MINUTES OF THE MEETING OF THE UTAH

 ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, JUNE 30, 2020.

*[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, June 29, 2020.]*

In response to the Governor’s April 10, 2020 Executive Order and for precautionary measures to prevent the spread of COVID-19, an anchor location for public attendance was not available. Public attendance was available by audio; commission and staff participated via audio and GoToMeeting.

Vice-Chairman Tom Jacobson called the meeting to order at 10:04 a.m.

Commissioners Participating: Tom Jacobson, Steve Bateman, Sophia DiCaro, Jacquelyn Orton, and Stanley B. Parrish.

Staff Participating: Salvador Petilos, Director; Cade Meier, Deputy Director; Angela Micklos, Compliance and Licensing Director; and Man Diep, Finance Director.

APPROVAL OF MINUTES:

Ms. DiCaro moved to approve the minutes of the Commission Meeting held on May 26, 2020. Mr. Bateman seconded the motion which passed unanimously.

Mr. Bateman moved to approve the minutes of the Special Commission Meeting held on June 10, 2020. Mr. Parrish seconded the motion which passed unanimously.

ANNOUNCEMENTS:

Mr. Jacobson made the following announcements:

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

 - Tuesday, July 28, 2020

 - Tuesday, August 25, 2020

b. Holiday Closures:

 - Friday, July 3, 2020 (Independence Day)

 DABC administrative office and warehouse will be closed.

Liquor stores will be open.

 - Saturday, July 4, 2020 (Independence Day)

 Liquor stores will be closed.

 - Friday, July 24, 2020 (Pioneer Day)

 Liquor stores and the DABC administrative office and warehouse

will be closed.

PARENTS EMPOWERED UPDATE:

Doug Murakami updated the commission on the activities of the Parents Empowered Campaign. Mr. Murakami noted the PE campaign partnered with North Ogden and Mayor Neal Berube (former Commissioner) to install large murals at their aquatics center. He also gave an overview of the mini grant program and the initial draft of the PE Outcomes Report.

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) One/Ibiza, Salt Lake City. \*SBI (BAR)

 (2) ~~The Brazen Head Saloon, Tooele~~ *STRIKE*

 (3) Hallpass, Salt Lake City. \*SBI (RE)

 (4) O’Shucks Bar & Grill, Park City \*SBI (BAR)

 (5) O’Shucks Bar & Grill, Park City \*SBI (RE)

Chris Johnson asked the commissioners to strike #2 The Brazen Head Saloon and recommended approval of the remaining items on the consent calendar.

Mr. Bateman moved to accept the consent calendar report. Ms. DiCaro seconded the motion which passed unanimously.

b. Hearing:

 (1) Cheers to You, Midvale. (BAR)

Mr. Jacobson asked Jeff Buckner from the Attorney General’s Office to address the commission. Mr. Buckner explained the issues before the commission are whether, by statute, the pre-filing notice is jurisdictional; and whether statute requires the department to give specific notice of the specific violation alleged in the law enforcement report in the pre-filing notice. Mr. Buckner outlined DABC’s objections to the Hearing Officer’s recommended orders.

Rick Golden and Bob Brown from Cheers To You outlined their case regarding lack of due process and why they agree with the Hearing Officer’s recommendations.

Mr. Jacobson expressed concern that the commissioners have not had sufficient time to review the documents provided the previous day and suggested the hearing be continued one month.

The commissioners, Mr. Buckner, Ms. Page, Mr. Golden and Mr. Brown discussed the notice statutes, legal documents, alleged violation, and the subsequent actions taken by the department. Ms. Page clarified the difference between the pre-filing notice and a notice of agency action. Mr. Bateman asked about the licensees’ attitude toward the violation. Mr. Buckner noted over-serving is a very serious violation. A lack of due process will make the violation go away. Mr. Golden noted the licensee has been in business over 20 years and has a good history, He reiterated the need for the department to provide due process.

Mr. Bateman made a motion that the commission retain the authority to review compared to what the hearing officer recommended; but if others disagree and feel like we need to take another month he’ll agree. His pre-disposition is to adjudicate the matter now as the licensee does know the details of the alleged violation, and the commission wants to make sure the violations are properly dealt with.

Mr. Jacobson noted that Mr. Bateman made a motion that the licensee has been afforded due process pursuant to the current statutes and regulations and that the matter should now be dealt with on the merits.

Mr. Golden objected and Mr. Brown outlined his view of the events following the violation. Chris Johnson responded to Mr. Brown’s comments.

Mr. Jacobson noted a motion is on the table and asked if Mr. Bateman agreed with the following reworded motion: That the commission, after review, finds that DABC had jurisdiction; that the respondent was afforded due process in the notice that was provided to him and the agency action that was eventually provided to him; and given the recitation that was heard today, there has not been any demonstration of prejudice or lack of due process to the respondent.

Mr. Bateman agreed with a comment that if the licensee has been apprised of the details of the allegation, notwithstanding his complaints that he just eloquently described regarding timing and the ability to collect information, it seems he would have enough information to defend that allegation in front of the commission. So, Mr. Bateman stated he would stand by the revised motion Mr. Jacobson described. Mr. Parrish seconded the motion.

Ms. DiCaro asked to hear from Ms. Page or Mr. Buckner that from a process perspective the commission in alignment to proceed with the motion. Ms. Page responded that this is new territory. There have been some issues where a motion to dismiss was denied. This is based on jurisdiction. Jurisdiction is an issue that the commission does have to resolve because it can be raised at any time. This is a grave violation. The penalty the department would be seeking would make it so that a formal proceeding would need to go forward as it allows the licensee to have discovery and go through that level of due process. The process would start now if the commission finds that there is jurisdiction.

Mr. Bateman stated that as the violation is grave, the commission has the responsibility to push the issue along.

Mr. Jacobson called for a vote on the motion. The motion passed unanimously.

DISCUSSION OF EVENT PERMIT ADMINISTRATIVE FEE FOR SUBSTANTIAL CHANGE AFTER APPLICATION SUBMISSION.

Ms. Micklos explained that HB399 which passed during the 2020 legislative session updates 32B-9-201 to allow the department to charge an administrative fee if there is a substantial change to an event permit after the application has been submitted. The proposed fee is $125.00. The process for adopting new fees is pursuant to 63J-1-504. The first step is today where the proposed fee is presented for comment at a public hearing and the commission may adjust or affirm the fee. Ultimately the fee will have to be adopted by the legislature.

Ms. Micklos and the commissioners discussed the actions that lead up to this proposal and the common understanding of substantial. The proposed fee is the same as the initial application fee.

Mr. Parrish moved to institute a fee of $125.00 which is non-refundable if there are any substantial changes after an event application has been submitted. Mr. Bateman seconded the motion which passed unanimously.

SINGLE EVENT PERMIT DENIAL APPEAL.

a. Lexy Bowden – Dinosaur Roundup Rodeo.

Anita Knowley gave an overview of the actions taken by the department noting the state’s color-coded risk guidelines for Uintah County changed from yellow to green after the permit was denied.

Lexy Bowden from Dinosaur Roundup Rodeo explained that the change to green on June 18, 2020 allows them to hold the event. In response to concerns expressed by the commission, she gave an overview of the measures that will be taken to follow the state’s health guidelines for the event and in the area where alcohol will be served. The commissioners and Ms. Micklos discussed possible regulations that could be added to ensure public safety. Mr. Petilos clarified the factors he considered leading to his initial decision.

Ms. DiCaro made a motion to grant the single event permit to Dinosaur Roundup Rodeo subject to the applicant following the health guidelines of the local jurisdiction effective during the dates of the event. Mr. Parrish seconded the motion. Mr. Jacobson, Ms. DiCaro, Ms. Orton and Mr. Parrish voted yea; Mr. Bateman voted nay. The motion passed.

UPDATED ADDRESS FOR LICENSEE:

a. 700 Degree Pizza (RE)

From: 3778 Center Park Drive, Suite 130, West Jordan.

To: 3778 West Center View Way, Suite 130, West Jordan.

Rob Hansen explained this is an address correction. Staff recommends approval.

Mr. Bateman moved to approve an address update for 700 Degree Pizza in West Jordan. Ms. Orton seconded the motion which passed unanimously.

INDUSTRIAL MANUFACTURING APPLICANTS:

a. M M Inc., Lindon.

b. Nebo Packaging, Springville.

c. Automated Filling Services, Sandy.

Abe Kader gave an overview of the applications noting staff recommends approval.

Mr. Parrish moved to approve industrial manufacturing special use permits for M M Inc. in Lindon, Nebo Packaging in Springville, and Automated Filling Services in Sandy. Mr. Bateman seconded the motion which passed unanimously.

MANUFACTURE REPRESENTATIVE APPLICANT:

a. Cirque Distilling, Salt Lake City.

Abe Kader gave an overview of the application noting staff recommends approval.

Ms. Orton moved to approve a manufacture representative license for Cirque Distilling in Salt Lake City. Ms. DiCaro seconded the motion which passed unanimously.

MANUFACTURE BREWERY APPLICANT:

a. Templin Family Brewing, Salt Lake City. (Storage Location)

Dan Oberg gave an overview of the application noting it is their second location. Staff recommends approval.

Mr. Bateman moved to approve a manufacture brewery license for Templin Family Brewing in Salt Lake City. Ms. DiCaro seconded the motion which passed unanimously.

OFF-PREMISE BEER RETAILER APPLICANTS:

a. Completed Applications. *(list attached)*

b. Conditional Applications. *(list attached)*

Mike Bishop noted the 7-11 store in Ogden is no longer conditional and gave an overview of both lists noting staff recommends approval.

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

LICENSE RENEWALS:

a. Bar Establishment Licenses.

Chris Johnson gave an overview of the bar establishment license renewals noting staff recommends approval.

Mr. Parrish moved to approve the bar establishment license renewals. Ms. DiCaro seconded the motion which passed unanimously.

b. Package Agency Contract Renewals.

Jeff Colvin gave an overview of the package agency contract renewals noting staff recommends approval.

Ms. Orton moved to approve the package agency contract renewals. Mr. Bateman seconded the motion which passed unanimously.

TRANSFER OF LOCATION REQUEST:

a. Tupelo. (LB)

 From: 508 Main Street, Park City.

 To: 98 South Main Street, Heber.

Jason Gunn gave an overview of the request noting staff recommends approval.

Mr. Bateman moved to approve a transfer of location for Tupelo (LB) to Heber. Ms. Orton seconded the motion which passed unanimously.

REQUESTS FOR EXTENSION OF CONDITIONAL LICENSES:

a. Carson Kitchen, Salt Lake City. (RE)

b. Nacho Daddy, Salt Lake City. (RE)

Miraz Rasoul explained that the conditional licenses are at the same location and under the same building permit. She gave a history of the conditional license extensions and noted they have a building permit and hope to open at the end of July or early August. Staff recommends approval.

Mr. Parrish made a motion to approve 90-day conditional license extensions for Carson Kitchen and Nacho Daddy in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. Bar Establishment Applicants:

 *Previous Applicants***:**

 (1) ~~Jackson’s Base Camp, Park City~~. *STRIKE*

 (2) Calavera Cantina, Salt Lake City.

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

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

 (5) Heber Valley Brewing Company, Heber.

 (6) Stoddard Inn, Morgan.

 (7) Unspoken, Ogden.

 (8) Balcony One, Virgin. *(Conditional)*

 (9) Duces Wild, Salt Lake City. (SOB approval needed)

 (10) Aces High Saloon, Salt Lake City. *(Conditional)*

 (11) The Spoke, Moab. *(Conditional)*

 (12) Park City Brewery, Park City. *(Conditional)*

Margaret Hardie noted there are two full and two summer seasonal licenses available.

The commissioners and Ms. Hardie identified the applicants that are ready to go, those in underserved areas, and those that expressed interest in summer seasonal licenses.

Ms. Orton moved to approve bar establishment licenses for #5 Heber Valley Brewing in Heber and #6 Stoddard Inn in Morgan. Ms. DiCaro seconded the motion which passed unanimously.

Ms. DiCaro moved to grant a summer seasonal bar establishment license with SOB approval for #9 Duces Wild in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

b. Full Service Restaurant Applicants:

 *New Applicants:*

(1) Olive Garden, Bountiful. *(Conditional)*

 (2) La Frontera JBZ, Riverton.

Anita Knowley gave an overview of the applications noting #1 Olive Garden is conditional. Staff recommends approval.

Mr. Bateman moved to approve a full service restaurant license for #2 La Frontera JBZ in Riverton; and a conditional full service restaurant license for #1 Olive Garden in Bountiful. Ms. DiCaro seconded the motion which passed unanimously.

c. Limited Service Restaurant Applicant:

 *New Applicant:*

(1) Café Galleria, Midway.

 (2) Black Pearl Asian Bistro & Sushi Bar, Logan. *(Conditional)*

 (3) Tappo, Salt Lake City.

 (4) Rylu’s Bistro, Santa Clara. *(Conditional)*

Cori Price gave an overview of the applications noting those that are conditional. She also noted that the proximity variance for #1 Cafe Galleria needs to be extended. Staff recommends approval.

Mr. Bateman moved to approve a limited service restaurant license and variance extension for #1 Cafe Galleria in Midway; a limited service restaurant license for #3 Tappo in Salt Lake City; and conditional limited service restaurant licenses for #2 Black Pearl Asian Bistro & Sushi

Bar in Logan and #4 Rylu’s Bistro in Santa Clara. Ms. DiCaro seconded the motion which passed unanimously.

d. Banquet Catering Applicants:

 *New Applicants:*

(1) Centerplate @ Salt Palace, Salt Lake City. *(Conditional)*

(2) Centerplate @ Mountain America Expo Center, Salt Lake City.

Erin Hinkel gave an overview of the applications noting #2 Centerplate @ Mountain America Expo Center is no longer conditional. Staff recommends approval.

Mr. Parrish moved to approve a conditional banquet catering license for #1 Centerplate @ Salt Palace in Salt Lake City; and a banquet catering license to #2 Centerplate @ Mountain America Expo Center in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

e. On-Premise Beer Recreational Amenity Applicants:

 *New Applicants:*

(1) George’s Grill, Bountiful.

 (2) ~~4 Brothers Pizza, Roosevelt~~. *STRIKE*

 (3) Centerplate @ Salt Palace, Salt Lake City. *(Conditional)*

(4) Centerplate @ Mountain America Expo Center, Sandy.

*(Conditional)*

 (5) Links Grill @ Mountain View Golf Course, West Jordan.

Erin Hinkel asked the commissioners to strike #2 4 Brothers Pizza and gave an overview of the applications noting those that are conditional. Staff recommends approval.

Ms. Orton moved to grant on-premise beer recreational amenity licenses to #1 George’s Grill in Bountiful and #5 Links Grill @ Mountain View Golf Course in West Jordan; and conditional on-premise beer recreational amenity licenses to #2 Centerplate @ Salt Palace in Salt Lake City and #3 Centerplate @ Mountain America Expo Center in Sandy. Ms. DiCaro seconded the motion which passed unanimously.

f. On-Premise Beer Only Restaurant Applicant:

 *New Applicant:*

(1) Michoacan Los Parientis, West Valley City. *(Conditional)*

Erin Hinkel gave an overview of the application noting it is conditional and staff recommends approval.

Mr. Parrish moved to grant a conditional on-premise beer only restaurant license to #1 Michoacan Los Parientis, West Valley City. Ms. DiCaro seconded the motion which passed unanimously.

g. Package Agency Applicant:

 *New Applicant:*

(1) Chanela Farms, St. George. (Type 5)

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

Ms. Orton moved to grant a Type 5 package agency license to #1 Chanela Farms in St. George. Ms. DiCaro seconded the motion which passed unanimously.

OPERATIONS UPDATE:

Mr. Meier announced that per an executive order from the Governor, all employees and patrons in DABC stores, warehouses and offices are required to wear face masks. He added that patrons may be asked to quickly remove their face masks to verify identification. Mr. Meier also thanked employees and patrons for their patience as DABC continues to make adjustments in order to follow the health guidelines.

FINANCIAL UPDATE:

Man Diep reported that as of the end of May 2020, YTD bottle sales decreased 6.33% (3,021,256 bottles) compared to last year. The decrease is due to the change in beer laws. YTD retail sales increased $17,883,882 (4.04% increase).

Mr. Petilos outlined the reasons bottle sales are down including the change in beer laws, earthquake and the pandemic.

COMMENTS FROM COMMISSIONERS AND PUBLIC:

None.

There being no further business, the meeting adjourned at 12:14 p.m.

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Chairman