MINUTES OF THE MEETING OF THE UTAH

ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, MARCH 27, 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, March 21, 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 10:00 a.m. on Monday, March 26, 2018.]*

Vice-Chairman Neal Berube called the meeting to order at 10:05 a.m.

Commissioners Present: John T. Nielsen, Neal Berube, Kathleen McConkie Collinwood, Steven Bateman, Amanda Smith, 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: Jeff Buckner, Asst. Attorney General.

PLEDGE OF ALLEGIANCE:

Pam Shields led the group in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Upon motion of Mr. Bateman, seconded by Ms. McConkie, it was unanimously voted to approve the minutes of the Commission Meeting held February 27, 2018.

ANNOUNCEMENTS:

Mr. Berube made the following announcements:

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

- Tuesday, April 24, 2018

- Tuesday, May 29, 2018

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) Wil Ojeda-Martinez (employee of Johnny \*SBI (RL)

Slice), Salt Lake.

(2) Don Pedro’s, Washington City and \*SBI (RE)

Jose Rivera-Jauregui (employee).

(3) El Pariente Mexican Grill, Salt Lake, and \*SBI (RE)

Ana Maria Ramirez-Martinez (employee).

(4) Pizza Hut, Roosevelt, and Arnell \*SBI (BE)

Copperfield (employee).

(5) Liliane Abbots, (employee of 98 Center, \*SBI (RE)

Moab).

(6) Bucket O’ Crawfish, West Valley and Massa \*SBI (RB)

Phonsauat & Jennifer Huynh (employees).

(7) Henrey Monroy (employee of Casa Dona \*SBI (RE)

Maria Mexican Cuisine, Cedar City).

(8) Chili’s, West Valley, and Luis Ramirez \*SBI (RE)

Sanchez (employee).

(9) Desert Edge Brewery, Salt Lake, and Arden \*SBI (BAR)

Davitt (employee).

(10) Kobe Japanese Cuisine, Salt Lake, and \*SBI (RE)

Camille Perkins (employee).

(11) Michelangelo’s, Salt Lake, and Arnold Hsu \*SBI (RE)

(employee).

(12) Notch Pub, Kamas. \*SBI (BAR)

(13) O-Town Noodle House, Ogden, and \*SBI (RL)

Amber Dimick (employee).

(14) Rodizio Grill, Salt Lake, and Marcelo \*SBI (RE)

Lacerda (employee).

(15) (3 locations) Rubio’s Fresh Mexican Grill, \*SBI (RB)

American Fork, Salt Lake and Sugarhouse.

(16) Settebello Pizzeria Napoletana, Farmington, \*SBI (RL)

and Landon Pugmire (employee).

(17) Tailgaters Grill, Ogden, and Miriam Lomeli \*SBI (RE)

Sanchez (employee).

(18) The Galley Grill, Salt Lake, and Olha \*SBI (RB)

Kovalova (employee).

(19) Timberline Inn, Beaver, and Rose Hunt \*SBI (RB)

(employee).

(20) Tsunami Restaurant, Ft Union, Midvale and \*SBI (RE)

Devin O’Donnell and Valerie Ziegler

(employees).

(21) Davis Hepworth (former employee of Cous \*SBI (RL)

Cous Express, Salt Lake).

Mr. Buckner asked the commissioners to strike #1 Wil Ojeda-Martinez, #3 El Pariente Mexican Grill, #7 Henrey Monroy, #13 O-Town Noodle House, and #19 Timberline Inn. He recommended approval of the balance of the consent calendar.

Ms. McConkie moved to approve the consent calendar with the exceptions of #1 Wil Ojeda-Martinez, #3 El Pariente Mexican Grill, #7 Henrey Monroy, #13 O-Town Noodle House, and #19 Timberline Inn. Mr. Jacobson seconded the motion which passed unanimously.

Mr. Berube asked Mr. Buckner about the status of the policy outlining actions that will be taken if licensees continually fail to pay the fines and fees for their violations. Mr. Buckner was aware of language that is being proposed but currently isn’t finalized.

LEGISLATIVE UPDATE.

Ms. McDermott gave a quick overview of legislation passed during the 2018 General Session that affects department operations and licensing. An update will be provided on the department web site. Manager training materials will also be updated to include any changes.

EMERGENCY ADMINISTRATIVE RULE:

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

Ms. McDermott explained that R81-1-11 Multiple Licensed Facility Storage and Service went through the rulemaking process to define room and to establish a procedure by which a licensee surrenders a retail license if there are two or more licensed premises in the same room as required by 32B-5-207. New legislation defines room in statute so the commission no longer has rulemaking authority. The rule amendment will lapse. However, the procedure to surrender a license if there are two or more licensed premises in the same room still needs to be established.

The department is seeking a motion to engage in emergency rulemaking to establish a procedure for a licensee to surrender a retail license if they have a bar or tavern and restaurant in the same room.

Mr. Bateman moved to instruct staff to engage in emergency rulemaking to establish a procedure for a licensee to surrender a retail license if they have a bar or tavern and restaurant in the same room. Ms. Smith seconded the motion which passed unanimously.

TRANSFER OF LOCATION REQUEST:

a. Beehive Distilling. (MD) & (PA)

From: 1745 S. Milestone Drive, Salt Lake City.

To: 2245 S. West Temple, South Salt Lake.

Steve Wallenda gave an overview of the application noting it is complete and staff recommends approval.

Mr. Jacobson moved to approve a transfer of location for Beehive Distilling. Ms. Smith seconded the motion which passed unanimously.

EXTENDED CLOSURE REQUESTS:

a. Bistro H., Springdale. (RE) & (BC)

Abe Kader explained that they received a 90-day closure from staff but need additional time to complete renovations. They are requesting an extended closure until the May 29, 2018 commission meeting.

Mr. Jacobson moved to approve an extended closure for Bistro H. in Springdale until the May 29, 2018 commission meeting. Mr. Bateman seconded the motion which passed unanimously.

b. Goldener Hirsch, Park City. (RE)

Margaret Hardie gave an overview of the request for an extended closure from April 1 to December 1, 2018.

Mr. Jacobson moved to approve an extended closure for Goldener Hirsch in Park City from April 1, 2018 to the November 2018 commission meeting. Ms. McConkie seconded the motion which passed unanimously.

CONVERSION FROM DINING CLUB TO BAR:

a. ~~‘Bout Time Pub & Grub, Holladay~~. *STRIKE*

b. ‘Bout Time Pub & Grub, Park City.

c. ‘Bout Time Pub & Grub, Ogden.

d. Bonneville Brewery, Tooele.

Margaret Hardie asked the commissioners to strike ‘Bout Time Pub & Grub in Holladay. She gave an overview of the balance of the applications to convert from a dining club to a bar license. Staff recommends approval.

Mr. Bateman moved to approve conversions from dining club to bar licenses for ‘Bout Time Pub & Grub in Park City, ‘Bout Time Pub & Grub in Ogden, and Bonneville Brewery in Tooele. Ms. DiCaro seconded the motion which passed unanimously.

*[Chairman John T. Nielsen arrived at 10:30 a.m. and chaired the balance of the meeting.]*

DABC COMMISSION POLICY ON CONSIDERATION OF APPLICATIONS:

This item was continued until after the license applications.

LICENSE APPLICATIONS:

a. Full Service Restaurant Applicants:

*License Transfers:*

(1) Courtyard by Marriott Airport, Salt Lake City. *(Conditional)*

(2) Crystal Park Cantina, Park City. *(Conditional)*

(3) Joe’s Crab Shack, Sandy.

*Previous Applicants:*

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

(2) ~~Oregano Italian Kitchen, Provo~~. *STRIKE*

*New Applicants:*

(1) Devil’s Garden Grill, Escalante. *(Conditional)*

(2) ~~Tandoor, Salt Lake City~~. *STRIKE*

(3) ~~Embassy Suites, by Hilton, South Jordan~~. *STRIKE*

(4) Bonneville Brewery, Tooele.

Erin Hinkel gave an overview of the license transfer applications noting #1 Courtyard by Marriott and #2 Crystal Park Cantina are conditional. Staff recommends approval.

Ms. McConkie moved to grant conditional full service restaurant license transfers to #1 Courtyard by Marriott Airport in Salt Lake City and #2 Crystal Park Cantina in Park City; and a full service restaurant license transfer to #3 Joe’s Crab Shack in Sandy. Ms. DiCaro seconded the motion which passed unanimously.

Ms. Hinkel asked the commissioners to continue previous applicant #1 Café Fifty Two to the May meeting and allow them to continue to operate at equity status until that time. She asked the commissioners to strike previous applicant #2 Oregano Italian Kitchen.

Ms. Hinkel also asked the commissioners to strike new applicant #2 Tandoor and #3 Embassy Suites will be considered during the commission policy discussion. She gave an overview of #1 Devil’s Garden Grill in Escalante noting it is conditional, and #4 Bonneville Brewery in Tooele.

Mr. Jacobson moved to approve a conditional full service restaurant license for #1 Devil’s Garden Grill in Escalante; and a full service restaurant license for #4 Bonneville Brewery in Tooele. Mr. Bateman seconded the motion which passed unanimously.

b. Bar Establishment Applicants:

*License Transfers:*

(1) Bistro 412 Bar, Park City.

(2) ~~Handlebar, Salt Lake City~~. *STRIKE*

(3) London Belle & Amendment 21, Salt Lake City. *(Conditional)*

(4) The Break Sports Grill, West Valley City. *(Conditional)*

*Previous Applicant:*

(1) 16 Post Office Place, Salt Lake City. *(Conditional)*

*New Applicants:*

(1) Alibi, Salt Lake City. *(Conditional)*

Jeff Colvin gave an overview of the license transfer applications asking the commissioners to strike #2 Handlebar and noting those that are conditional.

Mr. Bateman moved to grant conditional bar establishment license transfers to #3 London Belle & Amendment 21 in Salt Lake City, and #4 The Break Sports Grill in West Valley City; and a bar establishment license transfer to #1 Bistro 412 Bar in Park City. Ms. DiCaro seconded the motion which passed unanimously.

Mr. Colvin noted one summer seasonal bar establishment license is available. Previous applicant #1 16 Post Office Place is interested in a summer seasonal. New applicant #1 Alibi is not ready to open until July 1, 2018.

Mr. Jacobson moved to approve a summer seasonal bar establishment license for #1 16 Post Office Place in Park City. Ms. McConkie seconded the motion which passed unanimously.

c. Banquet Catering Applicant:

*New Applicants:*

1. ~~Embassy Suites, by Hilton, South Jordan~~. *STRIKE*

d. Limited Service Restaurant Applicants:

*License Transfer:*

(1) Gabor Brothers Inc, Layton.

(2) Stone Hearth Grille, Tropic.

*New Applicants:*

(1) Das Nest, Cedar City.

(2) Clarion Inn & Suites, Hurricane. *(Conditional)*

(3) ~~Moki’s, Ticaboo~~. *STRIKE*

(4) Makanmakan Asian StrEat Food Faire, Sandy.

Bonnie Diaz gave an overview of the license transfer applications noting staff recommends approval.

Mr. Jacobson moved to grant limited service restaurant license transfers to #1 Gabor Brothers Inc. in Layton and #2 Stone Hearth Grille in Tropic. Ms. DiCaro seconded the motion which passed unanimously.

Ms. Diaz gave asked the commissioners to strike new applicant #3 Moki’s in Ticaboo. Ms. Diaz gave an overview of the balance of the new applications noting #2 Clarion Inn is conditional.

Ms. DiCaro moved to approve a conditional limited service restaurant license for #2 Clarion Inn & Suites in Hurricane; and limited service restaurant licenses for #1 Das Nest in Cedar City and #4 Makanmakan Asian StrEat Food Faire in Sandy. Ms. Smith seconded the motion which passed unanimously.

e. On-Premises Beer “Recreational” Applicants:

*New Applicants:*

(1) The Ranches Golf Course, Eagle Mountain.

(2) 19th Hole Café, Roosevelt.

(3) Social Axe, Salt Lake City.

Nicole Tarleton gave an overview of #1 The Ranches Golf Course and #2 19th Hole Café noting staff recommends approval.

Mr. Bateman moved to approve on-premises beer recreational licenses for #1 The Ranches Golf Course in Eagle Mountain, and #2 19th Hole Café in Roosevelt. Ms. Smith seconded the motion which passed unanimously.

Ms. McDermott explained that #3 Social Axe is applying for an on-premises beer recreational amenity license. Utah code and administrative rule define a recreational amenity with a list of activities such as bowling and a golf driving range or an activity substantially similar. Social Axe is prepared to explain to the commission how their venue is similar to a bowling facility or driving range.

Mark Floyd came forward to address the commission. Mr. Floyd gave an overview of their business with locations in Ogden and Salt Lake City. He said they would like to serve 3.2 beer at the Salt Lake City location.

The commissioners, Ms. McDermott, and Mr. Floyd discussed the application. Topics included public safety, keeping minors away from beer, over intoxicated patrons, and injury procedures. Mr. Floyd outlined the safety measures in place such as one coach that is tips and sips certified for every 16 patrons, wrist bands, limiting the number of drinks served, etc. Additionally, the commissioners considered whether the activity fits with the description in the statute. It appears to meet the recreational facility or similar threshold.

As it’s the first business of its kind and others may follow, Mr. Jacobson noted they should be allowed to try but with oversight of the department.

Mr. Jacobson moved to approve an on-premises beer recreational license for #3 Social Axe in Salt Lake City subject to limitations set by staff and a review by the commission in six months. Ms. Smith seconded the motion.

Ms. McDermott explained that staff hasn’t done a lot of research and clarified that a six month report would be a review only as the commission can’t take back the license unless the licensee fails to maintain licensing requirements.

Mr. Nielsen called for a vote on the motion. Ms. Smith, Mr. Jacobson, Mr. Nielsen, Mr. Bateman and Ms. DiCaro voted yea; Ms. McConkie voted nay. The motion passed.

f. On-Premises Beer Only Restaurant Applicants:

*New Applicants:*

1. ~~Blues Street BBQ, American Fork~~. *STRIKE*
2. Big Fish Family Restaurant, Panguitch.

Nicole Tarleton asked the commissioners to strike #1 Blues Street BBQ and gave an overview of #2 Big fish Family Restaurant noting it is complete and staff recommends approval.

Ms. Smith moved to grant a beer only restaurant license to #2 Big Fish Family Restaurant in Panguitch. Ms. DiCaro seconded the motion which passed unanimously.

g. On-Premises Beer Tavern Applicant:

*New Applicant:*

(1) Talisman Brewing Co., Salt Lake City.

Nicole Tarleton gave an overview of the application noting staff recommends approval.

Mr. Bateman moved to grant an on-premises beer tavern license to #1 Talisman Brewing Co., in Salt Lake City. Mr. Berube seconded the motion which passed unanimously.

h. Package Agency Applicant:

*New Applicant:*

(1) AC Hotel SLC Downtown PA, Salt Lake City.

Steve Wallenda gave an overview of the application.

Mr. Berube moved to grant a package agency license to #1 AC Hotel SLC Downtown PA in Salt Lake City. Mr. Bateman seconded the motion which passed unanimously.

DABC COMMISSION POLICY ON CONSIDERATION OF APPLICATIONS: *[continued from Page 5]*

Ms. McDermott explained that in December 2016, the commission adopted a policy of not granting licenses to applicants with a pending violation or with a violation adjudicated within three months. The policy applies to applicants with common ownership of 20% or more.

Recently several situations resulted in applicants, staff and even new commissioners questioning the policy.

Ms. McDermott gave an overview of three scenarios explaining how the commission policy would affect the LLC’s member(s)/manager(s) if they were to apply for a new license.

Mr. Nielsen suggested that due to the scope of the issues, a committee be formed to review the policy and come back with a recommendation to the full commission.

Ms. McDermott clarified that two of the applicants involved, Oregano Italian Kitchen and the Handlebar, are being stricken for other reasons.

Mr. Nielsen asked if Embassy Suites by Hilton would be impacted if a decision was deferred to the next commission meeting. Chad Griffiths from Embassy Suites came forward to address the commission. He explained that the hotel may be able to open tomorrow. Mr. Jacobson noted that if the commission voted today, he would vote no in order to be consistent as the management company has a violation in another location. It was agreed a decision on Embassy Suites would not be made today.

Mr. Jacobson made a motion to form a committee with three commissioners to review the policy and act on it immediately. Mr. Berube seconded the motion which passed unanimously.

The commissioners on the committee will be Mr. Berube, Mr. Jacobson and Ms. Smith. Ms. DiCaro will be an alternate member. Ms. McDermott will arrange a meeting.

OPERATIONS UPDATE:

a. Listed Items.

Cade Meier noted that several hundred items were evaluated; 70 items were listed, and 49 items delisted.

b. Package Agency Audits.

Steve Wallenda reported there were no consignment audits to report. Staff is in the process of moving to a calendar cycle. Type 5 and cash counts are being conducted. All were found to be in compliance.

FINANCIAL UPDATE:

Man Diep reported that as of the end of February 2018, YTD bottle sales increased 2.8% (857,981 bottles) compared to last year. YTD retail sales are up $15,376,188 a 5.43% increase.

PARENTS EMPOWERED UPDATE:

Doug Murakami reported on the activities of the Parents Empowered campaign. There will be a press event Thursday at Willow Creek Elementary in Lehi. It will include a giant brain sculpture where a student will put their handprint and pledge to stay away from alcohol and an essay contest.

COMMENTS FROM COMMISSIONERS AND PUBLIC:

* Steve Conlin came forward and expressed support for Social Axe.
* Chad Pritchard from Oregano came forward to address the commission. He expressed frustration as his application was again stricken from the agenda due to a tax issue and an investor’s background check.

There being no further business, the meeting adjourned at 11:45 a.m.

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Chairman