MINUTES OF THE MEETING OF THE UTAH

 ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, OCTOBER 29, 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, October 23, 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, October 28, 2019.]*

Chairman John T. Nielsen called the meeting to order at 10:05 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:

Chris Johnson led the group in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Mr. Bateman moved to approve the minutes of the Commission Meeting held on September 24, 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, November 26, 2019

 - Tuesday, December 17, 2019

b. Holiday Closures:

 - Monday, November 11, 2019 (Veterans’ Day)

 Liquor stores and the DABC administrative office and warehouse will

be closed.

 - Thursday, November 28, 2019 (Thanksgiving Day)

 Liquor stores and the DABC administrative office and warehouse will

be closed.

APPOINTMENT OF DABC COMPLIANCE AND LICENSING DIRECTOR.

Mr. Nielsen announced that Ms. Oakey-Frost will be leaving the department in January 2020 to join her husband Louisiana. He thanked her for her service and support of the commission and department.

Mr. Nielsen introduced Angela Micklos, the candidate to replace Ms. Oakey-Frost. He gave a quick overview of her background in law and criminal justice.

Ms. Micklos thanked the department and commission for the opportunity. She outlined her background in criminal justice, narcotics enforcement, special victim unit and pardons and parole.

Mr. Bateman moved to approve the appointment of Angela Micklos as DABC Compliance and Licensing Director. Mr. Jacobson seconded the motion which passed unanimously.

ADVISORY BOARD APPOINTMENT:

a. Alcohol Manufacturing Representative.

Mr. Nielsen explained that due to a change in employment a manufacturing representative position on the Alcoholic Beverage Control Advisory Board is vacant. Staff has nominated Rob Sergent from Alpine Distilling.

Mr. Sergent came forward to address the commission. He gave an overview of his background in business and public service.

Mr. Jacobson moved to appoint Rob Sergent from Alpine Distilling as the alcohol manufacturing representative on the Alcoholic Beverage Control Advisory Board. Ms. Smith seconded the motion which passed unanimously.

ADMINISTRATIVE RULES:

Ms. Oakey-Frost explained that over the past few years the administrative rules were reviewed and reorganized. Nina McDermott began the project by checking that the rules complied with statutes and had legislative authority. It was concluded that R81 should be repealed and replaced with R82 so the rules track with 32B. Advisory Board members met several times to review the proposed changes and at their last meeting voted to recommend to the commission that R82 be approved for the rulemaking process.

Ms. Oakey-Frost also noted that the eRules System is being updated and will not be available until after November 4, 2019.

Ms. DiCaro made a motion to approve R82 to go through the rulemaking process no earlier than November 5, 2019. Ms. Orton 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) Boston’s The Gourmet Pizza, and Audra \*SBI (RE)

 Norby (employee).

 (2) ~~Charleston Café, Draper and Peyton~~ *STRIKE*

 (3) Club 90, Sandy. \*SBI (BAR)

 (4) La Jolla Groves, Provo and Robert \*SBI (RE)

 Prina (employee).

 (5) NY Pizza Patrol Draper and Renan \*SBI (RL)

 Feliciano (employee).

 (6) Park City Live, Park City. \*SBI (BAR)

 (7) Quik Pik Market, West Valley City and \*SBI (OP)

 Pritpal Tib (employee).

 (8) Stockman’s Bar & Billiards, Layton. \*SBI (BAR)

Sheila Page asked that the commissioners strike #2 Charleston Café. She noted that the balance of the items on the consent calendar are complete and recommended approval.

Ms. DiCaro moved to strike #2 Charleston Café and approve the remaining items on the consent calendar. Ms. Smith seconded the motion which passed unanimously.

b. Order to Show Cause:

 (1) Button Down, Salt Lake City. (BAR)

Chair Nielsen yielded the meeting to Vice-Chair Jacobson to consider the order to show cause for Button Down.

Mr. Jacobson asked staff for a report as to what lead up to the order to show cause. Stephne Hanson explained each point of the order to show cause including the failure to notify the department of a change in ownership and findings in a recently conducted audit.

Mr. Jacobson asked John Vecchi to come forward and address the commission. Mr. Vecchi, Dusten Heugly, and David Pace came forward. Mr. Vecchi responded to Mr. Jacobson’s questions regarding ownership as listed on the license and renewal applications.

Mr. Jacobson, Ms. Hanson, Mr. Vecchi and Mr. Heugly discussed T & J Jazz Holdings, Inc. stockholders and ownership changes. Ms. Smith noted statute requires the department be notified of ownership changes. Mr. Vecchi disagreed with the interpretation.

Ms. Smith made a motion to deem the bar license for Button Down in Salt Lake City forfeited as of July 24, 2017. Mr. Parrish seconded the motion.

Mr. Vecchi explained that ownership changes did not exceed 20% so his attorney advised him he didn’t need to report the ownership change. Mr. Jacobson, Ms. Hanson, Mr. Vecchi and Mr. Heugly discussed a letter of intent, court proceedings, transaction payments, management agreement and audit findings.

Mr. Jacobson asked if there was discussion on the motion to forfeit the license.

The commissioners asked Ms. Page to address the issue. She clarified that the issue is whether or not there was a transfer of ownership and was it disclosed to the department. Ms. Page and Ms. Hanson outlined the ownership information received by the department noting it has become convoluted as to ownership and who is receiving profits. Mr. Vecchi responded that there are only minor, less than 20%, shareholders. The discussion then moved to shareholders including the Division of Corporation records for Button Down Holdings; Button Down Operating and T & J Jazz Holdings.

Mr. Nielsen noted that the motion on the table is to forfeit the license, not revoke. A forfeiture will allow the appropriate owner of the bar to apply for a new license. If the license is revoked, they would not be able to apply for three years.

Mr. Pace asked for clarification as to how the order to show cause was delivered. Ms. Oakey-Frost outlined the procedure including certified and electronic mailings. Ms. Page asked for clarification on legal representation. Mr. Pace stated he represents Mr. Vecchi, Mr. Heugley represents Button Down Operating and has the power of attorney for T& J Jazz Holdings. Mr. Pace outlined a response to the order to show cause.

Mr. Jacobson stated the motion on the floor is to forfeit the license and called for a vote.

Ms. Smith made a motion to deem the bar license for Button Down in Salt Lake City forfeited as of July 24, 2017. Mr. Parrish seconded the motion which passed unanimously.

Vice-Chair Jacobson yielded the meeting to Chair Nielsen to finish the agenda.

TRANSFER OF LOCATION REQUEST:

a. Biomerics (SC)

 From: 2700 South 900 West, Salt Lake City.

 To: 6030 West Harold Gatty Drive, Salt Lake City.

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

Mr. Jacobson moved to approve a transfer of location for Biomerics in Salt Lake City. Mr. Bateman seconded the motion which passed unanimously.

~~REQUEST FOR EXTENSION OF CONDITIONAL LICENSE~~: *STRIKE*

~~RESORT LICENSEE REQUESTING ADDITIONAL SUBLICENSE~~  *STRIKE*

OFF-PREMISE BEER RETAILER APPLICANTS:

a. Completed Applications. *(list attached)*

b. Conditional Applications. *(list attached)*

Stephne Hanson noted that there are ten applicants that are complete; and seven conditional applicants. Staff recommends approval of both lists.

Mr. Bateman moved to approve the completed and conditional off-premise beer applications. Ms. DiCaro seconded the motion which passed unanimously.

LICENSE RENEWALS:

Stephne Hanson noted that the renewal cycle is for full service restaurant, limited service restaurant, banquet catering, reception center, airport lounge, resort and hotel licenses.

List A contains the renewal applications that are complete and staff recommends approval. List B contains those that did not renew and is for information only.

Mr. Parrish moved to approve the license renewal applications on List A. Ms. Smith seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. License Transfers:

 (1) Punch Bowl, Salt Lake City. (*51% or more transfer)*

 (2) Libor Salt Lake City Beverage, Salt Lake City. *(Conditional) (51% or more transfer)*

Copper Canyon Tavern (BAR)

 Copper Canyon Grill House (RE)

 Radisson Hotel SLC Downtown (BC)

 (3) Star of India, Salt Lake City (RE) *(51% or more transfer)*

(4) Pete’s Bar & Grill, West Haven. *(Conditional)*  *(Full transfer)*

Margaret Hardie gave an overview of the license transfers noting those that are conditional. Staff recommends approval.

Mr. Bateman moved to grant license transfers to #1 Punch Bowl in Salt Lake City and #3 Star of India in Salt Lake City; and conditional license transfers to #2 Libor Salt Lake City Beverage in Salt Lake City and #4 Pete’s Bar & Grill in West Haven. Mr. Jacobson seconded the motion which passed unanimously.

b. Full Service Restaurant Applicants:

 *New Applicants:*

 (1) Sweet Lake Biscuits & Limeade, Draper. *(Conditional)*

 (2) Bona Vita Italian Bistro, Lehi.

 (3) Epic Casual Dining, Midvale. *(Violation History)*

 (4) Roughlock Resort, Monticello.

 (5) Steiny’s Family Sports Grill, Ogden. *(Violation History)*

 (6) Calvario’s Family Restaurant, Parowan.

 (7) Nacho Daddy, Salt Lake City. *(Conditional)*

 (8) Mr Shabu, Salt Lake City. *(Conditional)*

 (9) Pepito Moe’s, Salt Lake City. *(Conditional)*

 (10) Laziz Kitchen, Salt Lake City. *(Conditional)*

 (11) Carson Kitchen, Salt Lake City. *(Conditional)*

 (12) Hallpass, Salt Lake City. *(Conditional)*

 (13) Nohm, Salt Lake City. *(Conditional)*

 (14) Tsunami Restaurant & Sushi Bar, Salt Lake City. *(Conditional)*

 (15) La Trattoria Di Francesco, Salt Lake City. *(Conditional)*

 (16) Gourmandies, The Bakery, Salt Lake City.

 (17) La Puente Restaurant #7, Sandy. *(Conditional)*

 (18) Mint Tapas & Sushi, Sandy.

 (19) Athena Beans Coffee House & Bistro, Sandy.

 (20) Hokkaido Sushi Bar, South Jordan.

 (21) O Crab, West Jordan.

Jason Gunn gave an overview of the applications without a violation history noting those that are conditional and that staff recommends approval. He stated that two applicants, #3 Epic Casual Dining and #5 Steiny’s Family Sports Grill have had violations and will be considered separately.

Mr. Jacobson moved to approve full service restaurant licenses for #2 Bona Vita Italian Bistro in Lehi, #4 Roughlock Resort in Monticello, #6 Calvario’s Family Restaurant in Parowan, #16 Gourmandies in Salt Lake City, #18 Mint Tapas & Sushi in Sandy, #19 Athena Beans Coffee House & Bistro in Sandy, #20 Hokkaido Sushi Bar in South Jordan, and #21 O Crab in West Jordan; and conditional full service restaurant licenses for #1 Sweet Lake Biscuits & Limeade in Draper, #7 Nacho Daddy in Salt Lake City, #8 Mr. Shabu in Salt Lake City, #9 Pepito Moe’s in Salt Lake City, #10 Laziz Kitchen in Salt Lake City, #11 Carson Kitchen in Salt Lake City, #12 Hallpass in Salt Lake City, #13 Nohm in Salt Lake City, #14 Tsunami Restaurant & Sushi Bar in Salt Lake City, #15 La Trattoria Di Francesco in Salt Lake City, and #17 La Puente Restaurant in Sandy. Ms. DiCaro seconded the motion which passed unanimously.

Mr. Gunn explained that #3 Epic Casual Dining has two sell to minor violations under their limited service license. Andrea Dulle from Epic Casual Dining came forward to address the commission. She gave an overview of the actions taken to avoid further violations. Ms. Page recommended that the commission add the provision that if there is another violation the first two limited restaurant violations will be considered making it a third violation.

Mr. Jacobson moved to approve a full service restaurant license for #3 Epic Casual Dining in Midvale subject to the fact that the two prior violations under the limited service license follow this license and that if there is a third violation it will be treated as a third violation. Mr. Bateman seconded the motion which passed unanimously.

Mr. Gunn explained that #5 Steiny’s Family Sports Grill also has a violation history. John and Joey Stein came forward to address the commission. They gave an overview of what is being done to prevent further violations. They also noted they are applying to upgrade one location not all three.

Mr. Bateman moved to approve a full service restaurant license for #5 Steiny’s Family Sports Grill in Ogden. Ms. Smith seconded the motion which passed unanimously.

Mr. Gunn noted that all restaurant licenses granted today will be effective November 1, 2019.

c. Bar Establishment Applicants:

 *Previous Applicants:*

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

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

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

(4) Pins & Ales Restaurant & Brew Pub, West Valley.

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

(6) Trolley Wing Company, Salt Lake City.

 New *Applicant:*

(7) Calavera Cantina, Salt Lake City. *(Conditional)*

Mike Bishop gave an overview of the applications noting projected opening dates and those that are conditional.

Mr. Nielsen noted there is one full license available per population and one from the forfeit. Upon invitation from Mr. Nielsen the previous and new applicants came forward to address the commission.

Mr. Nielsen noted that the commission may want to consider that due to revised population estimates the number of bar licenses available through July 2020 has been reduced. The next available license per population will be in January 2020. The commissioners discussed whether to hold a license for the November meeting. The commissioners also considered license density in the applicant areas.

Mr. Jacobson made a motion to only award one license and keep one in reserve for next month as another license isn’t available until January. Mr. Bateman seconded the motion.

Ms. Smith stated that if the commission has two licenses, that two licenses should be awarded if the applicants are good applicants. Mr. Jacobson expressed concern that if a rural applicant applies next month, a license will not be available.

Ms. DiCaro asked Brad Shepherd from Pins and Ales to come forward and address the violations. Mr. Shepherd and Mr. Bishop clarified that they were older violations and at another location. Tim Ryan from Bout Time Pub and Grub came forward to express concern about the lack of licenses and to explain the need for a license in Lehi.

Mr. Nielsen called for a vote on Mr. Jacobson’s motion to only award one license and keep one in reserve for next month as another license isn’t available until January. Mr. Bateman seconded the motion. Mr. Jacobson, Mr. Nielsen and Mr. Bateman voted yea; Mr. Parrish, Ms. Orton, Ms. DiCaro and Ms. Smith voted nay. The motion failed.

Mr. Jacobson moved to grant a bar establishment license to #1 Bout Time Pub & Grub in Lehi. Ms. Smith seconded the motion. Mr. Parrish, Mr. Bateman, Mr. Nielsen, Mr. Jacobson, Ms. Orton and Ms. Smith voted yea. Ms. DiCaro voted nay. The motion passed.

Ms. Orton moved to grant a bar establishment license to #4 Pins and Ales Restaurant & Brew Pub in West Valley. Ms. DiCaro seconded the motion. Mr. Parrish, Ms. DiCaro, Mr. Bateman, Mr. Nielsen, Ms. Orton and Ms. Smith voted yea. Mr. Jacobson voted nay. The motion passed.

Jackson Knoll from Jackson’s Base Camp asked to address the commission. He stated he didn’t know that they could also apply for a tavern license and asked to be considered. Staff explained that a tavern application is not on today’s agenda so can’t be considered. He may submit a tavern application for consideration at the November meeting.

d. Hotel Applicant:

 *New Applicant:*

 (1) Holiday Inn/Wing Tips Bar & Bistro, Salt Lake City.

Cori Price gave an overview of the application noting staff recommends approval.

Mr. Parrish moved to grant a hotel license to #1 Holiday Inn/Wing Tips Bar & Bistro in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

e. Banquet Catering Applicants:

 *New Applicants:*

(1) Fat Jack’s Burger Emporium, Ogden. *(Conditional)*

 (2) All Star Bowling and Entertainment, West Valley City.

Cori Price gave an overview of the applications noting #1 Fat Jack’s Burger Emporium is conditional. Staff recommends approval.

Mr. Bateman moved to grant a conditional banquet catering license to #1 Fat Jack’s Burger Emporium in Ogden; and a banquet catering license to #2 All Star Bowling and Entertainment in West Valley City. Mr. Jacobson seconded the motion which passed unanimously.

f. Limited Service Restaurant Applicants:

 *New Applicants:*

 (1) Café Trang, Draper.

 (2) Kickin Seafood, Layton.

 (3) Momo’s Japanese Sushi & Ramen, Logan. *(Conditional)*  (4) Stella’s American & Italian Bistro, Ogden. *(Conditional)*

 (5) Fat Jack’s Burger Emporium & Taphouse, Ogden. *(Conditional)*  (6) Lee’s Mongolian BBQ, Ogden.

 (7) Oishi Sushi, Orem. *(Conditional)*

 (8) Pork Bellys Eatery & Catering. St George.

 (9) Don Pedrito Gourmet, Taylorsville.

Miraz Rasoul gave an overview of the applications noting those that are conditional. Staff recommends approval.

Mr. Bateman moved to grant limited service restaurant licenses to #1 Café Trang in Draper, #2 Kickin Seafood in Layton, #6 Lee’s Mongolian BBQ in Ogden, #8 Pork Bellys Eatery & Catering in St. George, and #9 Don Pedrito Gourmet in Taylorsville; and conditional limited service restaurant licenses to #3 Momo’s Japanese Sushi & Ramen in Logan, #4 Stella’s American & Italian Bistro in Ogden, #5 Fat Jack’s Burger Emporium & Taphouse in Ogden, and #7 Oishi Sushi in Orem. Ms. DiCaro seconded the motion which passed unanimously.

g. On-Premise Beer “Tavern” Applicant:

 *New Applicant:*

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

Cori Price gave an overview of the application noting staff recommends approval.

Mr. Jacobson moved to grant a conditional on-premise beer tavern license to #1 Trolley Wing Company in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

OPERATIONS UPDATE:

a. Beer Update.

Cade Meier gave an update on the beer change that is effective this Friday, November 1, 2019. The department is on track to eliminate the skus from the stores. Very little, if any, product will be leftover. The last discounts are being applied.

Mr. Meier reassured the commission that if there is product leftover that can’t be returned to vendors, the department will destroy the product following the proper procedures. Mr. Petilos added that 32B only allows the department to sell liquor. Also the state does not compete with private sector when it comes to 5.0% ABV and below beer.

b. Package Agency Audits.

Jeff Colvin reported that two agencies were audited and found to be in compliance.

FINANCIAL UPDATE:

Man Diep reported that as of the end of September 2019, YTD bottle sales increased 7.81% (982,794 bottles) compared to last year. YTD retail sales are up $8,464,592 (7.59% increase).

COMMENTS FROM COMMISSIONERS AND PUBLIC:

* Steve Conlin from Ogden’s Own Distillery came forward to address the commission regarding licensing and disclosure of ownership. He feels the current application is incongruent with 32B. Staff will work with him to clarify notification requirements. He also outlined their future plans.

There being no further business, the meeting adjourned at 12:05 p.m.

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Chairman