

MINUTES OF THE ALCOHOL CONTROL BOARD

The Alcohol Control Board met in a Special Called Meeting on Wednesday, March 24, 2021 at 10:00 A.M. in the Council Chambers, 3rd Floor, City Hall.

CALL TO ORDER at 10:01 AM

ROLL CALL

Present: Rick Napps, Christine Brown, Jennifer Smith, Cortney Hultman, David Holt, Richard Kollhoff

Absent: Dan Heilman

Staff Present: David Hardegree, Samantha Fincher, and Keith Lovell

APPROVAL OF MINUTES

1. Approval of minutes of the March 10, 2021 Meeting Minutes.

Board Member Kollhoff stated the March 10, 2021 minutes stated that he recused himself from item number 6. Mr. Kollhoff would like to add the reasoning he recused himself to the minutes. Taff Wren appointed Mr. Kollhoff. Board Member Smith made a motion to approve the March 10, 2021 minutes with the clarification. Board Member Brown seconded motion. Motion carried unanimously. Vote: 5-0.

ADDED ITEM

Keith Lovell, Assistant City Attorney asked the Board to add item to the Agenda to reconsider Applebee's license suspension to from 30 days to 15 days. After the meeting, staff reviewed the records and found that Longhorns was sentenced to 15 days instead of 30. Mr. Lovell wanted to publically admit the error and give the Board an opportunity to reconsider the length of suspension.

Board Member Holt made a motion to add the item to the Agenda. Board Member Hultman seconded motion. Motion carried unanimously. Vote: 5-0.

VIOLATIONS

1. El Nopal: 540 Old Mill Rd.

Chairman Napps called for the next item.

Mr. Lovell stated this is El Nopal's first violation. El Nopal is being charged with the following: Section 4-21. – Purchase by or sales to underage persons subject to \$1,000 fine and 3-years' probation. El Nopal failed to show to the March 10, 2021 Hearing and contacted Mr. Lovell after the meeting to inform him of the mix up. Mr. Lovell invited El Nopal to the March 24, 2021 Meeting to plead their case to the Alcohol Control Board.

Mr. Lovell stated there are several appeals pending and will be heard at the April 15, 2021 Council Meeting.

Jana Allen, Lance McCoy Law Firm, came forward as legal Representation for El Nopal. She stated Judy Escamilla, owner and Jose Leon, Manager is present. Mrs. Allen stated that they are not contesting the violation and appreciated the consent order offered to El Nopal. Mrs. Escamilla would like to negotiate the length of the probation period as a first time offender. Mrs. Allen stated an employee who was off the clock went behind the bar and committed the offense.

Judy Escamilla, owner of El Nopal, was sworn in. Mrs. Escamilla apologized for missing the meeting and stated her husband has been in and out of the hospital. Mrs. Escamilla asked the board to lessen her probation period of 3 years.

Jose Leon, Manager of El Nopal, was sworn in. Mr. Leon stated he was not on duty when the offense occurred. The employee who committed the offense was terminated

Mr. Lovell explained that the Ordinance allows mitigation of fines if such establishments are found to have maintained an effective compliance program such as: (1) whether and to what extent the establishment requires its servers to attend alcohol ordinance compliance seminars; (2) Whether the establishment conducts its own "secret shopper" or internal "sting" operations; (3) Whether the establishment has a written policy dealing with the problems of minors attempting to obtain alcohol at such establishment ; (4) Whether the establishment has appropriate signs and other displays such as "We ID" or "If you're a minor, the soft drinks are this way"; (5) The degree to which the establishment has procedures in place to monitor its servers for compliance with the ordinance. (6) Whether the establishment makes available a copy of the ordinance to its servers; (7) Extent to which the establishment has met the other requirements of the ordinance; (8) other evidence demonstrating the establishment's compliance with the ordinance and prevention of underage drinking in the establishment and the community at large.

Board Member Holt made a motion to deny the request and evoke \$1,000 fine and 3 years' probation. Board Member Kollhoff seconded motion. Motion carried unanimously. Vote: 5-0

Mr. Lovell proceeded by explaining that the violators have the right to appeal their case to City Council. Appeals must be made by 3pm March 24, 2021; otherwise, the fine is due within 14 days. All violations go with the establishment.

2. Citgo Express- 1144 N. Tennessee Street

Mr. Lovell gave an overview of the violation stating this is this is Citgo's third violation. Citgo is being charged with the following: Section 4-13. – Licensees to keep copy of article on-premises; employees to be familiar with terms; responsibility of licensee for violations, subject to \$1,000 fine and 3-years' probation and Section 4-21. – Purchase by or sales to underaged persons subject to \$1,000 fine and 3-years' probation.

Jana Allen, with Lance McCoy Law Firm came forward as legal Representation for Citgo Express. Mrs. Allen stated the applicant is not contesting that the violation occurred. Mrs. Allen asked the Board to view Mr. Zheng as a new owner and first time offender as he is not related to the previous owner. Mrs. Allen provided Citgo's Alcohol and Tobacco Policy and TIPS certification Citgo employees have taken.

Dong Zheng, owner of Citgo, was sworn in. Mr. Zheng provided a timeline of purchasing the business and stated he was aware of the previous violations.

Board Member Holt made a motion to evoke a \$1,000 fine and 3 years' probation. Board Member Smith seconded the motion. Motion carried unanimously. Vote: 5-0

Mr. Lovell proceeded by explaining that the violators have the right to appeal their case to City Council. Appeal must be made by 3pm March 24, 2021; otherwise, the fine is due within 14 days. All violations go with the establishment.

3. Mack's Marathon- 1139 N Tennessee Street

Mr. Lovell stated Mack's Marathon cited for underage sales of alcohol. This Mack's Marathon third overall offense with a licensee sale. Their first offense occurred March 2017, was fined \$1,500 with 3 years probation. Their second offense occurred February 2020, was fined \$2,000 with an additional 3 year probation and 90 day suspension.

Cansino Blanchett, 107 Postelle Street, came forward as legal Representation for Mack's Marathon. Mrs. Blanchett explained that the ID scanner that Mr. Naz uses was not working at the time of the violation. Scanner has been repaired. Mr. Naz may continue the business without the sales of alcohol, but it is undetermined.

Mohammed Naz, owner of Citgo, came forward and explained what happened and described his relationship with the property owner. Admal Mohammad owns the building and Mohammad Naz owns the business and pays rent to Mr. Ajmal. Mr. Ajmal purchased the property in 2014.

Board Members Holt and Kollhoff reminded Mr. Naz that when he applied for the alcohol license at end of 2020 that he was warned the approval was under a "one strike" revocation due to the past violations.

Board Member Kollhoff made a motion for a permanent revocation of the alcohol license at that location; Board Member Hultman seconded the motion. The Board went into discussion and did not vote.

Board Member Smith made a motion to amend the motion.

Board Member Smith made a motion to revoke of the alcohol license at the location for one-year period as recommended by City Ordinance. No fine imposed. Board Member Holt seconded the motion. Amended Motion carried unanimously. Vote: 5-0.

Mr. Lovell stated this location, and Mr. Naz will have the right to reapply for an alcohol license one year after the license has been revoked. Mr. Lovell proceeded by explaining that the violators have the right to appeal their case to City Council.

4. Applebee's Suspension Period

Mr. Lovell stated after the meeting, staff reviewed the records and found that Longhorns was sentenced to 15 days not 30 days. Mr. Lovell wanted to publically admit the error and give the opportunity for the Board to reconsider Applebee's length of suspension from 30 days to 15 days.

Board Member Kollhoff made a motion to amend the suspension from 30 days to 15 days. Board Member Hultman seconded the motion. Motion carried unanimously. Vote: 5-0.

Mr. Lovell thanked the individuals that organized and executed this successful sting operation.

Frank McCann, Chief of Police, came forward and stated Sarah Sullivan researched alcohol-training programs as requested.

Sarah Sullivan came forward and gave an overview of the alcohol training certifications and insight of how other jurisdictions handle server's permits.

Board Member Hultman suggested requiring server's permits for retail establishments that serve alcohol.

The Board agreed they were interested in requiring servers to obtain the certification prior to obtaining a servers badge. Mr. Lovell stated once the details are sorted an Ordinance will be written to present to Council.

A motion was made to adjourn by Board Member Smith.

Meeting adjourned at 11:30.

4/14/2021
Date Approved

/s/ 
Chairman

/s/ 
Secretary