MINUTES OF THE MEETING OF THE UTAH

 ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, OCTOBER 27, 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, October 26, 2020.]*

Chairman John T. Nielsen called the meeting to order at 10:00 a.m. and read his written determination (attached) as to why the meeting was held electronically without an anchor location.

Commissioners Participating: John T. Nielsen, 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.

Also Participating: Sheila Page, Assistant Attorney General.

APPROVAL OF MINUTES:

Mr. Jacobson moved to approve the minutes of the Special Commission Meeting held on September 22, 2020 and the Commission Meeting held on September 29, 2020. Mr. Bateman seconded the motion which passed unanimously.

ANNOUNCEMENTS:

Mr. Nielsen made the following announcements:

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

 - Tuesday, November 24, 2020

 - Tuesday, December 22, 2020

b. Public Comments:

 - Those wishing to comment on this meeting may email hotline@utah.gov.

 Comments will be addressed at the end of the meeting.

c. Holiday Closures:

 - Wednesday, November 11, 2020 (Veteran’s Day)

Liquor stores and the DABC administrative office and warehouse will

be closed.

 - Thursday, November 26, 2020 (Thanksgiving Day)

Liquor stores and the DABC administrative office and warehouse will

be closed.

PARENTS EMPOWERED UPDATE:

Doug Murakami announced the new media campaign has started. It will include television, radio, and social media. The theme is “Parents! The #1 Reason Kids Don’t Drink.” He noted that the media buys have been scaled back due to political campaign ads, but will return to normal soon. The annual report was presented to Utah Substance Abuse Advisory Council and approved last week.

Mr. Murakami also thanked DABC management and the commission for their support in asking the Business and Labor Appropriations Committee to restore funding to the Parents Empowered Campaign.

Mr. Jacobson thanked Mr. Murakami for his work especially during this stressful time when kids spend more time at home. It is important to prevent kids from misusing alcohol.

ADMINISTRATIVE RULES:

* R82-1-103 General Provisions.
* R82-1-208 Percentage Lease Agreements.
* R82-2-303 Non-Consignment Inventory.
* R82-1-304 Background Checks for Resort Licensees.
* R82-5-101 General Retail License Provisions – Definitions.
* R82-5-102 Licensing, Ownership, and Transfer of License.
* R82-5-104 Liquor Dispensing Systems.
* R82-5-107 Identification.
* R82-6-602 On Premise Banquet – Reporting Requirement for Banquet Licensees.
* R82-6-1005 Hospitality Amenity Licensee Records and Notice.
* R82-7-102 Off-Premise Beer Retailer State License and Master Off-Premise Beer Retailer License.

Ms. Micklos explained that the proposed administrative rules had been through the rulemaking process. No public comments were received. The commission may amend or adopt and set an effective date. Staff recommends an effective date of October 27, 2020 which would be today.

Mr. Bateman made a motion to adopt the administrative rules and set the effective date of the rules for today, October 27, 2020. 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) 7-Eleven #33981A, Centerville and \*SBI (OP)

 Sabrina Morgan (employee).

 (2) Maverik #145, Centerville and Lejune \*SBI (OP)

 Lane (employee).

 (3) Kickin Seafood, Layton. \*SBI (RL)

Sheila Page noted all items are complete and recommended approval of the consent calendar.

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

SCIENTIFIC PERMIT APPLICATION:

a. Soft Cell Laboratory, St. George.

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

Mr. Jacobson moved to approve a scientific special use permit for Soft Cell Laboratory in St. George. Mr. Parrish seconded the motion which passed unanimously.

INDUSTRIAL MANUFACTURING APPLICANT:

a. Red Mesa Science & Refining, St. George.

Abe Kader gave an overview of the industrial manufacturing special use permit application noting staff recommends approval.

Mr. Jacobson moved to approve an industrial manufacturing special use permit for Red Mesa Science & Refining in St. George. Ms. DiCaro seconded the motion which passed unanimously.

MANUFACTURE REPRESENTATIVE APPLICANT:

a. Southern Glazers Wine & Spirits, Sandy.

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

Mr. Jacobson moved to approve a manufacture representative license for Southern Glazers Wine & Spirits in Sandy. Ms. Orton seconded the motion which passed unanimously.

MANUFACTURE DISTILLERY APPLICANT:

a. Eight Settlers, Salt Lake City.

Dan Oberg gave an overview of the application noting staff recommends approval.

Ms. DiCaro moved to approve a manufacture distillery license for Eight Settlers in Salt Lake City. Mr. Jacobson seconded the motion which passed unanimously.

OFF-PREMISE BEER RETAILER APPLICANTS:

a. Completed Applications. *(list attached)*

b. Conditional Applications. *(list attached)*

Stephne Hanson asked the commissioners to strike #6 The Corner Store Pub & Grill from the list of completed applications. She gave an overview of the remaining items on the lists and recommended approval.

Mr. Bateman moved to strike #6 The Corner Store Pub & Grill from the list of completed applications and approve the balance of the completed and conditional off-premise beer retailer applications as contained on the lists. Mr. Parrish seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. License Transfer Applications:

 **Full License Transfer Application:**

(1) Murphy’s Bar & Grill, DBA: Murphy’s Bar & Grill; to: Boomerang

 Entertainment DBA Murphy’s Bar & Grill, Salt Lake City.

 *(Conditional)* (BAR)

**51% Ownership change Applications:**

(1) A & H 25th LLC DBA Pepito’s Philly Cheese Steak, Ogden

 *(Conditional)* (RL)

 (2) CTRC LLC DBA: Ridge Market & Café, Draper (RE)

 **Off Premise Beer transfer Application:**

(1) Vaca Inc DBA 3 Amigos Market, St George, To: Shivaan LLC

 DBA 3 Amigos Market, St George. (OP)

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

Ms. Orton moved to approve a conditional full license transfer for #1 Murphy’s Bar & Grill in Salt Lake City; a conditional 51% ownership transfer for #1 Pepito’s Philly Cheese Steak in Ogden and a 51% ownership transfer for #2 Ridge Market & Cafe in Draper; and an off premise beer license transfer for #1 3 Amigos Market in St. George. Ms. DiCaro seconded the motion which passed unanimously.

b. Bar Establishment Applicants:

 *Previous Applicants***:**

 (1) Calavera Cantina, Salt Lake City. (Summer

 seasonal requesting full bar license).

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

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

 (4) Unspoken, Ogden.
 (5) Aces High Saloon, Salt Lake City.

 (6) Duces Wild, Salt Lake City. (SOB approval needed) *(Summer*

 *seasonal requesting full bar license)*

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

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

 (9) Rye, Salt Lake City. *(violation history)*

 *New Applicant:*

(1) Hive 435 Taphouse, St. George. *(Conditional)*

Mr. Nielsen noted one license is available today. Mike Bishop identified the applicants that are ready to open and those that will not be ready to go until 2021.

Mr. Jacobson moved to grant a bar establishment license with SOB approval to #6 Duces Wild in Salt Lake City. Ms. Orton seconded the motion.

Mr. Jacobson explained his motion by giving an overview of the subcommittee’s in-depth discussion of the applicants. The commissioners that are not on the subcommittee expressed appreciation as it is a difficult decision for the commission each month. Mr. Jacobson also thanked Mike Bishop for his help in the analysis.

Mr. Nielsen called for a vote. The motion passed unanimously.

c. Full Service Restaurant Applicants:

 *Previous Applicant:*

 (1) Niccoli’s, Salt Lake City. *(Conditional)*

 *New Applicants:*

 (1) Nino Viejo, Farmington. *(Conditional)*

 (2) Ramblin Roads Restaurant, Ogden.

 (3) Blue Katz Rock N Roll, St George. *(Conditional)*

 (4) Café Feellove, St George. *(Conditional)*

(5) Bartolo’s, Salt Lake City. *(Conditional)*

 (6) Five Alls, Salt Lake City. *(Conditional)*

 (7) Cotton Bottom Inn, Salt Lake City. *(Conditional)*

 (8) Eight Settlers, Salt Lake City. *(Conditional)*

 (9) El Gallo Loco, Sandy. *(Conditional)*

 (10) ~~Ovation Sienna Hills (RE), Washington~~. *STRIKE*

 (11) ~~Ovation Sienna Hills, Washington~~. *STRIKE*

Cori Price asked the commissioners to strike #10 and #11 Ovation Sienna Hills. She gave an overview of the remaining applications noting all are conditional except #2 Ramblin Roads. Staff recommends approval.

Mr. Bateman moved to approve a full service restaurant license for #2 Ramblin Roads Restaurant in Ogden; and conditional full service restaurant licenses for #1 Nino Viejo in Farmington, #3 Blue Katz Rock N Roll in St. George, #4 Cafe Feellove in St. George, #5 Bartolo’s in Salt Lake City, #6 Five Alls in Salt Lake City, #7 Cotton Bottom Inn in Salt Lake City, #8 Eight Settlers in Salt Lake City, and #9 El Gallo Loco in Sandy. Mr. Jacobson seconded the motion which passed unanimously.

d. Limited Service Restaurant Applicant:

 *New Applicant:*

 (1) Slapfish, Farmington.

 (2) ~~Copper Rock Golf Course, Hurricane~~. *STRIKE*

 (3) Slapfish, Lehi.

 (4) Mystique Dining, Midvale.

 (5) Captain’s Boil, Taylorsville. *(Conditional)*

 (6) Lemon Grass Thai Fusion Restaurant, Vernal.

 (7) Kobe Sushi, West Jordan.

Nicole Tarleton asked the commissioners to strike #2 Copper Rock Golf Course and gave an overview of the remaining applications noting #5 Captain’s Boil is conditional. Staff recommends approval.

Mr. Jacobson moved to approve a conditional limited service restaurant license for #5 Captain’s Boil in Taylorsville; and limited service restaurant licenses for #1 Slapfish in Farmington, #3 Slapfish in Lehi, #4 Mystique Dining in Midvale, #6 Lemon Grass Thai Fusion Restaurant in Vernal, and #7 Kobe Sushi in West Jordan. Ms. Orton seconded the motion which passed unanimously.

e. Hotel Applicant:

 *New Applicant:*

 (1) Black Rock Mountain Resort, Heber City. (BC, RE, BAR)

 *(Conditional)*

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

At the request of Mr. Bateman, Mr. Jacobson gave an overview of a recent site visit. He noted the business concept is novel as it involves a condo complex. The developer is retaining some units to use as a hotel. The facility includes a restaurant, bar, room service and banquet catering. From the user’s view, a hotel license is the appropriate license.

Ms. DiCaro moved to approve a hotel license for #1 Black Rock Mountain Resort in Heber. Mr. Jacobson seconded the motion which passed unanimously.

f. Reception Center Applicant:

 *New Applicant:*

 (1) HD Event Center, Salt Lake City.

Anita Knowley gave an overview of the application noting it is complete and staff recommends approval.

Mr. Jacobson moved to approve a reception center license for #1 HD Event Center in Salt Lake City. Mr. Parrish seconded the motion which passed unanimously.

g. Restaurant “Beer Only” Applicants:

 *New Applicants:*

(1) Burgers & Barley, Lehi. *(Conditional)*

 (2) La Gringa Taqueria, Mt Pleasant.

 (3) El Gallo Loco, West Valley City.

Anita Knowley gave an overview of the applications noting #1 Burgers & Barley is conditional. Staff recommends approval.

Ms. DiCaro moved to approve beer only restaurant licenses for #2 La Gringa Taqueria in Mt. Pleasant and #3 El Gallo Loco in West Valley City; and a conditional beer only restaurant license for #1 Burgers & Barley in Lehi. Mr. Parrish seconded the motion which passed unanimously.

h. Package Agency Applicants:

 *New Applicants:*

(1) Type 1 – Corner Store Pub & Grill, Park City.

 (2) Type 5 – Eight Settlers, Salt Lake City.

 (3) Type 5 – Desert Edge Brewery at the Pub, Salt Lake City.

Jeff Colvin gave an overview of the applications noting staff recommends approval. Mr. Jacobson disclosed that he is well acquainted with the owner of #1 Corner Store Pub & Grill but has no financial connections.

Mr. Bateman moved to approve a Type 1 package agency license for #1 Corner Store Pub & Grill in Park City; and Type 5 package agency licenses for #2 Eight Settlers in Salt Lake City and #3 Desert Edge Brewery at the Pub in Salt Lake City. Mr. Jacobson seconded the motion which passed unanimously.

OPERATIONS UPDATE:

Mr. Meier announced about 12 stores will again be open until 10:00 p.m. The balance of the 10:00 p.m. stores will be moved back as staffing allows. Mr. Meier also announced the Foothill store will be moved to the temporary location around November 16, 2020. The new Saratoga Springs store is scheduled to open mid-November.

Mr. Petilos announced that in response to the ongoing pandemic the department will be extending the outdoor dining approval through January 1, 2021. He also noted the Vernal store closed for a week due to a COVID exposure. They are working with the health department to get it reopened.

He also reminded the commission of the special meeting tomorrow to review the changes to the Moab 4 X 4 event.

FINANCIAL UPDATE:

Man Diep reported that as of the end of September 2020, YTD bottle sales decreased 26.38% (3,580,206 bottles) compared to last year. The decrease is due to the change in beer laws and the number of sales days compared year-over-year – 75 last year versus 72 this year. YTD retail sales decreased $6,299,163 (5.25% decrease).

Mr. Petilos added that based on recent data, licensee sales are still only about 60% of last year. Last year DABC was growing at around a 7% rate. After November 1, 2020 it will be easier to compare year over year as the beer law will have been in effective for a year. Finally, the pandemic has resulted in shorter store hours and industry wide supply and distribution shortages.

Mr. Bateman, Mr. Parrish and Ms. DiCaro updated the full commission on the Operations Subcommittee meeting. They congratulated staff on their efforts to navigate the shipping and supply shortages due to the pandemic, California fires, and staffing shortages. Mr. Bateman expressed concern that sales of heavier beer are no longer being tracked making it hard to analyze consumption.

Mr. Bateman also thanked DABC management on their excellent work with package agent licensees. Their efforts have improved the integrity and efficiency of the distribution system.

COMMENTS FROM COMMISSIONERS AND PUBLIC:

* Mr. Nielsen noted the Senate committee hearing for Juliette Tennert, the commissioner nominated by Governor Herbert to replace Amanda Smith, will be held tomorrow.

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

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Chairman