

MINUTES OF THE ALCOHOL CONTROL BOARD

The Alcohol Control Board met in a regularly scheduled meeting on Wednesday, January 19, 2022 at 10:00 A.M. in the Council Chambers, 3rd Floor, City Hall.

CALL TO ORDER at 10:00 AM

ROLL CALL

Present: Rick Napps, Jennifer Smith, Richard Kollhoff, Christine Brown, and Dan Heilman

Absent: David Holt and Cortney Hultman

Staff Present: Randy Mannino, Keith Lovell and Julia Drake

Prior to the meeting beginning, Assistant Attorney, Keith Lovell, stated that Table 20 would be heard for a Change of Manager and for violations. He asked the Board Members if they would like to group these two items together.

Board Member Kollhoff made a motion to move the Change of Manager application for Table 20 to be heard following the violation item. Board Member Heilman seconded the motion. Motion carried unanimously. Vote: 4-0

APPROVAL OF MINUTES

1. Approval of minutes of the December 8, 2021 Meeting Minutes.

Board Member Kollhoff made a motion to approve the December 8, 2021 minutes. Board Member Smith seconded motion. Motion carried unanimously. Vote: 4-0

NEW APPLICATION

2. CVS Pharmacy #8976: Change of Manager

Chairman Napps called the next item and called the representative up to the podium.

Shannan Mitchell, 42 Centerport Dr., White, GA., came forward to answer any questions from the Board and stated she had been the manager of this location for 12 years.

Board Member Smith made a motion to approve the Change of Manager for CVS #8976. Board Member Kollhoff seconded the motion. Motion carried unanimously. Vote: 4-0

VIOLATIONS

Mr. Lovell stated before the Alcohol Control Board that there were several violations. In speaking with each of the representatives, all would be pleading no contest or guilty to the charges. Each representative would be given an opportunity to plead their case on behalf of their client(s). Continuing, he stated that all of the officers that were involved in these citations were present and available to questioning should the Board Member's need further information. In addition, Paralegal Stacey Foristall was also in attendance to

provide the Board Member's access to the body camera footage for the violations. Once all information has been presented, the Board Members will have the opportunity to ask any questions to help determine their ruling.

Mr. Lovell reminded the Board Members of the following recommended guidelines adopted by the City of Cartersville:

- 1st violation: Subject to a fine up to \$1,000 per offense and probation up to 3 years.
- 2nd Violation: Subject to a fine up to \$1,000 per offense, probation up to 3 years, and suspension up to 30 days.

In closing, Mr. Lovell stated for the record that each party has 14 days to pay their fine or appeal their case to be heard by the Mayor and City Council. Fines and/or appeals are to be made to the City Clerk's office on the 2nd floor of City Hall.

3. Aldi, Inc.: 500 Rowland Springs Rd. (Licensee: Todd Gonzales)

Mr. Lovell started out by stating that this is Aldi's first violation. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Kevin Leff, Sard and Leff Attorney, of 3789 Roswell Rd. Atlanta, came forward to represent the licensee which was not in attendance. Mr. Leff stated that actions had been taken to ensure that this type of violation would not occur again. Those actions included retraining all employees on the importance of checking identification for age requirement and requiring a manager on staff to review all sales prior to purchase when customer produces a vertical phone identification indicating 'Under 21'.

Board Member Heilman made a motion to evoke a penalty of \$1,000 fine with no probation and no suspension. Board Member Smith seconded the motion. Motion carried unanimously. Vote: 4-0.

4. Texas Roadhouse: 195 Main Street Marketplace (Licensee: Margie Kent)

Mr. Lovell stated that this is Texas Roadhouse's first violation and would be pleading no contest. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Mr. Leff from Sard and Leff remained at the podium and represented Margie Kent, Operations Manager of Texas Roadhouse. Mr. Leff stated measures had been taken to prevent this type of violation from happening in the future. In addition to retraining all servers, bartenders, and managers, a daily staff meeting would be held with the day's staff to reiterate the importance of identification checks. Texas Roadhouse has also installed identification scanners and require a manager approval of any vertical license indicating 'Under 21'.

Board Member Heilman made a motion to evoke a penalty of \$1,000 fine with no probation and no suspension. Board Member Kollhoff seconded the motion. Motion carried unanimously. Vote: 4-0.

5. Country Spirits 41: 1350 Joe Frank Harris Pkwy (Licensee: Akbar Amirali)

Mr. Lovell stated that this is Country Spirits 41's first violation and would be pleading no contest. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Licensee, Akbar Amirali, came forward to address the Alcohol Control Board. He stated he had been open at this location for 17 years with no violation and understands the severity of the charges. Continuing, Mr. Amirali stated he had upgraded to a Point of Sale (POS) System that would scan the identification of the customer trying to purchase alcohol. This cost him \$6-7,000 to upgrade but hopes this will eliminate this error in the future. The employee cited had been employed with Country Spirits for less than a year and is still employed as it is hard to find help.

Board Member Kollhoff made a motion to evoke a penalty of \$1,000 fine with no probation and no suspension. Board Member Smith seconded the motion. Motion carried unanimously. Vote: 4-0.

6. El Dorado Restaurant: 910 Joe Frank Harris Pkwy (Licensee: Abel Alvarado Rivas)

Mr. Lovell stated that this was El Dorado's second violation. Their first violation was in February 2021 and was currently on probation until March 11, 2024. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Taff Wren, 128 W. Cherokee Ave, came forward to represent El Dorado. Mr. Wren stated that several measures had been taken to ensure that this does not happen again. All employees were required to take a course (See Exhibit A) designed by Mr. Wren and each employee had to sign an acknowledgment stating they had taken the course, understood the material and had received a copy of the material. In addition, El Dorado has implemented the requirement for 'automatic denial' if the presented photo identification is vertical indicating 'Under 21'. A new policy has been added to require immediate termination if an identification is not checked for an alcohol purchase and server is subject to reimburse the establishment for any and all fines accrued due to their lack of willingness to ask for identification. In closing, Mr. Wren stated that additional signage had been added at all entrances and at the bar area.

Board Member Smith made a motion to evoke \$1,000 fine, add an additional 3 years' probation, extending the current probation to March 11, 2027, and no suspension. Board Member Brown seconded the motion. Vote: 2-2 with Kollhoff and Heilman opposing.

Mr. Lovell stated that Chairman Napps could break the tie to which Chairman Napps chose to vote against the motion made. Motion failed with a vote of 2-3, Kollhoff, Heilman, and Napps were in opposition.

Board Member Kollhoff made a motion to evoke \$1,000 fine, 3-year probation effective of today's date (1/19/2022), and a 15-day suspension. Board Member Heilman seconded the motion. Motion passed with a vote of 3-1. Board Member Smith opposed.

7. Get 'N Fly: 786 West Ave (Licensee: Hamif Rupani)

Mr. Lovell stated that this is Get 'N Fly's first violation. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Mr. Mohammed came forward to represent the licensee. He stated the employee started employment two weeks prior and was immediately terminated.

Board Member Heilman made a motion to evoke \$1,000 fine with no probation and no suspension. Board Member Smith seconded the motion. Motion carried unanimously. Vote: 4-0

8. Hooters: 885 Joe Frank Harris Pkwy (Licensee: Anthony Wright)

Mr. Lovell stated that this is Hooters first violation and would be pleading no contest. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Kyle Baker, 1600 Parkwood Circle, Atlanta, came forward to represent the licensee and stated the licensee couldn't make the hearing due to being ill. At that time, Mr. Baker provided the Board Members and City Clerk with a binder (See Exhibit B) that would go into detail of the pre-violation training requirements, post-violation training requirements, Team Member Handbook for all employees, pictures of signage, etc. Furthermore, Mr. Baker stated that Hooters, Inc. has a zero tolerance policy to selling alcohol to an underage individual and therefore, the employee cited was immediately terminated.

Continuing, Mr. Baker stated that all existing employees were required to attend the post-violation training course and sign an acknowledgment of training and understanding. Hooters policy is if the identification presented for alcohol sales is vertical, indicating 'Under 21', regardless of date of birth, there is no sale.

Board Member Smith made a motion to evoke \$1,000 fine with no probation and no suspension. Board Member Kollhoff seconded the motion. Motion carried unanimously. Vote: 4-0

9. La Mara II dba Los Arcos: 1010 N. Tennessee St. (Licensee: Rafael Jaime)

Mr. Lovell stated that this is Los Arcos' first violation and would be pleading no contest. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Luis Fuentes, manager, and Citlalli Fuentes, daughter of manager, both of 1010 N. Tennessee St., came forward to address the board members. Mr. Fuentes stated it was his wife that checked the identification.

Board Member Kollhoff requested to see the video.

Ms. Foristall played the video showing woman check the identification, return the identification, and completing the alcohol sale.

Ms. Fuentes added that her mother's eyesight was in poor health and had since went to the eye doctor to obtain corrective lenses.

In closing, Mr. Fuentes stated he had implemented required training for all staff.

Mr. Lovell called up Investigator Logue which was the supervising officer of the undercover operation. Mr. Lovell swore in Officer Logue. Mr. Logue provided a copy of the undercover agent's identification revealing that it was a vertical identification indicating 'Under 21'.

Board Member Heilman made a motion to evoke \$1,000 fine with 3-year probation, extending to January 19, 2025. Board Member Kollhoff seconded the motion. Motion carried unanimously. Vote: 4-0

10. Stop N Shop: 700 Joe Frank Harris Pkwy (Licensee: Chandrakant S. Patel)

Mr. Lovell stated that this is Stop N Shops second violation and would be pleading guilty. Currently, Stop N Shop is on probation until March 11, 2024. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Chandrakant Patel, owner, came forward to address the Board Members. He stated he does not have a scanner system as they are extremely costly.

Board Member Kollhoff requested to see the video.

Ms. Foristall played the surveillance video showing the owner, Chandrakant Patel, checking the identification, returning the identification, and completing the sale of the alcoholic beverage.

Mr. Lovell called up Officer William Reed and swore him in. At that time. Officer Reed provided a copy of the undercover agents' identification revealing a vertical identification indicating 'Under 21'.

Board Member Kollhoff made a motion to evoke \$1,000 fine with 3-year probation beginning today (1/19/2022), and a 30-day suspension. Board Member Smith seconded the motion. Motion carried unanimously. Vote: 4-0

Due to the difference in languages, Mr. Lovell fully explained the details of the ruling including the requirements for the suspension. Mr. Patel stated he fully understood.

11. Sunaco: 2471 Hwy 411 (Licensee Mohammed Alam)

Mr. Lovell stated that this is Sunaco's second violation and would be pleading no contest. Currently, Sunaco is on probation until March 11, 2024. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations and Sec. 4-21 Purchase by or sales to underage persons.

Erik Pirozzi, 15 Public Square, from Jenkins, Bowen, and Walker, came forward to represent the licensee. With him was Amit Patel, 2471 Hwy 411, manager of Sunaco.

Mr. Pirozzi stated that licensee owns five other businesses within Bartow County with no history of violations. The employee who conducted the sale was immediately terminated. Continuing, Mr. Pirozzi stated after the first offense, Sunaco implemented a POS System and has now implemented the license scanner and hired a manager to oversee the day to day operations.

Board Member Smith made a motion to evoke \$1,000 fine, 3-year probation from today's date (1/19/2022), and no suspension. Motion failed due to lack of second.

Board Member Kollhoff made a motion to evoke \$1,000 fine, 3-year probation (1/19/2022) and a 15-day suspension. Board Member Brown seconded the motion. Motion carried. Vote: 3-1 Smith opposed.

Mr. Lovell explain he had 14 days to appeal or pay the fine. At the time the fine is paid, the Clerk's Office is to be notified of when the suspension is to begin. Additionally, a 'No Alcohol Sales' sign must be posted and all alcohol must be hidden in an area to not be visible.

12. Table 20: 20 S. Wall Street (Licensee: Christopher Lyons)

Mr. Lovell stated that this is Table 20's first violation and would be pleading no contest. Violation to be reviewed: Sec 4-13 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations; Sec. 4-21 Purchase by or sales to underage persons; Sec. 4-151 Employee identification cards; and Sec. 4-76 Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations.

Brad Stephens, 119 W Church St., and Alexandra Bearden, 20 S. Wall St., came forward.

Mr. Stephens, Table 20 legal counsel, gave an overview of the violations and stated all employees involved in the violations have received proper training and all employees are now required to leave their servers badges at the establishment.

Board Member Kollhoff inquired if training will change due to this violation to which Ms. Bearden stated that regular staff meetings would occur to reiterate the importance of checking identification and company policies.

Board Member Heilman made a motion to evoke \$1,000 with no probation and no suspension. Board Member Smith seconded the motion. Motion carried unanimously. Vote: 4-0

13. Table 20 – Change of Manager

Chairman Napps called the next item. Alexandra Bearden remained at the podium and stated her ex-husband had left the operations of the business and needed to have the alcohol license changed to her name.

Board Member Kollhoff made a motion to approve the Change of Manager for Table 20. Board Member Smith seconded the motion. Motion carried unanimously. Vote: 4-0

14. 3rd Quarter Reports

Julia Drake, City Clerk, stated all 3rd Quarter Reports has been received.

Chairman Napps requested for the next meeting for one (1) copy of the reports to be available to review.

With no other business to be handled, Board Member Heilman made a motion to adjourn. Board Member Kollhoff seconded the motion. Motion carried unanimously. Vote: 4-0

Meeting adjourned at 11:47 A.M.

February 9, 2022

/s/ 
Chairman

/s/ 
Secretary

