MINUTES OF THE MEETING OF THE UTAH

ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, JANUARY 30, 2018, AT 1625 SOUTH

900 WEST, SALT LAKE CITY, UTAH.

*[Copies of the proposed agenda for this meeting were emailed to all persons on the regular email list and to all of the individuals and groups on the agenda (applicants, those with violations, etc.) on Wednesday, January 24, 2018. A copy of the final agenda was posted on the bulletin board at the DABC Administrative Office, emailed to the Salt Lake Tribune and the Deseret News, and posted on the Utah Public Notice Website by 9:00 a.m. on Monday, January 29, 2018.]*

Chairman John T. Nielsen called the meeting to order at 9:05 a.m.

Commissioners Present: John T. Nielsen, Kathleen McConkie Collinwood, Steven Bateman, Thomas Jacobson and Sophia DiCaro.

Staff Present: Salvador Petilos, Director; Cade Meier, Deputy Director; Nina McDermott, Compliance, Licensing and Enforcement Director; Man Diep, Finance Director; and Tim Beardall, Internal Audit Director.

Also Present: Sheila Page, Asst. Attorney General.

DRAFT ADMINISTRATIVE RULE:

a. R81-1-11 Multiple Licensed Facility Storage and Service.

“Room” Definition

Mr. Nielsen explained that the purpose of the special meeting from 9:00 to 10:00 a.m. is to discuss the draft administrative rule meant to define a room for the purposes of serving alcohol. The Advisory Board reviewed the draft rule during their January 23, 2018 meeting which resulted in a lengthy discussion and differing recommendations.

Ms. McDermott noted that preliminary discussions were in preparation for rulemaking. The rule is on the agenda today to consider authorizing the department to begin the rulemaking process. If authorized, the administrative rule will be published in the February 15, 2018 Bulletin and public comments will be accepted for 30 days. The commission will consider whether to approve or amend the rule during their March meeting.

Ms. McDermott gave an overview of the statute changes resulting from HB442 including the change which will no longer allow dual licenses or a bar within a restaurant. She stressed that the commission may not authorize a rule that changes what the legislature sought to remove. Ms. McDermott added that concerns brought up by industry that are related to operational restrictions need to be brought to the legislature for review.

Ms. McDermott explained that after meeting with stakeholders, she prepared a spreadsheet comparing rule recommendations received from industry, prevention and Advisory Board members. She gave an overview of the recommendations and the resulting draft administrative rule.

The commissioners and Ms. McDermott discussed the proposed language along with an alternative less restrictive option.

Mr. Nielsen opened the discussion to members of the audience. The following individuals came forward to address the commission:

* Lincoln Shurtz, Salt Lake Area Restaurant Association.
* Nikki McKay, Cliff Dining Club in Draper.
* Melva Sine, Utah Restaurant Association.
* Nicholas Kunz, Hilton SLC Center.
* Susie Cohen, Snowbird.
* John Garfield, Provo Marriott Hotel.

The commissioners expressed appreciation for the input from licensees. The rulemaking process will continue to provide opportunities for input. Mr. Nielsen noted that today will give the licensees some guidance as to where the commission is heading. The legislature may also provide clarity and make additional changes to the statute.

Ms. DiCaro suggested the proposed rule include the less restrictive language.

Mr. Jacobson moved to proceed with the rulemaking process with the draft using the alternative language to subparagraph (b) Shared permanent walls may be translucent and include windows and doors, so long as the separation of rooms completely restricts patron access to the premises and prevent visibility to the bar structure of a bar or tavern. Mr. Bateman seconded the motion which passed unanimously.

PLEDGE OF ALLEGIANCE:

Bonnie Diaz led the group in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Upon motion of Ms. DiCaro, seconded by Mr. Bateman, it was unanimously voted to approve the minutes of the Commission Meeting held December 19, 2017.

ANNOUNCEMENTS:

Mr. Nielsen made the following announcements:

a. Proposed Future Meeting Schedule: *(subject to change)*

- Tuesday, February 27, 2018

- Tuesday, March 27, 2018

b. Holiday Closure:

- Monday, February 19, 2018 (Washington and Lincoln Day)

Liquor stores and the DABC administrative office and warehouse will be

closed.

c. License Renewals:

- Wednesday, January 31, 2018

Deadline for paying fees and filing all paperwork for the following

license types:

- On-Premise Beer (Recreational Amenity)

- On-Premise Beer Only Restaurant

- Tavern

UTAH STATE AUDITOR PROPOSED 2018 AUDIT PROGRAM – JOHN DOUGALL, UTAH STATE AUDITOR.

John Dougall came forward to address the commission. Mr. Dougall introduced Sean Clayton and Hollie Andrus from his office.

Sean Clayton came forward and gave an overview of the proposed statutorily required 2018 Audit Program. The 2018 audit scope will include an internal control evaluation using COSO Framework.

Mr. Jacobson moved to approve the proposed State Auditor 2018 Audit Program. Ms. McConkie seconded the motion which passed unanimously.

VIOLATIONS:

\* Referral Source – State Bureau of Investigation (SBI)

a. Consent Calendar:

*[The following Consent Calendar items include uncontested letters of admonishment (written warnings) and settlement agreements that have been agreed to and accepted by the licensees. They are considered as a block with one vote unless one of the commissioners request that any item be removed for individual discussion. A summary of consent calendar items was distributed to the commissioners and is attached and made part of these minutes.]*

(1) Bricks Club, Salt Lake. \*SBI (BAR)

(2) El Mexicano #2, Mt. Pleasant, and Shelbee \*SBI (RB)

Keller (employee).

(3) Pie Pizzeria, South Jordan, and Mercedes \*SBI (RL)

Rodriguez (employee).

(4) Sandstone Pizza, Hanna, and Tonia \*SBI (RL)

Collett (employee).

(5) Mad Moose Café, Eden, and Jaehee \*SBI (RL)

Steele (employee).

(6) Akasaka Sushi, Salt Lake, and Sungsun \*SBI (RL)

Koo (employee).

(7) Courtyard by Marriott Airport, Salt Lake \*SBI (RE)

and Nathan Uhi (employee).

(8) Cous Cous Express, Salt Lake, and Davis \*SBI (RL)

Hepworth (employee).

(9) La Fountain, Tooele, and Carlee Hyde \*SBI (RB)

(employee).

(10) Ruby River Steakhouse, Provo, and \*SBI (RE)

Megan Phillips (employee).

Ms. Page noted all are complete and recommended approval of the consent calendar.

Mr. Bateman moved to approve the consent calendar. Ms. McConkie seconded the motion which passed unanimously.

b. Order to Show Cause:

(1) Costa Azul Seafood & Grill, Ogden. (RL)

Pam Shields explained that staff was notified that Costa Azul’s business license had lapsed. Staff attempted to follow up with Costa Azul with no response. Ms. Shields noted that their business license expired on December 31, 2017. As a result on January 8, 2018 an order to show cause was sent to Costa Azul. Ms. McDermott added that a business license is a requirement to maintain a restaurant license.

Lillya Casilles from Costa Azul came forward to address the commission. She explained that they did go to the city and pay but were waiting on the health department. Ms. McDermott noted that they also have an outstanding violation. Ms. McDermott recommended that the license be suspended until they comply with licensing requirements.

Mr. Jacobson moved to suspend the full restaurant license held by Costa Azul Seafood & Grill in Ogden until they are in full compliance including the business license from the jurisdiction in which they operate; in compliance with the department and Attorney General’s office, and report back at the next meeting. Mr. Bateman seconded the motion which passed unanimously.

COMPLIANCE UPDATE.

Ms. McDermott announced that the new manager and new applicant trainings have been successful with 100% pass rate. Staff is working through a few kinks to speed up the process of getting people signed in and taking payments.

In regards to the performance goal of 85% audit visits, as of January, the department is at 50% for the fiscal year and 5% for the calendar year.

REQUEST FOR EXTENSION OF CONDITIONAL LICENSE:

a. Dave and Buster’s, Salt Lake City. (RE)

Pam Shields noted that Dave and Buster’s submitted a building permit for their renovations and requested a three month extension of their conditional license.

Kathryn Lake, an attorney for Dave and Buster’s, came forward to address the commission. Ms. Lake explained that there have been some problems due to the scope of the renovations. They have also had challenges using the city’s new online process. Currently everything is in place and renovations should go smoothly the next few months. They are asking to extend the conditional license to May 30, 2018.

Ms. DiCaro moved to approve an extension of the conditional full restaurant license for Dave and Buster’s in Salt Lake City until May 30, 2018. Mr. Bateman seconded the motion which passed unanimously.

EXTENDED CLOSURE REQUESTS:

a. Ricardo’s @ Greenwell Inn, Price. (RE)

Margaret Hardie explained that staff granted Ricardo’s 90 days for renovations. They are requesting an extended closure to complete the project.

Rick Krompel came forward to address the commission. He explained that they ran into construction and equipment problems and hope to be finished by the end of March.

Ms. McDermott recommended the closure be extended until the April meeting in case further issues develop.

Mr. Bateman moved to approve an extended closure until the April 24, 2018 commission meeting for Ricardo’s @ Greenwell Inn in Price. Ms. DiCaro seconded the motion which passed unanimously.

b. Wolf Creek Utah, Eden. (BC)(BE)

Cori Price gave an overview of the extended closure request.

Kenda Shears and Bruce Summerhays came forward to address the commission. They are closed for the winter and are in the process of building a new pro shop. They expect completion May 4, 2018. Staff recommended the closure be extended until the May commission meeting.

Mr. Jacobson moved to approve an extended closure until the May 29, 2018 commission meeting for Wolf Creek Utah in Eden. Ms. McConkie seconded the motion which passed unanimously.

TRANSFER OF LOCATION REQUESTS:

a. ~~Wolf Creek Utah, Eden~~. *STRIKE*

b. Texas Roadhouse, Taylorsville. (RE)

From: 5418 South 1900 West, Taylorsville.

To: 1904 West 5400 South, Taylorsville.

Rob Hansen gave an overview of the transfer of location request noting it is complete and staff recommends approval.

Mr. Jacobson moved to approve a full service restaurant license transfer for Texas Roadhouse in Taylorsville. Mr. Bateman seconded the motion which passed unanimously.

SCIENTIFIC/EDUCATIONAL PERMIT APPLICANTS:

a. Harmon’s, City Creek, Salt Lake City.

b. Harmon’s, Holladay.

Abe Kader explained that Harmon’s City Creek relinquished a restaurant license. They are both applying for scientific/educational permits. The applications are complete and staff recommends approval.

Mr. Jacobson moved to approve scientific/educational permits for Harmon’s City Creek in Salt Lake City and Harmon’s in Holladay. Ms. DiCaro seconded the motion which passed unanimously.

MANUFACTURE DISTILLERY AND TYPE 5 PACKAGE AGENCY APPLICATIONS:

a. Hammer Spring Distillers, Salt Lake City.

Steve Wallenda gave an overview of the distillery and package agency applications noting they are complete and staff recommends approval.

Mr. Bateman moved to approve a manufacture distillery license and a Type 5 package agency license for Hammer Spring Distillers in Salt Lake City. Ms. McConkie seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. Full Service Restaurant Applicants:

*License Transfer:*

(1) State Road Restaurant, Kamas. *(Conditional)*

*Previous Applicant:*

(1) ~~El Paisa Grill, Ogden~~. *STRIKE*

*New Applicants:*

(1) Hug-Hes Café, Centerville. *(Conditional)*

(2) Hilton Garden Inn, Lehi. *(Conditional)*

(3) Winger’s, Logan. *(Conditional)*

(4) La Sal House, Moab. *(Conditional)*

(5) Doug’s Steak & BBQ, Monticello. *(Conditional)*

(6) Catrachos Restaurant, West Valley City. *(Conditional)*

(7) Mariscos Las Islitas De Las Vegas, West Valley City. *(Conditional)*

Erin Hinkel gave an overview of the license transfer application.

Mr. Jacobson moved to grant a conditional full service restaurant license transfer to #1 State Road Restaurant in Kamas. Ms. McConkie seconded the motion which passed unanimously.

Ms. Hinkel asked the commissioners to strike previous applicant #1 El Paisa Grill. She gave an overview of new applicants #1 Hug-Hes Café, #2 Hilton Garden Inn, #4 La Sal House, #5 Doug’s Steak & BBQ, #6 Catrachos Restaurant and #7 Mariscos Las Islitas De Las Vegas noting all are conditional.

Ms. McConkie moved to approve conditional full service restaurant licenses for #1 Hug-Hes Café in Centerville, #2 Hilton Garden Inn in Lehi, #4 La Sal House in Moab, #5 Doug’s Steak & BBQ in Monticello, #6 Catrachos Restaurant in West Valley City and #7 Mariscos Las Islitas De Las Vegas in West Valley City. Ms. DiCaro seconded the motion which passed unanimously.

Ms. Hinkel noted #3 Winger’s in Logan will be making a presentation due to violations. Sean Bouchet and Eric Slaymaker came forward to address the commission on behalf of Winger’s. They gave an overview of the actions taken to avoid further violations. Ms. Hinkel noted that they haven’t had a violation since the new RASP plan was implemented.

Mr. Bateman moved to approve a conditional full service restaurant license for #3 Winger’s in Logan. Mr. Jacobson seconded the motion which passed unanimously.

b. Bar Establishment Applicants:

*License Transfer:*

(1) State Road Tavern, Kamas. *(Conditional)*

*Previous Applicant:*

(1) 4th West Pub, Escalante. *(Conditional)*

*New Applicants:*

(1) ~~Café Fifty Two, Park City~~.  *STRIKE*

Jeff Colvin gave an overview of the license transfer application noting staff recommends approval.

Mr. Bateman moved to approve a conditional bar establishment license transfer for #1 State Road Tavern in Kamas. Ms. McConkie seconded the motion which passed unanimously.

Mr. Colvin noted that no new bar licenses are available. Previous applicant #1 4th West Pub is on the agenda for future licenses. Ms. McDermott recommended that new applicant #1 Café Fifty Two be held until the March meeting. They were temporarily granted an equity license but staff is reviewing whether the applicant should be the homeowner’s association, not Deer Valley.

c. Banquet Catering Applicants:

*License Transfer:*

(1) The Barn at High Star Ranch, Kamas. *(Conditional)*

*New Applicants:*

1. Banquet @ Grand Lodge Hotel, Brian Head.
2. Hilton Garden Inn, Lehi. *(Conditional)*

Pam Shields gave an overview of the license transfer application noting it is conditional and staff recommends approval.

Ms. McConkie moved to grant a conditional banquet catering license to The Barn at High Star Ranch in Kamas. Ms. DiCaro seconded the motion which passed unanimously.

Ms. Shields gave an overview of the new applications noting staff recommends approval.

Mr. Jacobson moved to grant a banquet catering license to Banquet @ Grand Lodge Hotel in Brian Head; and a conditional banquet catering license to Hilton Garden Inn in Lehi. Mr. Bateman seconded the motion which passed unanimously.

d. Reception Center Applicant:

*New Applicant:*

1. Culinary Crafts, Salt Lake City.

Pam Shields gave an overview of the application noting staff recommends approval.

Ms. DiCaro moved to grant a reception center license to Culinary Crafts in Salt Lake City. Ms. McConkie seconded the motion which passed unanimously.

e. Limited Service Restaurant Applicants:

*New Applicants:*

1. Moab Garage Company, Moab. *(Conditional)*
2. ~~Hamachi, Salt Lake City~~. *STRIKE*
3. Bhutan House Restaurant, Sandy.

Bonnie Diaz asked the commissioners to strike #2 Hamachi and gave an overview of the applications noting #1 Moab Garage Company is conditional. Staff recommends approval.

Mr. Jacobson moved to approve a conditional limited service restaurant license for #1 Moab Garage Company in Moab; and a limited service restaurant license for #3 Bhutan House Restaurant in Sandy. Ms. McConkie seconded the motion which passed unanimously.

f. On-Premise Beer “Recreational” Applicants:

*License Transfer:*

1. The Barn at High Star Ranch, Kamas. *(Conditional)*

*New Applicant:*

(1) Sandbar, North Salt Lake. *(Conditional)*

Abe Kader gave an overview of the license transfer and new application noting staff recommends approval.

Ms. DiCaro moved to grant a conditional beer recreational license to The Barn at High Star Ranch in Kamas. Ms. McConkie seconded the motion which passed unanimously.

Cory Merrell from Sandbar came forward to address the commission. Mr. Merrell gave an overview of their volleyball club.

Mr. Jacobson moved to grant a conditional beer recreational license to Sandbar in North Salt Lake. Ms. McConkie seconded the motion which passed unanimously.

OPERATIONS UPDATE:

a. Listed Items.

Cade Meier noted that there are no new listed items this month.

b. Package Agency Audits.

Steve Wallenda reported that staff conducted audits on seven consignment package agencies, one Type 1, and four Type 5 package agencies. All were found to be in compliance.

FINANCIAL UPDATE:

Man Diep reported that as of the end of December 2017, YTD bottle sales increased 2.7% (631,674 bottles) compared to last year. YTD retail sales are up $11,769,791 a 5.42% increase. There were 23 sales days in December 2017 versus 29 sales days in December 2016.

PARENTS EMPOWERED UPDATE:

Doug Murakami reported on the activities of the Parents Empowered campaign. The underage workgroup awarded ten new mini grants to local communities. The parent focus groups will begin in April.

Mr. Bateman expressed admiration for the way Mr. Murakami handled the legislative hearings. All commissioners expressed their support of the Parents Empowered campaign.

COMMENTS FROM COMMISSIONERS AND PUBLIC:

None.

There being no further business, the meeting adjourned at 10:45 a.m.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Chairman