

CARSON CITY LIQUOR AND ENTERTAINMENT BOARD

Minutes of the January 15, 2009 Meeting

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A meeting of the Carson City Liquor and Entertainment Board was held during the regularly scheduled Board of Supervisors meeting on Thursday, January 15, 2009 in the Community Center Sierra Room, 851 East William Street, Carson City, Nevada.

PRESENT: Chairperson Robert Crowell
Member Shelly Aldean
Member Ken Furlong
Member Pete Livermore
Member Molly Walt
Member Robin Williamson

STAFF: Larry Werner, City Manager
Alan Glover, Clerk - Recorder
Walter Sullivan, Development Services Director
Melanie Bruketta, Chief Deputy District Attorney
Kathleen King, Recording Secretary

NOTE: A recording of these proceedings, the board's agenda materials, and any written comments or documentation provided to the recording secretary during the meeting are public record. These materials are on file in the Clerk-Recorder's Office, and available for review during regular business hours.

CALL TO ORDER AND ROLL CALL (8:42:46) - Chairperson Crowell called the Liquor and Entertainment Board to order at 8:42 a.m. All members were present, including Member Ken Furlong, constituting a quorum.

ACTION ON APPROVAL OF MINUTES - November 6, 2008 and December 4, 2008 (8:43:20) - Member Aldean moved to approve the minutes, as presented. Member Livermore seconded the motion. Motion carried 6-0.

4. DEVELOPMENT SERVICES - BUSINESS LICENSE

4(A) DISCIPLINARY ACTION AGAINST LIQUOR LICENSE #09-23393, HELD BY DICK NOLLETT DBA 7-ELEVEN (STORE #2236-15833) LOCATED AT 3083 HIGHWAY 50 EAST, CARSON CITY, NEVADA, PURSUANT TO CCMC 4.13.150; THIS DISCIPLINARY ACTION IS BASED ON THE ISSUANCE OF A CITATION FOR A THIRD OFFENSE, A CRIMINAL STATUTE VIOLATION, WITHIN SIX MONTHS OF THE FIRST CITATION ISSUANCE, RELATED TO THE SALE OF LIQUOR TO A MINOR AT THE LICENSED PREMISES; THIS ACTION IS TO IMPOSE A FINE OF \$1,500 ON THE LICENSEE AND REVOKE THE LIQUOR LICENSE (8:44:02) - Chairperson Crowell introduced this item. Development Services Director Walter Sullivan reviewed the agenda report, the provisions of the Carson City Municipal Code pertinent to revocation of the license in this matter, and the agenda materials. Member Furlong advised that all employees of the subject 7-Eleven store had attended the most recent servers education and training class. Chairperson Crowell informed Mr. Nollett of staff's recommendation to revoke the liquor license and to impose a \$1,500.00 fine.

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(8:46:58) Mr. Nollett distributed to the board members and staff a packet of information which he reviewed. He introduced his wife, Deanna Nollett, 7-Eleven Corporation representatives, and Desiree Fettig, “who was involved in the third sting that occurred in December.” Mr. Nollett provided background information on his residence and business experience in Nevada, as outlined in the information he had previously distributed. Mr. Nollett reviewed the employee training procedures, also as outlined in the previously-distributed information, implemented to prevent alcohol sales violations. He reviewed the measures taken to re-educate and warn the employees against future violations. He reviewed the random testing process administered by 7-Eleven Corporation representatives to prevent illegal sales of tobacco and alcohol. He read into the record the language of a “congratulations card” distributed to the employee upon passing the random tests, and the language of the card distributed upon failing the random tests. He advised that his “no tolerance” policy for failure to pass the random corporate test is immediate dismissal. He clarified that the subject store has passed the random corporate test each time. He reviewed details of the first and second violations, and narrated pertinent photographs which were included in the previously-distributed information. He reviewed details of the third violation, emphasizing that Ms. Fettig had requested identification and processed the sale. He advised that Ms. Fettig had appeared in court and entered a “not guilty” plea. Her next court appearance is scheduled for February 5th. He provided background information on the conditions of Ms. Fettig’s employment. He emphasized that “it was impossible” for his employees to attend the alcohol servers education class “before the other day.” He advised that employees from his other store were also in attendance. “All employees but two have attended that class and we needed somebody to cover the store during the class. My wife and I were there as well. The other two employees will be attending the next available class which is in March.”

Chairperson Crowell advised of having lobbied in the past for 7-Eleven Corporation. He further advised this has nothing to do, in his judgment, with whether or not the franchisee complied with the Carson City Municipal Code in the subject situation. He further advised of the intent to fully participate in this matter.

(9:08:40) Northern Nevada and Northern California 7-Eleven Area Market Manager Chuck Kroniac reviewed the 7-Eleven Come of Age sales associate training program for the sale of alcohol and tobacco, copies of which were included in the information distributed by Mr. Nollett. He advised that every franchisee is required to have their employees complete the Come of Age training on an annual basis. Following the second violation, Mr. Nollett required his employees to again complete the Come of Age training program. Mr. Kroniac referred to the documentation indicating 100 percent compliance, on the part of Mr. Nollett’s sales associates, with the 7-Eleven random testing procedure. He reviewed the 7-Eleven policy requiring sales associates to request identification from customers who appear to be under 30. Following the second violation at the subject 7-Eleven store, Mr. Nollett required his sales associates to request identification from customers appearing to be under 40. Following the third violation, Mr. Nollett’s sales associates are requesting identification from any customer seeking to purchase alcohol or tobacco products. Mr. Kroniac advised that the 7-Eleven Corporation considers very seriously the issue of underage sales of alcohol and tobacco, and works with Join Together Northern Nevada “on other drug and alcohol substance abuse programs with the community ...” Mr. Kroniac offered to share 7-Eleven Corporation training materials with the Carson City Sheriff’s Department.

Mr. Nollett emphasized that the subject matter was not considered lightly by him personally or relative to his business. He expressed agreement with the spirit of the law, but concern over the lack of accountability imposed on “the people that are committing the violations.” He noted that the former employee who committed the first two offenses had her fine reduced in court. He emphasized that the training required

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of 7-Eleven sales associates and the cash register tools provided should be sufficient to prevent the sale of alcohol and tobacco products to minors. "We can't be with them 24 / 7." In response to a question and in conjunction with photographs contained in the distributed materials, Mr. Nollett explained the situation associated with the third offense.

Member Aldean reviewed her understanding of the "fairly fail safe system" for the sales associate to input the date of birth appearing on the identification into the cash register computer. In response to a question, Mr. Nollett was unable to state how Ms. Fettig failed to prevent the illegal sale of alcohol. "That's something that she's going to answer for." Mr. Nollett reiterated that Ms. Fettig had entered a not guilty plea at her initial hearing and that she is scheduled to appear again in court on February 5th. Ms. Bruketta acknowledged that any statements made by Ms. Fettig at this meeting could be used against her in the upcoming court proceeding. She further acknowledged that Member Furlong could provide additional information without jeopardizing Ms. Fettig. Member Furlong introduced Detective Dan Gonzales. Chairperson Crowell noted the seriousness of the issue, but expressed an interest in everyone having an opportunity for input.

(9:23:36) Detective Daniel Gonzales explained that Ms. Fettig had accepted the identification and expressed the belief that "it was overridden" as depicted on the in-house video. "There's no tricks. It's the person's actual, Nevada-issued state ID." In response to a question, Detective Gonzales reiterated the belief that "it was a manual override because ... it's a fail-safe system." In response to a further question and based on the information provided in Mr. Nollett's distributed materials, Detective Gonzales advised of two options: "enter the date or hit enter which overrides that procedure of having to enter the date."

In response to a question, Mr. Nollett advised that, in order for the transaction to have been processed, the birthdate entered by Ms. Fettig could not have matched the one on the identification. In response to a further question, he reiterated "it's up to the clerk. We give them the tools to work with." Member Williamson suggested postponing action on this item until such time as Ms. Fettig's court proceeding is concluded.

Mr. Sullivan advised that he and Mr. Werner had participated in a compliance check last summer with two individuals, aged 17 and 19. One store clerk demonstrated the method by which the computer system can be manually overridden to accommodate an under-age sale. In response to a previous question, Detective Gonzales advised that the former 7-Eleven sales associate cited for the first two violations pled guilty in the court proceeding. Member Williamson reiterated the suggestion to defer action on the subject item until after Ms. Fettig's court appearance. Ms. Bruketta explained that the ordinance provisions are based on the citation not on a conviction.

Mr. Nollett acknowledged that the "three stings" could be considered compliance checks with the 7-Eleven policies. He further acknowledged that 7-Eleven Corporation has policies on the method by which tobacco and alcohol products are sold, and that such sales are prohibited to minors. He further acknowledged a previous statement regarding increased accountability for the individual violators in that the courts should impose the fines provided for in the pertinent municipal code and state statutes. He acknowledged responsibility for the accountability over his store. He advised that the sales associate against whom the first two citations were issued didn't ask for identification. He reiterated acknowledgment of responsibility over his employees, comparing the situation to the ultimate accountability parents have for their children's actions in spite of having provided them "the best guidance that you can." He reiterated that the sales

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associates are provided sufficient training and tools, and “as adults, you expect them to follow the rules ...” He further reiterated having terminated the employment of the sales associate responsible for incurring the first two citations, and that he had changed the employment policies to indicate no tolerance. He reiterated the importance of the violators being held more accountable by the court system. “If we were lax in training, if we were lax in giving them the tools, if we were lax in informing them of what they were doing, it would be one thing, but this is something that we constantly put into them.” He requested the board to consider the subject matter in light of his statements.

Member Aldean noted Mr. Nollett’s acknowledgment and acceptance of the responsibility. She further noted the difficulty associated with controlling the actions of others, and that Mr. Nollett had acknowledged the legal accountability for the actions of his employees. She suggested considering an amendment to the ordinance in that holding a show cause hearing without the ultimate resolution of the criminal proceeding is “probably inappropriate.” She expressed support for reviewing the ordinance to consider the basis of conviction rather than the issuance of a citation. She suggested a “truly fail-safe” computer system which would scan the identification and prohibit completion of a sales transaction to a minor “as opposed to relying on your employees to actually input the information manually.” She expressed sensitivity to the fact that the sale of alcohol to minors is considered very seriously. “On the other hand, we are struggling with very difficult economic times.” Member Aldean advised she would be more inclined to consider revocation if the franchisee had adopted a cavalier attitude. She expressed support for imposing the \$1,500 fine and perhaps a temporary suspension, but not revocation. Member Livermore discussed the privilege associated with the liquor license, and noted Mr. Nollett’s responsibility over his employees. In reference to Member Aldean’s comments, Mr. Nollett described the State of California’s approach to identification which prevents the sale of alcohol and tobacco products to minors. He expressed support for implementing a similar method in the State of Nevada.

(9:40:28) Deanna Nollett advised of having been “extremely hesitant” to acquire the Airport Road 7-Eleven franchise “because of the problems that had plagued the store ...” She further advised that 7-Eleven Corporation was “thrilled to have Dick become the franchisee because he had been in the business for so long.” She commented on the number of sheriff’s deputies who “compliment us on the fact that we do not sell rolling papers, blunt wraps, tubes that could be used for smoking meth, we do not have pornography.” She advised of having invested in a \$15,000 camera system because of the store’s history “which has pretty much been nil since we have taken it over.” She noted the hardship associated with a \$1,500 fine, and the unfortunate situation in light of “what we’re doing overall for that store ...” In reference to the previously-reviewed 7-Eleven policies, she advised “the only way to override a register is to put in the wrong date.” She further advised that the system has been in place for four years “and we enforce it.”

Chairperson Crowell entertained a motion. **Member Livermore moved to impose disciplinary action against liquor license no. 09-23393, held by Dick Nollett, dba 7-Eleven Store 2236-15833, located at 3083 Highway 50 East, Carson City, Nevada, pursuant to Carson City Municipal Code 4.13.150; this disciplinary action is based on the issuance of a citation for the third offense, a criminal statute violation within six months of the first citation issuance, related to the sale of liquor to a minor at the licensed premises; this action is to impose a \$1,500 fine on the licensee and to suspend the liquor license for seven days. Member Furlong seconded the motion.** Chairperson Crowell called for discussion on the motion and, when none was forthcoming, requested a roll call vote. **Members Furlong, Livermore, Walt, and Chairperson Crowell - yes; Members Williamson and Aldean - no. Motion carried 4-2.**

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Member Aldean reiterated the suggestion to review the municipal code in consideration of holding show cause hearings based on citations rather than convictions, and requested staff to agendize a possible amendment. Member Furlong agreed with Member Aldean but clarified that the show cause hearings are relative to the liquor license holder. Member Aldean expressed the opinion that the employer and the employee are "inexorably linked." She agreed "there is a distinction to be made," but expressed the opinion that since Mr. Nollett's future "is dependent upon the behavior of his employees, their guilt or innocence is really germane to our discussion." Chairperson Crowell thanked Mr. and Mrs. Nollett.

4(B) DISCIPLINARY ACTION AGAINST LIQUOR LICENSE #08-3970, HELD BY EUGENE CHANEY DBA CARSON HORSESHOE CLUB, LOCATED AT 402 NORTH CARSON STREET, CARSON CITY, NEVADA, PURSUANT TO CCMC 4.13.150; THIS DISCIPLINARY ACTION IS BASED ON THE ISSUANCE OF A CITATION FOR A SECOND OFFENSE, A CRIMINAL STATUTE VIOLATION, WITHIN SIX MONTHS OF THE FIRST CITATION ISSUANCE, RELATED TO THE SALE OF LIQUOR TO A MINOR AT THE LICENSED PREMISES; THIS ACTION IS TO IMPOSE A FINE OF \$500.00 ON THE LICENSEE AND THE REQUIREMENT THAT THE LICENSEE AND ALL OF THE EMPLOYEES ATTEND THE SHERIFF'S OFFICE ALCOHOL SERVERS TRAINING PROGRAM WITHIN THREE MONTHS OF THIS HEARING. A LIST OF ALL EMPLOYEES MUST BE SUBMITTED TO THE DEVELOPMENT SERVICES DEPARTMENT, BUSINESS LICENSE DIVISION, NO LATER THAN SEVEN DAYS FROM THIS HEARING; FAILURE TO SUBMIT THE LIST OF EMPLOYEES WITHIN SEVEN DAYS OF THIS MATTER WILL BE RESCHEDULED FOR THE NEXT CARSON CITY LIQUOR AND ENTERTAINMENT BOARD MEETING TO SHOW CAUSE AS TO WHY FURTHER DISCIPLINARY ACTION SHOULD NOT BE TAKEN (9:47:00) -

Mr. Sullivan introduced this item, reviewed the agenda report, and referred to the agenda materials. He advised of Mr. Chaney's recent passing, and that Horseshoe Club representatives are making efforts to hire a viable liquor manager. He further advised that the Horseshoe Club has made arrangements for their employees to attend the sheriff's servers education class.

(9:48:26) Jeanette Kelly, representing the Horseshoe Club, expressed regret that "these minors were able to come in and be served." She advised that the situation was considered very seriously, and expressed the belief that the incident "was completely unintentional on the part of the bartenders." She described the Horseshoe Club as "very quiet," and "geared toward adults; ... not conducive to minors." She advised that the casino and bar employees are "very diligent about checking IDs throughout the casino to ensure that no one under 21 is sitting at a machine, is playing a machine, is consuming alcohol or is even loitering in the casino." She further advised of having implemented "the following measures that will hopefully ensure the employees are not deceived by minors again." Lights were added under the bars to provide for easier viewing of IDs, and consideration has been given to purchasing magnifiers as well. Horseshoe Club servers have been required to sign an agreement stating that they will ID anyone who appears to be under 40 years of age. All IDs will be taken under a light. All vertical IDs will be verified by a second employee in the bar or gaming department. Ms. Kelly advised that the employees understand failure to adhere to the policy will result in termination. In addition to the existing signs prohibiting anyone under 21 years of age from entering the premises, signs have been added informing patrons that ID will be requested from anyone appearing to be under 40 years of age. Ms. Kelly advised that some of the Horseshoe Club employees have participated in the sheriff's servers education class, and the remaining servers are required to attend a training course to be provided by sheriff's office personnel at the Horseshoe Club next week. She reiterated the Horseshoe Club policy that no one under 21 is allowed to gamble, loiter, or consume any beverage in

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the casino. She assured the board that Horseshoe Club employees “will do our best not to be deceived and to ensure that this will not happen again.”

Member Aldean advised of having discussed this matter with Mr. Sullivan prior to the start of the meeting. She emphasized that although employees are given three months to attend the servers education class, the establishment is not insulated during that period of time from additional sting operations. Chairperson Crowell entertained discussion and, when none was forthcoming, a motion. **Member Aldean moved to impose disciplinary action against liquor license no. 08-3970, held by Eugene Chaney dba Carson Horseshoe Club, located at 402 North Carson Street, Carson City, Nevada, pursuant to CCMC 4.13.150; this disciplinary action is based on the issuance of a citation for a second offense, a criminal statute violation within six months of the first citation issuance, related to the sale of liquor to a minor at the licensed premises; this action is to impose a fine of \$500 on the licensee and the requirement that the licensee and all of the employees attend the sheriff’s office alcohol servers training program within three months of this hearing; a list of all employees must be submitted to the development services department business license division no later than seven days from this hearing; failure to submit the list of employees within seven days will result in this matter being rescheduled for the next Carson City Liquor Board meeting to show cause as to why further disciplinary action should not be imposed. Member Livermore seconded the motion.** In response to a question, Ms. Kelly advised that several Horseshoe Club employees attended the servers education class held last Tuesday. The remaining employees will attend a course scheduled for January 21st. Chairperson Crowell called for a vote on the pending motion; **motion carried 6-0.** Chairperson Crowell thanked Ms. Kelly.

ACTION TO ADJOURN THE LIQUOR AND ENTERTAINMENT BOARD (9:53:55) - Chairperson Crowell adjourned the Liquor and Entertainment Board at 9:53 a.m.

The Minutes of the January 15, 2009 Liquor and Entertainment Board meeting are so approved this _____ day of February, 2009.

ROBERT CROWELL, Chair

ATTEST:

ALAN GLOVER, Clerk - Recorder