MINUTES OF THE MEETING OF THE UTAH

ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, JANUARY 28, 2020, AT 1625 SOUTH

900 WEST, SALT LAKE CITY, UTAH.

*[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, January 27, 2020.]*

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; Angela Micklos, Compliance and Licensing Director; and Man Diep, Finance Director..

Also Present: Sheila Page, Assistant Attorney General.

PLEDGE OF ALLEGIANCE:

Rob Hansen led the group in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Ms. DiCaro moved to approve the minutes of the Commission Meeting held on December 17, 2019. Mr. Jacobson seconded the motion which passed unanimously.

ANNOUNCEMENTS:

Mr. Nielsen made the following announcements:

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

- Tuesday, February 25, 2020

- Tuesday, March 24, 2020

b. Holiday Closure:

- Monday, February 17, 2020 (Washington and Lincoln Day)

Liquor stores and the DABC administrative office and warehouse

will be closed.

c. License Renewals:

- Friday, January 31, 2020

Deadline for filing all renewal materials and paying fees for the following license types.

- On-Premise Beer Recreational Amenity

- On-Premise Beer Only Restaurants

- On-Premise “Tavern”

- Off-Premise Beer Retailers

INTERNAL AUDIT BUSINESS:

a. Approval of the Internal Audit Charter.

b. Approval of the 2020 Audit Plan.

Cade Meier referenced the Internal Audit Charter and the 2020 Audit Plan that were distributed to the commissioners.

Mr. Bateman moved to approve the Internal Audit Charter and the 2020 Audit Plan. Mr. Jacobson 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) ~~Charleston Café, Draper and Peyton~~ *STRIKE*

(2) Last Chance Store, Payson and Jesse \*SBI (OP)

Isaacson (employee).

(3) Petro Mart I, Ogden and Unique \*SBI (OP)

McKinley (employee).

(4) Applebee’s, Layton and Thomas Powell and \*SBI (RE)

Mark Edes (employees).

(5) Blind Dog Grill Restaurant, Park City and \*SBI (RE)

Steve Goodman (employee).

(6) El Habanero, Magna and Nayeli Cortez- \*SBI (RE)

Mendez (employee).

(7) Hokkaido Sushi Bar, South Jordan and \*SBI (RE)

Alexandria Jensen (employee).

(8) Kohinoor, Orem and Maria Romero \*SBI (RL)

(employee).

(9) La Puente, Taylorsville and Raul Martinez \*SBI (RE)

(employee).

(10) Maverik #531, Logan and Tena Bird \*SBI (OP)

(employee).

(11) Maverik #333, South Jordan and Nicholas \*SBI (OP)

Payne (employee).

(12) Mikado, Bountiful and Jessica Roller \*SBI (RE)

(employee).

(13) Sicilia Mia, Farmington and Sharlie Dimick \*SBI (RE)

(employee).

(14) Smith’s #138, South Jordan and Rylie Smith \*SBI (OP)

(employee).

(15) Thai Garden Bistro, Salt Lake and Atita \*SBI (RL)

Saisopa (employee).

(16) Tokyo Steakhouse & Asian Fusion, Lehi and \*SBI (RL)

Dallin Pinegar (employee).

Ms. Page asked the commissioners to strike #1 Charleston Café and approve #7 Hokkaido Sushi Bar with the order that the fees be paid by Friday, January 31, 2020, at 5:00 p.m. Ms. Page recommended approval of the balance of the items on the consent calendar.

Mr. Jacobson moved to strike #1 Charleston Café; approve #7 Hokkaido Sushi Bar with the order that the fees be paid by Friday, January 31, 2020, at 5:00 p.m.; and to approve the balance of the items on the consent calendar. Mr. Bateman seconded the motion which passed unanimously.

b. Orders to Show Cause:

(1) Oak Wood Fire Kitchen, Draper. (RE)

Jason Gunn explained that the department issued an order to show cause based on the licensee’s failure to notify the department of a transfer in ownership that took place in March 2019. He noted that the license was surrendered earlier this month when the new owners applied for a new license; however, it may be deemed forfeited based on the illegal license transfer. The department recommends the new license be denied pending an investigation by SBI and the City of Draper. Mr. Gunn explained that they started the transfer paperwork but didn’t complete the process. They renewed online under the previous owner’s license. Ms. Page clarified the license surrendered was a paper copy as the license was improperly obtained.

Michael McHenry and Aislinn Grenny from Oak Wood Fire Kitchen came forward to address the commission. Ms. Grenny explained that they worked with the previous owner and were going to apply for a new license but they received a violation. She understood they could work under the old license until they received a new license. Mr. McHenry outlined the acquisition process noting he was surprised to learn that they didn’t have a license.

Mr. Jacobson outlined the timeline of the ownership change, violation, renewal and new application. He noted there are two main problems. One, they continued to operate after the ownership change; and second, they submitted a renewal application using the previous owner. Ms. Smith asked for clarification regarding the former owner’s authority to grant the new owner the use of the license. Ms. Page clarified that the new owners could operate under the former license when they were managing the restaurant as employees. However, when they took ownership, the license needed to be transferred with commission approval.

Mr. Jacobson moved that the commission deem the full service restaurant license of the former owner of Oak Wood Fire Kitchen in Draper ceased to exist as of March 2019. Mr. Bateman seconded the motion which passed unanimously.

In regards to the new application for a full service restaurant, Mr. Jacobson recommended the circumstances regarding the old license, renewal application, and violation be referred for investigation.

Mr. Jacobson moved to refer the Oak Wood Fire Kitchen matter to staff for further investigation and report back at the February meeting. Mr. Bateman seconded the motion which passed unanimously.

(2) ~~Momo’s Japanese Sushi & Ramen, Logan~~. *STRIKE*

DISCUSSION ON DECLARATORY ORDER:

a. ~~Thai Archer, Salt Lake City~~. *STRIKE*

REQUEST FOR CHANGE OF PACKAGE AGENCY TYPE:

a. PA00369, Eden.

Jeff Colvin gave an overview of their request to change from a Type 2 to a Type 3 package agency. He noted they meet all requirements and staff recommends approval.

Mr. Jacobson moved to approve a change from a Type 2 to a Type 3 package agency for PA00369 in Eden. Ms. Orton seconded the motion which passed unanimously.

TRANSFER OF LOCATION REQUEST:

a. Aragosta Restaurant (RL)

From: 575 South 200 East, Ivins.

To: 1386 East 100 South, Suite B & C, St. George.

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

Ms. Smith moved to approve a transfer of location for Aragosta Restaurant to St. George. Ms. DiCaro seconded the motion which passed unanimously.

INDUSTRIAL MANUFACTURING APPLICANTS:

a. Mountain Pure, Orem.

b. Western Nut Company, Salt Lake City.

Abe Kader gave an over view of the applications noting they are complete and staff recommends approval.

Mr. Jacobson made a motion to approve industrial manufacturing licenses for Mountain Pure in Orem and Western Nut Company in Salt Lake City. Mr. Bateman seconded the motion which passed unanimously.

OFF-PREMISE BEER RETAILER APPLICANTS:

a. Completed Applications. *(list attached)*

b. Conditional Applications. *(list attached)*

Rob Hansen gave an overview of both lists noting staff recommends approval. Mr. Hansen also stated for the record that licenses awarded today must be renewed by the end of the month.

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

LICENSE APPLICATIONS:

a. License Transfers:

***Full Transfers****:*

(1) Interform Bar, Sandy. (BAR) *(Conditional)*

(2) MacCool’s, Layton. (RE)

(3) The Back Yard, Heber City. (BAR) *(Conditional)*

Margaret Hardie gave an overview of the license transfer applications noting #1 Interform Bar and #3 The Back Yard are conditional. Staff recommends approval.

Mr. Parrish moved to grant a license transfer to #2 MacCool’s in Layton; and conditional license transfers to #1 Interform Bar in Sandy and #3 The Back Yard in Heber City. Ms. Orton seconded the motion which passed unanimously.

b. Full Service Restaurant Applicants:

*New Applicants:*

(1) Oak Wood Fire Kitchen, Draper.

(2) Localz Bistro, Sandy. *(Conditional)*

(3) Stagecoach Grille, Springdale. *(Conditional)*

Mr. Nielsen noted #1 Oak Wood Fire Kitchen has already been considered. Rob Hansen gave an overview of #2 Localz Bistro and #3 Stagecoach Grille noting they are conditional and staff recommends approval.

Mr. Jacobson moved to approve conditional full service restaurant licenses for #2 Localz Bistro in Sandy and #3 Stagecoach Grille in Springdale. Ms. Orton seconded the motion which passed unanimously.

c. Bar Establishment Applicants:

*Previous Applicants:*

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

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

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

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

*New Applicant:*

(1) Venus Club, Tooele. *(Conditional)*

*Pending Applicants:* (Pending applications more than 90 days from opening)

(1) Garage Grill, Herriman. *(Conditional)*

(2) Fox House, Salt Lake City. *(Conditional)*

(3) Fife Brewing Company, Salt Lake City. *(Conditional)*

Mr. Nielsen noted there is one license available. Ms. Page stated that a license is tied up in litigation and suggested it would be incumbent upon the commission to keep the license available in case it is needed.

Mr. Jacobson moved to hold the current available license indefinitely pending the outcome of litigation. Mr. Bateman seconded the motion which passed unanimously.

Rob and Melissa Trease from new applicant #1 Venus Club in Tooele came forward to address the commission. They explained they are bringing back the family bar and applied for both a tavern and bar license. Since there are no bar licenses available, they will take a tavern license and remain on the list for a bar license.

Dan Oberg added that the tavern application is complete.

Ms. Orton moved to approve a tavern license for The Venus Club in Tooele. Ms. DiCaro seconded the motion which passed unanimously.

Ms. Micklos noted that pending applicant #2 Fox House would like to address the commission regarding a possible proximity issue. Their location is approximately 490 feet from Miss Billie’s Kid Kampus.

Tanner Lenart and Emily Schultz came forward to address the commission. Ms. Lenart explained why they feel Miss Billie’s is not a community location as it is primarily a nursery school. Ms. Schultz gave an overview of their search for a bar focusing on Miss Billie’s being a daycare with only 13 children in a kindergarten program. She added that the children are never dropped off as they need to be checked in upon arrival.

The commissioners, Ms. Lenart, Ms. Page and Ms. Micklos discussed the proximity statute and possible meaning of “primarily”. The commissioners expressed concern about setting a precedent by issuing an advisory opinion. Mr. Nielsen also noted that the legislature may be looking at the definition during the session.

Mr. Jacobson noted that a bar license will not be available until February or March and the legislature may have resolved the issue. Ms. DiCaro added that if the definition of school is not addressed through legislation, staff may want to put it in rule for consistent interpretation as a similar situation occurred last meeting.

Ms. DiCaro moved that the commission make no determination today in regards to Fox House and Miss Billie’s. The matter will be passed to a subsequent meeting. Staff will explore the option of putting community location considerations into administrative rule. Ms. Orton seconded the motion which passed unanimously.

d. Hotel Applicant:

*New Applicant:*

1. ~~Marriott AC Hotel, Park City~~. *STRIKE*

e. On-Premise Reception Center Applicant:

*New Applicant:*

(1) Archibald’s Restaurant, West Jordan.

Dan Oberg gave an overview of the application noting it is complete and staff recommends approval.

Ms. Smith moved to approve a reception center license for #1 Archibald’s Restaurant in West Jordan. Mr. Parrish seconded the motion which passed unanimously.

f. Limited Service Restaurant Applicants:

*Previous Applicants:*

(1) Salina Happy Hours, Salina. *(Conditional)*

(2) Bowman’s Cowboy Kitchen, Cedar City.

*New Applicants:*

(1) Kuna Bistro, Eden.

(2) R & R BBQ, Midvale. *(Conditional)*

(3) Burgers and Barley, Park City. *(Conditional)*

(4) Kao Thai, Salt Lake City.

(5) Root’d Café, Salt Lake City. *(Conditional)*

Jason Gunn gave an overview of the previous and new applications noting those that are conditional. Staff recommends approval.

Mr. Parrish moved to approve limited service restaurant licenses for #2 Bowman’s Cowboy Kitchen in Cedar City, #1 Kuna Bistro in Eden and #4 Kao Thai in Salt Lake City; and conditional limited service restaurant licenses for #1 Salina Happy Hours in Salina, #2 R & R BBQ in Midvale, #3 Burgers and Barley in Park City, and #5 Root’d Café in Salt Lake City. Ms. Smith seconded the motion which passed unanimously.

g. On-Premise Beer Tavern Applicants:

*New Applicants:*

1. Grid City Beer Works, Salt Lake City. *(Conditional)*
2. Duces Wild, South Salt Lake. *(applying for SOB license needs*

*stage approval)*

1. The Venus Club, Tooele. *(Conditional)*

Dan Oberg noted #3 The Venus Club was addressed earlier in the meeting. He gave an overview of #1 Grid City Beer and #2 Duces Wild noting Duces Wild is applying for a SOB license and will need stage approval.

Ms. Smith moved to grant a conditional on-premise beer tavern license to #1 Grid City Beer Works in Salt Lake City; and an on-premise beer tavern license with stage approval to #2 Duces Wild in South Salt Lake. Mr. Bateman seconded the motion which passed unanimously.

h. Package Agency Applicant:

(1) Grid City Beer Works, Salt Lake City.

Jeff Colvin gave an overview of the applications noting staff recommends approval.

Mr. Bateman moved to grant a package agency license to #1 Grid City Beer Works in Salt Lake City. Mr. Jacobson seconded the motion which passed unanimously.

OPERATIONS UPDATE:

a. Listed Items.

b. Package Agency audits.

Jeff Colvin noted three package agency audits were performed and all were found to be in compliance.

FINANCIAL UPDATE:

Man Diep reported that as of the end of December 2019, YTD bottle sales increased 1.89% (489,185 bottles) compared to last year. YTD retail sales are up $12,483,515 (5.22% increase).

COMMENTS FROM COMMISSIONERS AND PUBLIC:

* Mr. Bateman noted the overall operation of the department continues to get more efficient in terms of its ability to deliver dollars to the general fund.

There being no further business, the meeting adjourned at 11:05 a.m.

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Chairman