

TOWN OF CUMBERLAND GAP  
BEER BOARD MINUTES  
MARCH 7, 2016  
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The Beer Board of Cumberland Gap, Tennessee met in regular session on March 7, 2016, immediately following the Town Board meeting. All members were present, except Teresa Fuson.

Mayor McGaffee called for approval of the minutes. Susan Bain made a motion to the approve minutes, with a second by Chuck Coffey. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- absent; Jerry Hopson –yes; John Ravnum-yes; Phillip Waller-yes.

Mayor McGaffee called for Old Business:

**Complaints against Gap Tap**

Chris Anderson and his attorney, David Stanifer, was present to address the written complaints made against The Gap Tap. Town attorney, Jim Estep conducted the meeting.

Mr. Stanifer wanted to confirm that the city had not filed anything to take action against Mr. Anderson. His understands that written complaints have been made by individuals and the board is considering them. Mr. Estep confirmed that the board is considering the written complaints made by individuals.

There were two new complaints that could not be considered tonight because Mr. Anderson has not received a copy of them. Also if the individual who filed the complaint was not present, those complaints were not considered either.

Brandy Sweat was present to discuss her written complaints. Her complaints included: business not closing on time- people still on the premises past time allowed by town ordinances; noise made by the patrons when leaving the premises- she now understands that is the responsibility of the town, not Mr. Anderson; open containers leaving the establishment; public intoxication; public urination; and littering.

Ms. Sweat says she has witnessed the establishment not closing on time on several occasions and she has pictures and videos of several of the other incidents. She stated one incident of public urination took place across the street from the establishment, which was determined to be on national park property. The police were called but by the time they arrived the person had already left. Mayor McGaffee stated park authorities have been notified of the incidents taken place on their property.

Since this complaint was filed, the town has taken steps to remedy some of the issues by hiring a police officer.

In her complaint, Ms. Sweat states “the noise level was outrageous for being outside the Gap Tap”. She says they stand outside the door of the establishment and are very loud. She has also witnessed them throwing up and urinating off the sidewalk at the front door.

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She understands that not all the incidents take place on Mr. Anderson's property; so therefore not all of the incidents is his responsibility. Some of the incidents usually start on his property then continue on the city streets.

Neal Pucciarelli spoke up saying he wasn't aware that you had to be present in order for your complaint to be heard, as long as the complaint was filed in the appropriate manner. He also stated that the complaints are perpetual and not going away. Ms. Sweat agreed and stated that she included that in her complaint. She has done everything she has been asked to do, but no action is being taken.

Ms. Sweat requested a trash can be placed near the establishment, in an effort to stop the littering.

Several individuals spoke up saying they have witnessed people leaving the establishment with a drink in their hands or going to their cars and drinking and then going back inside the establishment.

Now that the town has a police officer, tickets will be written and arrest will be made. That will set a precedent and should stop some of the offenses. Mayor McGaffee stated he is working on hiring a second part-time police officer.

Someone asked what Mr. Anderson could do to remedy the situation. Replies included closing on time and not allowing people to take drinks off the premises.

Mr. Stanifer spoke up, on behalf of his client, saying that Mr. Anderson went into business knowing what the law is and he does the best he can. A lot of the complaints are taking place outside his establishment which he has no control over. If the police would make arrest, he feels the problems would stop once word got around. He agreed that Mr. Anderson has some business decisions to make and he wants to cooperate with the town. He even commented that Mr. Anderson has called the police himself on many occasions.

Several individuals commented they don't want to keep coming back every month. Discussions have taken place for several months now and no action is being taken. Mayor McGaffee replied that the majority of the complaints are taken place as patrons are leaving the establishment, which is the responsibility of the town. Mayor McGaffee reminded them that the town has hired a police officer.

There is no law against allowing eighteen year olds inside the establishment, as long as food is served and no smoking is allowed inside the building. If someone has proof that Mr. Anderson is serving beer to underage individuals they need to bring it to the board and the proper action will be taken.

The board needs to make a decision- continue, revoke or suspend the Gap Tap Beer License. Mr. Stanifer reminded Mr. Estep that he was told the city had not filed anything and this was just a hearing to hear the complaints. Mr. Estep responded by saying that is

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why Mr. Anderson was cited to appear, to hear the complaints and the board to take action.

The question was asked concerning the complaints made by those individuals that were not present tonight. They were not aware that they had to be present since they had filed a written complaint. Mr. Estep replied by saying that's hearsay and they (Mr. Anderson and his attorney) don't have the opportunity to cross examine. The board has the option to continue this meeting next month, instead of adjourning, allowing those individuals to be present.

John Ravnum made a motion to continue this meeting next month, April 4, 2016, with a second by Chuck Coffey. Mayor McGaffee called for a roll call vote. Board members voted as follows: Susan Bain-yes; Chuck Coffey-yes; Teresa Fuson- absent; Jerry Hopson -yes; John Ravnum-yes; Phillip Waller-yes.

Mr. Stanifer feels the board did not comply with the ordinance. When asked, Mr. Stanifer would not say why he feels that way. Mr. Estep thinks he meant, according to the ordinance a hearing will be held and at that time the board will make a decision to revoke or suspend the license. The board did not make such decision but instead voted to continue the hearing until next month. In his opinion, Mr. Estep stated that was proper to do, the hearing can be continued. The additional complaints cannot be brought up at the continuation hearing. The town must comply with the ordinance and give Mr. Anderson notice of new complaints. Another letter with the new complaints will be sent to Mr. Anderson and will be heard at a different hearing, but those complaints made by those individuals that were not present tonight, can be brought up if they are present at the continuation hearing.

Ms. Sweat asked why the individuals making the complaints are not given the same consideration as Mr. Anderson. The town gives Mr. Anderson 10 days' notice, but those making the complaints didn't know they had to be here. Mr. Estep responded by saying the ordinance requires the town to give Mr. Anderson 10 days' notice, but it is the responsibility of the person making the complaint to ask when they need to be present. They were told to be present at the April 4, 2016 hearing.

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The Beer Board met to continue the meeting on April 4, 2016, with Mayor McGaffee calling the meeting back to order at 7:00 p.m.

Another notice was sent to Mr. Anderson with additional complaints made against his business. Those complaints, along with those made by the individuals not present at the last meeting, will be heard tonight.

Complaints included:

- Alcohol being served past time allowed by ordinance  
Steve Clouse said he observed beer being served at 12:15 A.M on one occasion and at 1:00 A.M on another occasion.

According to the ordinance an establishment is prohibited from selling beer between the hours of 12:00 midnight and 6:00 A.M. The premises must be vacated by 12:30 A.M.

According to a volunteer who frequently helps out at the establishment, the establishment does not serve beer after 12:00 A.M and was not open at 1:00 A.M as previously reported by Mr. Clouse. They may have been outside the premises, but was not inside the building.

- Drinking on the streets and disorderly conduct  
Three girls were seen drinking in the back of their SUV, and a fight took place on private property.

As stated at previous meetings, if the incidents takes place outside and off the premises then it is the responsibility of the town.

- Patrons leaving the bar with an open containers  
People leaving the establishment with an alcohol drink in hand is not a violation of the beer ordinances governing Mr. Anderson's beer permit. But if Mr. Anderson sells a beer and knows the person is leaving the bar with the drink in hand, then it is his responsibility. The person with the drink could be cited in violation of the open container law.

- ID's not being properly checked  
State law requires that ID's be checked at the time of purchase only. For example, if someone buys 4 cups of beer and takes it back to the table, the only person who's ID would be check is the purchaser. If someone buys a beer for someone underage then that person is violating the law.

According to the volunteer, Mr. Anderson walks around and checks ID's if he has suspension that someone purchased beer for someone underage.

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- The definition of restaurant not being met

The ordinance states that a restaurant must have a seating capacity of a least seventy-five (75) people at tables. Mr. Anderson says he has the seating capacity of at least 75 people.

- Food to beer sales ratio not being met

The ordinance states beer sales cannot exceed more than forty-nine percent (49%) of the gross sales of the establishment (At least fifty-one percent (51%) of sales must be food or items other than beer.) The town has no way to conduct an audit.

According to the volunteer, there is food served and Mr. Anderson does the cooking.

- Trash being left on private property

One resident says she picked up two garbage bags of trash left around the establishment. Mayor McGaffee says he plans to put a garbage can near the establishment.

The board has several options: suspend beer license; revoke beer license; dismiss the complaints; or impose a fine.

The residents are frustrated that nothing is being done. They have done everything they have been asked to do, but no action is being taken to remedy the complaints.

Based on complaints and testimony heard over the last two months the attorney recommends the board dismiss the complaints. There isn't enough proof to revoke or suspend his license and most of the complaints take place outside his premises.

Susan Bain made a motion to dismiss all complaints. The motion died for lack of a second.

With no business to come before the board, Susan Bain made a motion to adjourn, with a second by Jerry Hopson. On voice call vote, all members vote "aye".