting City Recorder Anna Mai. Chairman Reeves went over the checklist with Mr. Abulaban. His answers were as follows: Yes, he did receive the beer rules, yes he does understand the rules, no he does not have any questions on the rules, yes he did receive the ordinance, no he does not have questions about the ordinance, yes he has held a beer license previously in Murfreesboro, TN in 2014 but the restaurant shut down after a year. Mr. Abulaban described his experience in beer sales that he has also worked at a Citgo gas station for his mother from 2011-2014 without any problems, and has worked at wings and rings as well. Chairman Reeves stated that in reviewing the minutes from the last month's meeting when Mr. Abulaban was asked if he had ever held a beer permit the reply was no, but today the reply was yes. Mr. Abulaban stated that he forgot that the store was in his name, he just misunderstood and his father reminded him about it, and that is also why he stated that he had previously worked at the Citgo station his mother owned. Chairman Reeves asked if he had ever been cited for the sale of beer to a minor, Mr. Abulaban replied no not that he knows of. Chairman Reeves asked if any of his employees had been sited, the response was yes one time in 2012 or 2013 in Murfreesboro. Chairman Reeves asked if he knew the outcome of that, response from Mr. Abulaban was no. Chairman Reeves then continued with the checklist questions, answers as follows: Yes, he understands that underage sales of alcohol to a minor is a violation of the law,

yes his business will be a convenience store, no there were no questions for the beer board, no he is not aware of the responsible vendor program so Chairman Reeves explained this program to him, yes he does have a cash register/software system that requires a date of birth be entered, no he is not the property owner but has provided a copy of the lease stating that the owner is aware of beer sales on the property, yes he does realize as the applicant that he is responsible as the beer permit holder for all employees beer sales. Chairman Reeves asked if the board had any questions or discussion. Member Fisher made a motion to approve the application, Member Finney seconded and the motion carried unanimously by oral vote.

Next item of old was hearing on notice and show cause order issued against Chetanaben R. Patel, Hopps Express #2 that was deferred from the April 13<sup>th</sup> meeting. Mr. Norton informed the board that at the time of the April 13<sup>th</sup> meeting they did not have a disposition on this case, they appeared in court on April 19<sup>th</sup> but the State was not prepared to go forward, and there was a continuance to May 3<sup>rd</sup>. Mr. Norton and his client did appear in court on May 3<sup>rd</sup> and a decision was reached with the District Attorney to continue the matter for 11 months and 29 days upon the contribution of \$500 to the property and equipment fund and payment of court costs, both of which have been paid. Mr. Norton also stated that he has to admit to the board that he spoke to Mr. Patel about the Responsible Vendor Program but failed to provide him with the information on it, so that should be faulted to him and not Mr. Patel. Mr. Norton said he could provide a responsible vendor certificate within 48 hours to Attorney Shofner or Chairman Reeves. Mr. Norton said that in this case they will not contest the findings of violation of the Beer Ordinance and that the only thing remaining is filing the responsible vendor certificate. Mr. Norton also addressed the belief that Mr. Patel had a previous violation, he stated there was no previous violation found by either Mr. Norton or the State, but there is no contest to the violation of the Beer Ordinance. Chairman Reeves stated that one of the things the board is prepared to look at tonight is reviewing the policy on offenses and according to minutes from the March 2012 meeting it looks like on a 1<sup>st</sup> offense a suspension of 30 days and fine of \$300 for those with a responsible vendor certificate and \$500 without a responsible vendor certificate be imposed. Mr. Norton asked that the record indicate that this is Hopps Express #2 that there are other Hopps Express stores in the Middle Tennessee and all others have completed the Responsible Vendor Program but Mr. Patel has not, he stated all employees were covered but by fault of Mr. Norton Mr. Patel has not been able to go through the program yet. Chairman Reeves asked for any questions, comments or motions by the Board. Member Fisher made a motion to impose a 30 day suspension or \$500 fine, Member York seconded the motion and it carried unanimously by oral vote. Chairman Reeves then clarified that the motion is for a finding of a sale of a first offense.

At this point Mr. Norton asked how he could become aware of changes to policy and procedure once those changes are made, will they be published? Acting City Recorder Anna Mai, stated that they wouldn't be published but that the documents could be provided to Attorney Norton at his request once a decision was made by the board.

New Business was next on the agenda.

As the order of the items under new business had been rearranged the first item for discussion was the consideration of an application to sell beer (consume) by Yummy Thai, Inc., Somphet Mischke, 1310 North Main St. Shelbyville, TN 37160. Ms. Mischke came before the board and was sworn in by Acting City Recorder Anna Mai. Chairman Reeves asked if everything on her application was true and correct to which the answer was yes, he then went through the beer board checklist with Ms. Mischke to which the answers were as follows: Yes she received and reviewed a copy of the beer rules, yes she has read and understands the rules, no she has no questions about the rules, yes she received a copy of the ordinance, no she has no questions about the ordinance, yes she has held a beer permit before in Lebanon, TN for two years and before that in McDonald, GA for four years, no she has not had any violations of underage sales before, Ms. Mischke explained that she has had experience with beer sales through her previous restaurants in Lebanon and in Georgia, yes she understands that sale of alcohol to an underage minor is a violation of the law, she described her business as a restaurant only just food and beer sales, no she did not have any questions for the Board, yes she does have a cash register or software system that requires a date of birth be entered, no she is not the property owner but her lease does state that she is allowed to sell beer on the property. Chairman reeves then asked for questions or discussion by the Board. Hearing none Member York made a motion to approve the application, Member Hughes seconded and the motion carried unanimously by oral vote.

Next on the agenda was consideration of an application to sell beer (package) by MK Foodmart, Inc., Charanjit Kaur, 218 South Cannon Blvd Shelbyville, TN 37160. Ms. Kaur came before the board and was sworn in by Acting City Recorder Anna Mai. Chairman Reeves then asked if she was the owner to which the reply was yes but also firm was checked on the application, he informed her that she probably needed to add to the application the business name of MK Foodmart. Chairman Reeves then went through the Beer Board Checklist with Ms. Kaur, her answers were as follows: Yes she did receive a copy of the beer rules, yes she read them, no she has no questions, yes she did receive a copy of the ordinance, yes she read the ordinance, no she does not have questions about the ordinance, no she has not ever held a beer permit before in Shelbyville or anywhere else, she said she did have experience with beer sales as she owns a gas station in Jackson, TN that she owns the property but her husband runs the business. Chairman Reeves clarified that she does own a gas station in Jackson and asked her if she has a beer license in Jackson, TN her answer was yes, Chairman Reeves asked if she has ever had any violations of the beer laws or permits there, Ms. Kaur said she had not. Ms. Kaur further stated that yes she did understand that alcohol sales to an underage minor was a violation of the law, she described her business as just a gas station with some food sales, she stated she had no questions. Chairman Reeves then asked if she was aware of the Responsible Vendor program she stated she understood, Ms. Kaur's husband Emerbar Mand was in the audience and spoke up to say that he was aware of the responsible vendor program. Chairman Reeves then asked if they had gone through the program with their store in Jackson, the answer was that they have had a store in Jackson since 2010. Chairman Reeves then took a moment to explain what exactly the Responsible Vendor Program is and how it works for all employees, and that once it is completed a certificate is issued, he asked if they had received a certificate for doing that. Mr. Mand said no. Chairman Reeves asked if they had a cash register/software system that asked for date of birth for beer sales, Ms. Kaur said yes, she stated that she is the property owner, she also

stated that she understands that as permit holder she would be responsible for all underage sales even if sale was by another employee. Chairman Reeves asked the board for any questions. Member Finney asked if she was going to have her employees complete the responsible vendor program, Mr. Mand replied yes. Member Fisher then brought up the issue of the application, that it says different things as far as ownership and should they be allowed to fix the application now. Chairman Reeves then explain that the application does need to be fixed and amended, either it is the corporation holding the permit or the person, that everything else is in order but the application must be amended. Mr. Mand explained that his accountant filled out the application. There was lengthy discussion with the Chairman, Ms. Kaur and Mr. Mand about who the applicant is, that the application needs to be amended and that it is strongly suggested that they confer with a third party, an attorney to help them and that they consider going through the responsible vendor training program. Chairman Reeves explained to them that nothing could be decided at that time due to discrepancies in the application only. Member Finney made a motion to defer to the June 8<sup>th</sup> meeting of the Beer Board, Member Fisher Seconded and the motion carried unanimously by oral vote.

Mr. Patel of Hopps Express #2 approached the board to ask a question. He wanted to know if the ruling today would affect him in the future if he wanted to open another store. He stated that he had received some conflicting information. Chairman Reeves told him it would not necessarily affect him but it could have some impact in the future just to make sure that he discloses that information to the Board if he does open another store in the future, to make sure that if the Board asks him if he has ever had a previous violation to make sure he answers yes.

Next under new business was review and discussion of beer board policies and procedures including fee structure for offenses and consideration of a motion to take any action on those policies and procedures. Chairman Reeves stated that without City Attorney Shofner in attendance these two items should probably be deferred one month. Member York made a motion to defer until City Attorney Shofner was in attendance, Member Finney seconded and the motion carried unanimously by oral vote.

The last item of business was staff reports. Acting City Recorder Anna Mai just reported that Citgo D&T Market had paid the fines required at the April 13<sup>th</sup> meeting in the time required.

There being no further business Member Finney made a motion to adjourn, Member York seconded and the motion carried unanimously by oral vote. Meeting adjourned at approx. 6:43pm.

Approved:

  
Chairman Jason Reeves

Attest:

  
Acting City Recorder Anna Mai