

SPECIAL MEETING MINUTES
City Council of the City of Bath, Maine
Wednesday, June 13, 2012 6:00 pm
Council Chambers, Bath City Hall

Present: Councilors Brackett, Merrill, Paulhus, Wyman, Winglass and Chairman Sinclair
Excused: Councilor Rogers, Eosco and Pagurko

Also in attendance were the City Manager William Giroux and City Clerk Mary White.

Chairman Sinclair led the Pledge of Allegiance and City Clerk White called the Roll.

I. Public Hearing: Black Barnacle's Liquor and Special Amusement Licenses 6:01 PM

Councilor Winglass made a motion to put this item on the floor for discussion. Councilor Paulhus seconded the motion.

Chairman Sinclair asked for staff comment.

Lieutenant Stan Cielinski of the Bath Police Department gave a history of the calls the Department had responded to regarding the Black Barnacle. Mr. Cielinski stated there had been only 7 actual calls come in to the Department, but other "non-registered" complaints had occurred.

Chairman Sinclair asked Mr. Greg Tisdale, owner of the Black Barnacle, to come forward and speak regarding the request for these licenses. He stated that he had recently been informed there were problems regarding smoking and cigarette butts around his establishment. Mr. Tisdale reported he had put an ashtray out front hoping to promote the disposal of the cigarette butts in the container and not on the sidewalk, but it hadn't worked so he would be removing it as soon as the meeting was over. He also stated that he had reminded patrons of the 20-foot no smoking law around the entrances of business establishments. Mr. Tisdale said he had been meeting with William Neilson and David Matero, representatives from the Main Street Board of Directors, to work on ways to make his business more compatible with the other downtown businesses. Mr. Tisdale said he had met with Mr. Skip Taylor of the neighboring businesses and worked on solutions to problems that Mr. Taylor had been experiencing. Mr. Tisdale felt they had made good progress in this area. He assured Council that he would do whatever it took to make the problems stop.

Chairman Sinclair opened the Public Hearing.

William King, former Bath business owner and member of the Economic Restructuring Committee of Main Street Bath, read a portion of the minutes to the Committee's April 20, 2012 meeting which is as follows: "What began as a brewpub has now become a full-blown bar and the sidewalk out front has become a patrons' smoking area with accompanying smoke, strong language, loudness and litter. The gathered smokers block the sidewalk and shoppers must step off the sidewalk and into the street to pass by. Customers don't even see the adjacent store because they are so busy trying to navigate the gauntlet of smokers. As the bar business increased, so did issues: vomit on the sidewalk outside of adjacent shop, customer of adjacent shop having a beer tossed on her, clerk at adjacent shop had a bar patron expose himself to her when she was leaving (police were called) and that employee quit as a result of the incident. When the pub applied for an entertainment permit (for music), it was granted conditionally. Conditions included entertainment not starting before 7:00 p.m. and music to be acoustic only. There was a band during the day Saturday, April 13th and the music was so loud that items fell off the wall in the neighboring shop. As the music gets louder, so do the smokers gathered out on the sidewalk and the foul language also increases. On this Saturday, 4 customers (from Brunswick) of the adjacent store were so

offended they said they couldn't shop in that store and they left. That same afternoon, Dan Donovan had also been in the adjacent store and called the owner later to express how shocked and embarrassed he was by what was happening on Front Street at the pub."

Jayne Palmer, a former Bath business owner and a founding member of Main Street Bath, stated she had visited with neighboring businesses to the Black Barnacle to obtain their views on the business. She stated there were various complaints of loud music, inappropriate language, cigarette butts on the sidewalk and other complaints. Ms. Palmer presented Council with a written complaint from Pamelas World, a downtown business. *(A copy of this written complaint is on file with the agenda materials for June 13, 2012 in the Bath City Clerk's Office.)*

Skip Taylor, owner of Winters Gone Fashions and neighboring business to the Black Barnacle, stated that he had many complaints related to the pub such as motorcycle noise and gas fumes that come into his store from vehicles parked outside, loud music, rude language, a bar patron exposing himself to Mr. Taylor's store clerk, numerous cigarette butts, frequent vomit on the sidewalk, and once there had been spots of blood on the sidewalk. He told Council that this wasn't a new situation but had been going on for a long time. Mr. Taylor stated he had spoken with the building's landlord and he was not sympathetic to Mr. Taylor's situation. He stated that he had contacted the Police Chief with complaints more than 7 times in the report.

It was the consensus of the Council to have Lieutenant Cielinski address the reporting of incidence discrepancy. The Lieutenant stated that unless the incident was called in there would not be a Police Report on it. He suggested to Mr. Taylor to call 911 every time there as an incident and to do it as the incident is happening so the police could investigate.

Chairman Sinclair asked Mr. Taylor to provide a copy of the letter, he had written to Council for the City Clerk to put on file with the meeting materials. *(A copy of the letter is on file with the agenda materials for the June 13, 2012 Council meeting in the City Clerk's Office.)*

Chairman Sinclair asked Mr. Tisdale if he wanted to respond to any remarks that had been made.

Mr. Tisdale stated that he had a video camera set up in his establishment that would show what happens inside the establishment as well as outside on the sidewalk which might help verify, if indeed, it was his patrons that were causing all the problems. He offered to have anyone interested in viewing the videos to do so. Mr. Tisdale stated that he had hired a Manager about 3 weeks before to oversee daily operations and a cleaning person that cleans the sidewalks two stores down and up from his, starting at 6AM before the other businesses open. He reported that he had been working with the City's Codes Officer to find a way to make a smoking area out back of the establishment that would be less intrusive to the public and neighboring businesses.

David Matero of the Main Street Board of Directors reported that he and another Board member, William Neilson, had met with Mr. Tisdale to address the complaints and find solutions to help alleviate them. Mr. Matero stated that he felt that Mr. Tisdale was very willing to do whatever he had to do to implement solutions to the complaints of neighboring businesses.

Seeing no other speakers, Chairman Sinclair closed the public comment section of the hearing and opened Council comment.

Councilor Brackett asked Mr. Tisdale how much time he actually spent in the establishment during business hours and who was in charge when he wasn't there.

Mr. Tisdale stated he couldn't say exactly as he doesn't work a set schedule of hours at the pub because he had to work his carpentry business also, but was there as much as possible and came in without notice so he could observe what was going on. He stated that the bartenders were in charge when he was not there and they had held management positions in previous employment.

Councilor Winglass stated that he was confused because the two sides were expressing the situation so differently and felt that the owner should be present in order to oversee daily business.

Councilor Paulhus agreed with Councilor Winglass that it was confusing.

Councilor Brackett asked if there had been any codes or laws broken by the business.

City Clerk White stated that the Codes Officer, Fire Chief and Police Chief had emailed her that they had no problems with the granting of these licenses. *(Copies of these emails are on file with the agenda materials for the June 13, 2012 Council meeting in the City Clerk's Office.)*

Councilor Merrill reported that she and one of her children had witnessed the loud music coming from the establishment while on a walk in the downtown.

Councilor Wyman stated that he had recently participated in an Earth Day clean-up event in the downtown and found cigarette butts to be a problem up and down both sides of Front Street and not just at this location.

Chairman Sinclair asked Council if they wanted to vote on the two licenses separately or together. Councilor Winglass made a motion to vote on the licenses separately. Councilor Brackett seconded the motion. All were in favor of the motion.

Chairman Sinclair asked the City Clerk do a Roll Call Vote on the approval of the licenses.

Roll Call Vote on Liquor License:

YEAS: Wyman

NAYS: Brackett, Merrill, Paulhus, Winglass

Liquor License failed. 1-4

Roll Call Vote on Special Amusement License:

YEAS: Paulhus, Wyman

NAYS: Brackett, Merrill, Winglass

Special Amusement License failed. 2-3

II. Acceptance of Election Tabulations for the State of Maine Primary and RSU #1 Budget Validation Elections. 7:07 PM

Councilor Wyman made a motion to accept the tabulations as presented. Councilor Merrill seconded the motion.

There was no comment from the Council or the public regarding the tabulation results.

Vote on Election Tabulations:

YEAS: 5

NAYS: 0

Election Tabulations passed unanimously. 5-0

The meeting adjourned at 7:08 PM with a motion from Councilor Wyman and a second from Councilor Merrill. All were in favor of the motion to adjourn.

Attest:

Mary J. White, City Clerk

These are not verbatim minutes but a summary of statements to the best of my recollection.