MINUTES OF THE MEETING OF THE UTAH

 ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, SEPTEMBER 24, 2019, AT 1625 SOUTH

900 WEST, SALT LAKE CITY, UTAH.

*[The proposed agenda for this meeting was emailed to all persons on the regular email list on Wednesday, September 18, 2019. 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, September 23, 2019.]*

Chairman John T. Nielsen called the meeting to order at 10:00 a.m.

Commissioners Present: John T. Nielsen, Tom Jacobson, Steve Bateman, Amanda Smith, Sophia DiCaro, Jacquelyn Orton, and Stanley B. Parrish.

Staff Present: Salvador Petilos, Director; Cade Meier, Deputy Director; Man Diep, Finance Director; RuthAnne Oakey-Frost, Compliance and Licensing Director; and Tim Beardall, Internal Audit Director.

Also Present: Sheila Page, Assistant Attorney General.

PLEDGE OF ALLEGIANCE:

Jason Gunn led the group in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Mr. Jacobson moved to approve the minutes of the Commission Meeting held on August 27, 2019. Ms. DiCaro seconded the motion which passed unanimously.

ANNOUNCEMENTS:

Mr. Nielsen made the following announcements:

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

 - Tuesday, October 29, 2019

 - Tuesday, November 26, 2019

b. License Renewals:

 - Monday, September 30, 2019

 Deadline for paying all fees and filing all paperwork for the

 following license types:

 Full Service & LR Restaurants

 Limited Service Restaurants

 Banquet Catering

 Reception Center

 Airport Lounges

 Resort

 Hotel Licenses

c. Holiday Closure:

 - Monday, October 14, 2019 (Columbus Day)

 Liquor stores and the DABC administrative office and warehouse will

be closed.

ADMINISTRATIVE RULES:

a. R81-1-23 Sales Restrictions on High Demand Products of Limited Availability.

b. R81-1-33 Alcohol Content.

c. R81-1-34 Transfer Agreements.

d. R81-10-2 Off-Premise Beer Retailer State License and Master Off-Premise Beer

 Retailer State License.

Ms. Oakey-Frost explained that the rules on the agenda have been through the rulemaking process. No public comments were received. The commission may choose to amend or approve and assign an effective date. Staff recommends an effective date of September 25, 2019.

Mr. Bateman moved to approve the administrative rules R81-1-23 Sales Restrictions on High Demand Products of Limited Availability; R81-1-33 Alcohol Content; R81-1-34 Transfer Agreements; and R81-10-2 Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer State License; and to set an effective date of September 25, 2019. Ms. Smith 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) Ahimusee, Orem and Jong-In Lee, Brandon \*SBI (RL)

 Drabik, and Kyeingeun Jung (employees).

 (2) Diamond Petroleum, Cedar City and \*SBI (OP)

 Carlie (employee).

 (3) Down Under Club, Woods Cross. \*SBI (BAR)

 (4) Glowbal Bite, Salt Lake. \*SBI (RE)

 (5) Gofer Foods, Tooele and Jeanette \*SBI (OP)

 Gonzales (employee).

 (6) Lonny Boy’s Barbecue, Hurricane \*SBI (RL)

 (7) Maverik #359, Brigham City and Cathy \*SBI (OP)

 Bingham (employee).

 (8) Maverik #605, North Logan and Ross \*SBI (OP)

 Byington (employee).

 (9) Pago, Salt Lake and “Jesse” (employee). \*SBI (RE)

 (10) Rally Stop, Cedar City and Keiko \*SBI (OP)

 Nendorf (employee).

 (11) Red Rock Junction, Park City and \*SBI (RE)

 Terrence Beever (employee).

 (12) Ridley’s Family Market #1150, Hyrum and \*SBI (OP)

 Mycalah Peterson (employee).

 (13) Trails, Salt Lake. \*SBI (BAR)

 (14) Winger’s Provo and Kylee Martin \*SBI (RE)

 (employee).

Sheila Page noted that the items on the consent calendar are complete and recommended approval.

Ms. DiCaro moved to approve the items on the consent calendar. Mr. Parrish seconded the motion which passed unanimously.

b. Orders to Show Cause:

 (1) Duces Wild, South Salt Lake. (BAR)

Stephne Hanson gave an overview of the order to show cause noting that the city rescinded their business license and local consent. Staff was notified on April 9, 2019. The appeal’s process with the city has been exhausted.

Rydell Mitchell from Duces Wild came forwarded and explained they haven’t been in business since July 31, 2019 as they haven’t been able to make the required building improvements in order to get local consent from city; also his business license expired July 31, 2019. The building owner, Mike Maloof, also came forward noting he would like to take over the premise and is making the building upgrades. Ms. Hanson and the commissioners explained that the license is forfeited versus revoked. This allows them to apply for a new license once they receive a business license and approval from the city.

Mr. Jacobson moved to deem the bar license for Duces Wild in South Salt Lake forfeited as of July 31, 2019. Ms. Orton seconded the motion which passed unanimously.

 (2) Café Trang, Draper. (RL)

Cori Price gave an overview of the order to show cause noting that the managers failed to complete the required background checks.

Nam Lung and Tam came forward to address the commission. They explained that the managers have been out of the country and unable to complete the training. They are returning this week and will be able to comply.

Mr. Bateman moved to suspend the full-service restaurant license for Café Trang in Draper until the October 29, 2019 commission meeting. Ms. Smith seconded the motion which passed unanimously.

LIQUOR WAREHOUSE & BEER WHOLESALER APPLICANT:

a. Carlson Distributing Company, West Valley City.

Abe Kader gave an overview of the application noting it is complete and staff recommends approval.

Mr. Parrish moved to approve liquor warehouse and beer wholesaler licenses for Carlson Distributing Company in West Valley City. Ms. DiCaro seconded the motion which passed unanimously.

MANUFACTURE REPRESENTATIVE APPLICANT:

a. La Vida Descorchada, Bountiful.

Abe Kader gave an overview of the application noting it is complete and staff recommends approval.

Ms. DiCaro moved to approve a manufacture representative license for La Vida Descorchada in Bountiful. Ms. Smith seconded the motion which passed unanimously.

SCIENTIFIC/EDUCATIONAL APPLICANT:

a. ~~Dixie State University, St. George~~. *STRIKE*

MANUFACTURING DISTILLERY & TYPE 5 PACKAGE AGENCY APPLICANT:

a. Clear Water Distilling Company, Pleasant Grove.

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

Mr. Jacobson moved to approve manufacturing distillery and Type 5 package agency licenses for Clear Water Distilling Company in Pleasant Grove. Ms. DiCaro seconded the motion which passed unanimously.

OFF-PREMISE BEER RETAILER APPLICANTS:

a. Completed Applications. *(list attached)*

b. Conditional Applications. *(list attached)*

Stephne Hanson noted that there are two lists. The first list includes the off-premise beer retailer applications that have met the training requirement and are complete.

Mr. Jacobson moved to approve the completed off-premise beer applications. Ms. Smith seconded the motion which passed unanimously.

Ms. Hanson asked the commissioners to strike Speedway applicants #3, #4, #5, #9, #11, #12, #13, #14, #17 and #19 from the conditional application list and approve the balance.

Ms. DiCaro moved to strike Speedway applicants #3, #4, #5, #9, #11, #12, #13, #14, #17 and #19 and approve conditional off-premise beer licenses for the balance of the applicants. Ms. Smith seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. License Transfers:

 (1) Hamachi, Salt Lake City. (RL) *(51% Change)*

 (2) The Horse, Ogden. *(Conditional)* *(Full Transfer)*

 (3) Derailed, Milford. *(Conditional)* *(Full Transfer)*

 (4) Bout Time Pub & Grub, West Valley City. *(Full Transfer)*

Margaret Hardie gave an overview of the license transfers noting those that are conditional. She also noted that #4 Bout Time Pub and Grub has a summer seasonal which they will surrender as they have found a license to purchase. Staff recommends approval.

Mr. Jacobson moved to grant license transfers to #1 Hamachi in Salt Lake City and #4 Bout Time Pub & Grub in West Valley City with the stipulation that Bout Time Pub and Grub surrender their summer seasonal license; and conditional license transfers to #2 The Horse in Ogden and #3 Derailed in Milford. Ms. DiCaro seconded the motion which passed unanimously.

b. Full Service Restaurant Applicants:

 *New Applicants:*

 (1) Anthera, Springdale. *(Conditional)*

 (2) Amangiri Tent Camp, Kanab. *(Conditional)*

(3) Old Chicago Pizza & Taproom, Logan. *(Conditional)*

Jason Gunn gave an overview of the applications noting that they are conditional. Staff recommends approval.

Mr. Bateman moved to approve conditional full service restaurant licenses for #1 Anthera in Springdale, #2 Amangiri Tent Camp in Kanab, and #3 Old Chicago Pizza & Taproom in Logan. Ms. Smith seconded the motion which passed unanimously.

c. Bar Establishment Applicants:

 *Previous Applicants:*

(1) ~~Bout Time Pub & Grub, West Valley City~~. *STRIKE*

(2) Circle Inn Pizzeria, Clearfield.

(3) Bout Time Pub & Grub, Lehi. *(Conditional)*

(4) Grid City Beer Works, Salt Lake City. *(Conditional)*

(5) Jackson’s Base Camp, Park City. *(Conditional)*

(6) Pins & Ales Restaurant & Brew Pub, West Valley. *(Conditional)*

(7) Redemption, Herriman. *(Conditional)*

(8) Trolley Wing Company, Salt Lake City. *(Conditional)*

Dan Oberg asked the commissioners to strike #1 Bout time in West Valley City as the license transfer was granted. He gave an overview of the balance of the applications noting projected opening dates and those that are conditional.

Mr. Nielsen noted there is one full license available. He invited the previous applicants that had additional information to come forward and address the commission.

Mr. Jacobson moved to grant a full bar establishment license to #2 Circle Inn Pizzeria in Clearfield with the stipulation that they surrender the tavern license. Mr. Bateman seconded the motion which passed unanimously.

d. Hotel Applicant:

 *New Applicant:*

 (1) Best Western Premier Brian Head Hotel & Spa, Brian Head.

*(Conditional)*

Mike Bishop gave an overview of the application noting it is conditional. Staff recommends approval.

Mr. Jacobson moved to grant a conditional hotel license to #1 Best Western Premier Brian Head Hotel & Spa in Brian Head. Mr. Parrish seconded the motion which passed unanimously.

e. Banquet Catering Applicants:

 *New Applicant:*

1. Anthera, Springdale. *(Conditional)*

Mike Bishop gave an overview of the application noting it is conditional. Staff recommends approval.

Mr. Bateman moved to grant a conditional banquet catering license to #1 Anthera in Springdale. Mr. Jacobson seconded the motion which passed unanimously.

f. Limited Service Restaurant Applicant:

 *New Applicant:*

 (1) Ombu Korean BBQ, Orem.

Miraz Rasoul gave an overview of the application noting it is complete and staff recommends approval.

Ms. Smith moved to grant a limited service restaurant license to #1 Ombu Korean BBQ in Orem. Ms. Orton seconded the motion which passed unanimously.

g. On-Premise Beer Only Restaurant Applicants:

 *New Applicants:*

1. Tapatio Mexican Food, Ogden.
2. Casa De Nena, Ogden. *(Conditional)*
3. Real Taqueria, Salt Lake City.
4. Puerto Vallarta Mexican Grill, Salt Lake City.

Mike Bishop gave an overview of the applications noting #2 Casa De Nena is conditional. The balance of the applications are complete and staff recommends approval.

Mr. Bateman moved to grant a conditional on-premise beer only restaurant license to #2 Casa De Nena in Ogden; and on-premise beer only restaurant licenses to #1 Tapatio Mexican Food, #3 Real Taqueria in Salt Lake City, and #4 Puerto Vallarta Mexican Grill in Salt Lake City. Mr. Jacobson seconded the motion which passed unanimously.

h. On-Premise Beer “Tavern” Applicant:

 *New Applicant:*

 (1) Smith’s Food & Drug, Park City. *(Conditional)*

Mike Bishop gave an overview of the application noting it is conditional. He explained that staff reviewed their floor plan. They will be adjacent to the Starbuck’s with a defined barrier of a 48” wall and a gate. Staff has expressed concerns to Smith’s management about minors on the premise, over service, guests bringing grocery beer into the tavern, tavern growlers crossing into the off-premise license, and the lack of food service.

Steve Sorenson, Mitch Mower and Dave Haws from Smith’s came forward to address the commission. Mr. Sorenson gave an overview of their plan noting they currently have taverns in stores in Los Alamos, New Mexico and Las Vegas, Nevada. Mr. Sorenson and Mr. Haws outlined the safety measures they would put in place.

The commissioners, Ms. Page, and the representatives from Smith’s discussed staff’s concerns. Staff would like to investigate the premise more.

Mr. Jacobson moved to table consideration of the tavern application from Smith’s in Park City until the October 29, 2019 Commission Meeting. Mr. Bateman seconded the motion which passed unanimously.

i. Package Agency Applicant:

 *New Applicant:*

 (1) Salt Flats Spirits, Salt Lake City.

Jeff Colvin gave an overview of the Type 5 package agency application noting it is complete and staff recommends approval.

Ms. Orton moved to grant a Type 5 package agency license to #1 Salt Flats Spirits in Salt Lake City. Mr. Jacobson seconded the motion which passed unanimously.

OPERATIONS UPDATE:

a. Listed Items.

Cade Meier reported that the department has plans in place for the heavy beer transition on November 1, 2019. The department will no longer carry beer 5% ABV or lower. The delisted beer will be replaced with new items.

Mr. Petilos gave an overview of the recent statute change. HB102 was signed by the Governor and gives off-premise retailers the ability to stage beer less than or equal to 5% ABV a week prior to November 1, 2019. This change will also affect distributors and beer only restaurant licensees.

b. Package Agency Audits.

Jeff Colvin reported that one Type 2, six Type 5, four Type 3 package agencies were audited and found to be in compliance.

FINANCIAL UPDATE:

Man Diep reported that as of the end of August 2019, YTD bottle sales increased 7.64% (677,254 bottles) compared to last year. YTD retail sales are up $5,567,145 (7.12% increase).

COMMENTS FROM COMMISSIONERS AND PUBLIC:

* Jay Yahne from Hive Winery came forward to differentiate between Type 5 package agency excise tax payments and profits.

There being no further business, the meeting adjourned at 11:00 a.m.

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Chairman