

LICENSE AND VARIANCE BOARD

Minutes - Final



A Max Bacon City Hall
HR Training Room
2800 King Street SE
Smyrna, GA 30080

Penny Mocer, Chairperson
Richard Garland, Board Member
Bo Jones, Board Member
Brian Marcos, Board Member
Eric Mohrmann, Board Member
Mary Moore, Board Member
Andrea Worthy, Board Member
Jill G. Head, Secretary

City Attorney Scott Cochran
City Administrator Joseph Bennett
City Clerk Heather K. Peacon-Corn

June 14, 2023
10:00 AM

1. Roll Call

Present: 3 – Chairperson Penny Mocer, Boardmember Bo Jones, Boardmember Richard Garland

Also Present: 1 – Jeffrey Tucker

Staff: 4 – Dan Campbell, Jill G. Head, Russell Martin, and Kelly Moon

2. Call to Order

Chairperson Penny Mocer called to order the June 14, 2023, License and Variance Board meeting held at A. Max Bacon City Hall in the HR Training Room at 10:04 AM.

3. Chairperson Instruction and Comment

4. Formal Business

- A. **2023-139** Show Cause Hearing – Alcohol Beverage Violation – Jim N Nicks Atlanta LLC dba Jim N Nicks Bar-B-Q – 4574 S Cobb Drive SE – Michael La Vogne Clark, Agent

Jeffrey Tucker, Assistant City Attorney, asked those that will be providing testimony to stand and raise their right hands so he could swear them in.

Mr. Tucker first addressed Officer Phillip Colburn of the Smyrna Police Department:

- Officer Colburn has been a police officer for three years, and he has been with the Smyrna Police Department for three years.
- Officer Colburn described the compliance check at Jim N Nicks on March 3, 2023:
 1. An undercover and underage operative was sent into the restaurant bar area.
 2. There were two other officers inside the establishment as witnesses.
 3. Officer Colburn stayed outside.
 4. The undercover operative ordered an alcoholic beverage and was never asked for identification.

5. The bar area was fairly empty at the time.
6. The undercover operative was served the alcoholic beverage for which he paid with a serialized \$20.00 bill.
7. The undercover operative exited the establishment at which point Officer Colburn entered and cited the server/bartender for furnishing alcohol to person under 21.

Michael La Vigne Clark, local owner/partner/supervising manager, stated that he is involved with every location in the Atlanta area. Mr. La Vigne Clark stated he has been working for Jim N Nicks for approximately 10 years. He explained that he supervises managers and is on site at regular intervals. When asked about the employee that was cited, he stated that she had worked for Jim N Nicks on and off for around 15 years.

Mr. Tucker asked about training procedures for servers and bartenders. Elizabeth Mahoney, attorney at law, stated that the portion of training relating to alcohol sales is two-fold. First, they receive a copy of the team member handbook which details that for alcohol sales, the expectation is to request proper identification. It also details that bartenders and servers should not be over serving customers alcohol, how to recognize intoxicated customers, etc. They then have to sign an acknowledgment of these procedures. Second, bartenders and servers are given a server training manual. The manual outlines several procedures including responsible alcohol sales policies. New servers engage in a five-day training process when they shadow an experienced server, and they take multiple quizzes after each shift. Mr. Tucker asked if the cited server was still employed with Jim N Nicks. Ms. Mahoney explained that she is still employed, but she was demoted to a position that does not handle alcohol. Ms. Mahoney also confirmed that the cited server did plead guilty and paid the \$1,000.00 fine.

The Board asked the following:

- Does the restaurant utilize a point-of-sale system that requires a birth date be input into the system or an ID be scanned? Currently, no, but they are looking into adding that modification.
- Was the bartender/server who was cited overwhelmed or busy at the time of this compliance check? Steve Anthony, partner/manager, explained that the bartender manages both the bar and the seating area next to the bar. And though it is no excuse, the restaurant was short-staffed that day, so the server had to pick up tables outside of her service area.
- Are there regular secret shopper visits? No, but corporate members will periodically check on restaurants to ensure policies are being followed.
- Because this particular server had worked for Jim N Nicks on and off again, when brought back on board, does she have to be retrained? If someone leaves for longer than three weeks and comes back to work for the company, they are treated as a new hire and have to complete the new hire training again.

Chairperson Mocerri explained that the Board would need to enter into Executive Session.

B. 2023-140 Enter into Executive Session

Boardmember Richard Garland made a motion to enter into Executive Session; seconded by Boardmember Bo Jones.

The motion to enter into Executive Session carried with the following vote:

Aye: 3 – Chairperson Mocerri, Boardmember Jones, Boardmember Garland
Nay: 0 – None

Recuse: 0 – None

C. 2023-141 Exit Executive Session

Boardmember Richard Garland made a motion to exit Executive Session; seconded by Boardmember Bo Jones.

The motion to exit Executive Session carried with the following vote:

Aye: 3 – Chairperson Mocerri, Boardmember Jones, Boardmember Garland

Nay: 0 – None

Recuse: 0 – None

Chairperson Penny Mocerri opened the floor for a motion to assess penalty:

Boardmember Richard Garland made a motion to assess the following penalty: one year's probation to begin immediately, June 14, 2023, and to run one full calendar year; seconded by Boardmember Bo Jones.

The motion carried with the following vote:

Aye: 3 – Chairperson Mocerri, Boardmember Jones, Boardmember Garland

Nay: 0 – None

Recuse: 0 – None

Jeffrey Tucker, Assistant City Attorney, explained that with this assessment, probation begins immediately for one full calendar year. He further explained that they should expect the police department to conduct a similar or multiple similar operations in the near future. If another violation occurs, they will have to follow the same procedures, and the penalty will likely be substantially enhanced, up to license revocation.

5. Approval of Minutes

A. MIN2023-058 Approval of the May 24, 2023, License and Variance Board Meeting Minutes

Boardmember Bo Jones made a motion to approve item MIN2023-058, the May 24, 2023, License and Variance Board meeting minutes; seconded by Boardmember Richard Garland.

The motion to approve carried with the following vote:

Aye: 3 – Chairperson Mocerri, Boardmember Jones, Boardmember Garland

Nay: 0 – None

Recuse: 0 – None

6. Other Business / Staff Comment

7. Adjournment

Chairperson Penny Mocerì adjourned the June 14, 2023, License and Variance Board meeting at 10:27 AM.

Facilities are provided throughout City Hall for convenience of persons with disabilities.

THIS MEETING WAS PROPERLY NOTICED AND POSTED AT THE FOLLOWING LOCATIONS IN ACCORDANCE WITH THE NOTICING STANDARDS AS OUTLINED IN O.C.G.A. 50-14-3:
The City of Smyrna website – www.smyrnaga.gov
City Hall, 2800 King Street SE, Notice Boards