MINUTES OF THE MEETING OF THE UTAH

 ALCOHOLIC BEVERAGE CONTROL COMMISSION

HELD TUESDAY, MARCH 29, 2022.

*[A copy of the final agenda was posted on the bulletin board at the DABC Administrative Office, emailed to the Salt Lake Tribune and Deseret News, and posted on the Utah Public Notice Website by 10:00 a.m. on Monday March 28, 2022.]*

Chairman Thomas N. Jacobson called the meeting to order at 10:00 a.m.

Commissioners Present: Thomas N. Jacobson, Juliette Tennert, Jacquelyn Orton, Stanley B. Parrish, Tara Thue, Jennifer Tarazon, and Natalie Randall.

Staff Present: Tiffany Clason, Executive Director; Cade Meier, Deputy Director; Angela Micklos, Compliance and Licensing Director; and Sean Williford, Finance Director.

Also Present: Jeff Buckner, Assistant Attorney General.

PLEDGE OF ALLEGIANCE:

Anita Knowley led the group in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Ms. Orton moved to approve the minutes of the Special Commission Meeting held February 18, 2022 and the Commission Meeting held February 22, 2022. Ms. Thue seconded the motion which passed unanimously.

ANNOUNCEMENTS:

Mr. Jacobson made the following announcements:

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

 - Tuesday, April 26, 2022

 - Tuesday, May 24, 2022

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.

STATE AUDITOR PROPOSED AUDIT PLAN FOR FISCAL YEAR 2022:

State Auditor John Dougall came forward to address the commission. Mr. Dougall introduced his staff including Bertha Lui and Taylor Komarek and outlined the audit plan they will follow in 2022 to meet the statutory requirements in 32B-2-302.

Ms. Tennert moved to adopt the State Auditor Proposed Audit Plan for Fiscal Year 2022. Mr. Parrish seconded the motion which passed unanimously.

FINANCIAL UPDATE:

Mr. Williford provided an update on the February 2022 financials. He noted that sales for the month were $46.5 million, a 13.9% increase over the previous year. Sales YTD are $369 million. The YTD return to the General Fund is currently $83.8 million, an increase of $7.9 million over the previous year. In total, including sales tax and deposits to funds such as public safety and Parents Empowered, the department will return $151 million to state and local entities.

PARENTS EMPOWERED UPDATE:

Doug Murakami noted April is National Alcohol Awareness month and outlined the alcohol education events being held. He reported that in 2020, there were 99,000 alcohol related deaths in the nation. Mr. Murakami also gave an overview of the recent PE survey results.

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 requests 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) J & J Shutters, Salt Lake City \*SBI (SE)

 (2) ~~Kickin Seafood, Layton~~ *STRIKE*

 (3) ~~Quality Quik Stop, Tooele~~ *STRIKE*

 (4) Triple Stop Freeport, Clearfield and \*SBI (OP)

 Chance Frady (employee).

 (5) The Filling Station, Magna. \*SBI (BAR)

 (6) R & R BBQ, Midvale and Amber Kirk \*SBI (RL)

 (employee).

 (7) Ninja Ramen Bar, Tooele and Dakota \*SBI (RL)

 Moore (employee)

Mr. Buckner asked the commissioners to strike #2 Kickin Seafood and #3 Quality Quik Stop. He noted the remaining items on the consent calendar are complete and ready for action by the commission. Mr. Buckner noted that #2 Kickin Seafood feels the violation fine and fees have been paid but has been unable to meet to resolve the issue. A representative from Kickin Seafood was not in attendance to address the commission.

The commissioners, staff and Mr. Buckner discussed options for enforcement when licensees do not follow up on settlement agreements. They also discussed options to provide language services if needed.

Ms. Thue moved to strike #2 Kickin Seafood and #3 Quality Quik Stop and approve the remaining items on the consent calendar. Ms. Orton seconded the motion which passed unanimously.

TRANSFER OF LOCATION REQUEST:

a. Tejedas Market: (OP)

 From: 1179 South Navajo Street, Salt Lake City.

 To: 1824 West 3500 South #107, West Valley City.

Nicole Tarelton gave an overview of the request to move from Salt Lake City to West Valley City.

Ms. Thue moved to grant a transfer of location for Tejedas Market from Salt Lake City to West Valley City. Ms. Orton seconded the motion which passed unanimously.

EXTENDED CLOSURE REQUESTS:

a. Below Zero, Salt Lake City. (BAR)

Nicole Tarelton explained that they were awarded a license transfer August 31, 2021 and the statutory deadline to open is March 31, 2022. They will be unable to complete construction and open by the deadline so will be giving up the license. Ms. Tarelton confirmed receipt of a text and email from the licensee explaining their intention. (Dan Scarlet later joined the meeting and confirmed they will be giving up the license and reapplying for another location). Ms. Micklos noted that since they have confirmed they will be unable to open by the deadline, the commission may deem the license forfeited per 32B-8a-203.

Mr. Parrish moved to deem the Below Zero bar license forfeited as they will not meet the opening requirements per 32B-8a-203. Ms. Thue seconded the motion which passed unanimously.

b. Lespri Prime Steak & Spirits, Park City. (LR)

Nicole Tarelton gave an overview of the request for an extended closure until the June 2022 meeting.

Ms. Thue moved to approve an extended closure for Lespri Prime Steak & Spirits in Park City until the June 2022 commission meeting. Ms. Orton seconded the motion which passed unanimously.

c. Under Canvas, Kanab. (RE)

Abe Kader gave an overview of the request for an extended closure until April 2022.

Ms. Tarazon moved to approve an extended closure for Under Canvas in Kanab until the April 2022 commission meeting. Mr. Parrish seconded the motion which passed unanimously.

d. Circle Inn Pizzeria, Clearfield. (BAR)

Bonnie Bills gave an overview of the request for an extended closure until April 2022. Erin Stone, attorney representing the intended purchaser, explained that the potential buyer will be submitting a license transfer application by April 10, 2022.

Ms. Orton moved to approve an extended closure for Circle Inn Pizzeria in Clearfield until the April 2022 commission meeting. Ms. Thue seconded the motion which passed unanimously.

e. The Green Room, Salt Lake City. (BAR)

Anita Knowley gave an overview of the request for an extended closure until the June commission meeting.

Ms. Orton moved to approve an extended closure request for The Green Room in Salt Lake City until the June 2022 commission meeting. Ms. Tarazon seconded the motion which passed unanimously.

f. Triple Peaks, Ogden. (BAR)

Jeff Colvin gave an overview of the request for an extended closure. He explained they received the transferred license on September 28, 2021 and must be open by April 28, 2022. The building was damaged by fire and they will most likely not meet the deadline and relinquish the license.

Mark Apuna and Kevin Pettit from Triple Peaks came forward to address the commission. Mr. Apuna explained that due to fire damage, they most likely will not meet the seven month deadline and will relinquish their license. Mr. Apuna, the commissioners, and staff discussed possible options for a partial opening to meet the deadline.

Ms. Randall moved to approve an extended closure request for Triple Peaks in Ogden until the April 2022 commission meeting. Ms. Tarazon seconded the motion which passed unanimously.

EDUCATIONAL PERMIT APPLICANT:

a. Salt Lake Culinary Education, Salt Lake City.

Dan Oberg gave an overview of the educational permit application.

Ms. Orton moved to approve an educational permit for Salt Lake Culinary Education in Salt Lake City. Mr. Parrish seconded the motion which passed unanimously.

OFF-PREMISE BEER RETAILER APPLICANTS:

 *New Applicants:*

(1) Maverik #683, Lehi. *(Conditional)*

 (2) ~~Los Primos Market, Logan~~. *STRIKE*

Stephne Hanson noted #1 Maverik #683 in Lehi is conditional and asked the commissioners to strike #2 Los Primos Market.

Ms. Orton moved to approve a conditional off-premise beer retailer license for #1 Maverik #683 in Lehi. Ms. Tarazon seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. License Transfer Applications:

 **Full Transfers:**

(1) ~~The Royal Bar, Murray. DBA: The Break Sports Grill~~ *STRIKE*

(2) ~~Sheraton Salt Lake City Hotel, SLC DBA: Sheraton~~ *STRIKE*

(3) Hamachi, Murray. DBA: Hamachi Grill & Sushi Bar, Salt Lake City.

*(Conditional)*

(4) The Bears Den, Magna. DBA: Duce’s Wild, Magna. *(Conditional)*

*(requesting SOB license). (projected opening April 16, 2022).*

(5) Wing Nutz, Draper, DBA: Wing Nutz.

(6) One-O-Eight Kitchen, SLC. DBA: Emigration Café, Salt Lake City. *(Conditional)*

Margaret Hardie asked the commissioners to strike #1 The Break Sports Grill and #2 Sheraton Salt Lake and gave an overview of the remaining full license transfers noting those that are conditional. She also noted #4 The Bears Den is requesting stage approval for a SOB license and that the transfer be effective April 20, 2022.

Ms. Orton moved to grant a full license transfer to #5 Wing Nutz in Draper; and conditional full license transfers to #3 Hamachi Grill & Sushi Bar in Salt Lake City, #4 Duce’s Wild in Magna effective April 20, 2022 along with SOB stage approval; and #6 Emigration Café in Salt Lake City. Ms. Thue seconded the motion which passed unanimously.

 **51% Ownership Change of Entity:**

(1) The Sun Trapp, Salt Lake City. (BAR)

 (2) The Sand Trap, Ogden. (BAR)

 (3) Vertigo, Salt Lake City. (BAR)

 (4) The Complex, Salt Lake City. (BE)

 (5) Ruben’s Cocina Mexicana, Brigham City. (RB)

 (6) Oasis Café, Salt Lake City. (RE)

 (7) Brigham City Winger’s, Brigham City. (RE)

 (8) Palace Bar, Salt Lake City. (BAR)

Margaret Hardie gave an overview of the 51% ownership change of entity applications.

Ms. Tarazon moved to approve 51% ownership change of entity transfers for #1 The Sun Trapp in Salt Lake City, #2 The Sand Trap in Ogden, #3 Vertigo in Salt Lake City, #4 The Complex in Salt Lake City, #5 Ruben’s Cocina Mexicana in Brigham City, #6 Oasis Café in Salt Lake City, #7 Brigham City Winger’s in Brigham City, and #8 Palace Bar in Salt Lake City. Ms. Thue seconded the motion which passed unanimously.

  **Off-Premise Beer Transfers:**

(1) 7-Eleven Store #25946C, Sandy. *(Conditional)*

(2) Stockton General Store, Stockton.

 (3) Fast Stop 1122, Bear Lake. *(Conditional)*

Margaret Hardie gave an overview of the off-premise beer license transfer applications noting #1 7-Eleven Store #25946C is conditional and should be effective April 26, 2022 and #3 Fast Stop 1122 is conditional and should be effective April 1, 2022.

Ms. Orton moved to approve an off-premise beer license transfer for #2 Stockton General Store in Stockton; a conditional off-premise beer license transfer effective April 26, 2022 for #1 7-Eleven Store #25946C in Sandy; and a conditional off-premise beer license transfer effective April 1, 2022 for #3 Fast Stop 1122 in Bear Lake. Ms. Thue seconded the motion which passed unanimously.

b. Bar Establishment Applicants:

 *Ready to Operate:*

(1) Fenice Mediterranean Bistro, Salt Lake City. *(will surrender full*

 *restaurant license) (violation pending)*

 (2) Wasatch Loft & Tap Room Bar, Park City. *(winter seasonal)*

 *(requesting full year license) (violation history)*

(3) Saddlebag Saloon, Eden. *(currently has a Tavern license, will*

 *surrender if approved)*

 (4) Roha Brewing Project, Salt Lake City.

(5)Trolley Wing Co. (Trolley Car), Salt Lake City.

 (6) Shades Tap Room, Salt Lake City. *(Conditional) (currently has a*

*tavern license, will surrender if approved)*

 (7) Durango Bar, Salt Lake City.  *(currently has a tavern license,*

 *will surrender tavern license if approved).*

 *Projected Future Opening:*

 (1) Quarters Sugar House, Salt Lake City. *(Conditional)* *(projected*

 *opening April 2022)*

(2) Franklin Ave Cocktail & Kitchen, Salt Lake City.

*(Conditional) (projected opening April 2022).*

 (3) Paxton Pub, Salt Lake City. *(Conditional) (projected opening April*

*2022)*

 (4) The Spoke, Moab. *(Conditional) (projected opening June 2022)*

(5) Edison House, Salt Lake City. *(Conditional)* (*projected opening*

 *August 2022)*

(6) Proper Brewing Moab Taphouse, Moab. *(Conditional)* *(projected*

 *opening August 2022)*

(7) Marquis, Park City. *(Conditional) (projected opening July 2022).*

(8) Bout Time Pub & Grub, Bluffdale. *(Conditional)* *(projected opening*

*October 2022)*

 (9) Bout Time Pub & Grub, Saratoga Springs. *(Conditional) (projected*

 *opening October 2022)*

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

 *opening September 2022).*

Craig Warr noted one full bar establishment license is available by quota and one from today’s forfeiture. He gave an overview of the applications ready to open and those projected to open in April.

Mr. Jacobson invited the applicants operating or ready to open in April to address the commission. Representatives from Wasatch Loft, Saddlebag Saloon, Roha Brewing, Trolley Wing, Shades Tap Room, Durango Bar, Quarters Sugar House, Franklin Ave Cocktail & Kitchen, and Paxton Pub came forward and gave an overview of their business plans and readiness to open.

Ms. Thue gave an overview of the compliance subcommittee discussion. She noted that after reviewing the factors before the commission, the subcommittee recommended Saddlebag Saloon followed by Trolley Wing.

Ms. Thue moved to grant a bar establishment license to #3 Saddlebag Saloon in Eden. Ms. Orton seconded the motion which passed unanimously.

Ms. Thue moved to grant a bar establishment license to #5 Trolley Wing Co. in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

Mr. Jacobson noted that due to a legislative change, 9.5 bar establishment licenses will become available in June. He added that the commission is inviting public input as to how the 9.5 licenses should be distributed. Comments can be made at the next meeting or submitted in writing.

c. Full Service Restaurant Applicants:

 *New Applicants:*
(1) La Puente Mexican Restaurant, American Fork.

 (2) Casa Tequilana, Leeds.

 (3) The Crack Shack, Lehi. *(Conditional) (projected opening 4/21/22)*

(4) Via 313 Pizzeria, Lehi. *(Conditional) (projected opening 4/21/22)*

(5) Cheddar’s Scratch Kitchen, Ogden. *(Conditional) (projected opening*

 *11/17/22)*

 (6) El Mexsal Mexican & Salvadorian Food, Provo. *(Conditional)*

 (7) Sushinaloa, Provo.

 (8) Pizza Volta, Salt Lake City. *(Conditional)*

(9) De Los Muertos Sugarhouse, Salt Lake City. *(Conditional)*

(10) Katrina’s Mexican Restaurant & Cantina, Salt Lake City.

 (11) ~~Chili’s Grill & Bar, Saratoga Springs~~. *STRIKE*

Nicole Tarleton asked the commissioners to strike #11 Chili’s Grill & Bar and gave an overview of the other applications noting those that are conditional.

Ms. Thue moved to approve full service restaurant licenses for #1 La Puente Mexican Restaurant in American Fork, #2 Casa Tequilana in Leeds, #7 Sushinaloa in Provo, and #10 Katrina’s Mexican Restaurant & Cantina in Salt Lake City; and conditional full service restaurant licenses for #3 The Crack Shack in Lehi, #4 Via 313 Pizzeria in Lehi, #5 Cheddar’s Scratch Kitchen in Ogden, #6 El Mexsal Mexican & Salvadorian Food in Provo, #8 Pizza Volta in Salt Lake City, and #9 De Los Muertos Sugarhouse in Salt Lake City.  Ms. Orton seconded the motion which passed unanimously.

d. Limited Service Restaurant Applications:

 *New Applicants:*

 (1) ~~Dirty Bird Fried Chxx, Riverton~~. *STRIKE*

 (2) The Juan Café, Mexican Hat. *(Conditional)*

 (3) Stellar Wings #1, South Salt Lake.

Mike Bishop asked the commissioners to strike #1 Dirty Bird Fried Chxx. He gave an overview of the balance of the applications noting #2 The Juan Café is conditional.

Mr. Parrish moved to approve a limited service restaurant licenses for #3 Stellar Wings in South Salt Lake; and a conditional limited service restaurant license for #2 The Juan Café in Mexican Hat. Ms. Tarazon seconded the motion which passed unanimously.

e. Reception Center Applicant:

 *New Applicant:*

 (1) Siempre, Draper. *(Conditional)*

Bonnie Bills gave an overview of the application noting it is conditional.

Ms. Thue moved to approve a reception center license for #1 Siempre in Draper. Ms. Orton seconded the motion which passed unanimously.

f. Beer Only Restaurant Applicant:

 *New Applicant:*

 (1) Jarochos Restaurant, Layton. *(Conditional)*

Cori Price gave an overview of the application noting it is conditional.

Ms. Orton moved to approve a conditional beer only restaurant license for #1 Jarochos Restaurant in Layton. Ms. Randall seconded the motion which passed unanimously.

OPERATIONS UPDATE:

a. Department Update:

Ms. Clason thanked the commission for approving the plan from the State Auditor’s office. She also provided an update on the business cases funded during the recent legislative session. The department received a historical level of funding that will improve department operations internally and externally.

Mr. Meier identified the department’s top three priorities including the new compliance infrastructure, click and collect, and the special order and wine subscription programs.

Ms. Clason continued by outlining the changes resulting from SB167 including the name change to Department of Alcoholic Beverage Services, a change in hotel licensing that will provide 9.5 additional bar establishment licenses, and the new definition of beer.

COMMENTS FROM COMMISSIONERS AND PUBLIC:

a. Dan Scarlet from Below Zero joined the meeting and outlined the efforts made to open the bar by the statutory deadline. He added that they will be applying for a license at a new location.

b. Alexandria Ortiz came forward and expressed concern about the limits of the click and collect program noting patrons prefer delivery. She also expressed support for public health issues other than the Parents Empowered program such as drug use and obesity.

TYPE 2 & 3 PACKAGE AGENCY APPLICATION PROCESS.

Mr. Jacobson stated, “The commission is currently in the process of reviewing applications for Type 2 and Type 3 package agencies for a new contract period that will begin on July 1, 2022. §32B-2-603 lists a number of duties that the commission must fulfill before awarding package agency contracts. This statute also requires the department to conduct an investigation to gather information to assure appropriate service to the general population of the state and to forward such information and recommendations to the commission for its consideration. Because the department is currently involved in litigation with 13 existing package agents, most of whom are also applying for new package agency contracts, the commission needs to consult with legal counsel regarding certain details of this process mandated by §32B-2-603. This consultation needs to occur in a closed executive session. I will entertain a motion that we move, pursuant to §52-4-205(1)(c), into closed session to consult with our legal counsel regarding this pending litigation.”

CLOSED EXECUTIVE SESSION.

Ms. Orton made a motion that the commission move, pursuant to §52-4-205(1)(c), into closed session to consult with legal counsel regarding pending litigation. Ms. Thue seconded the motion. Mr. Jacobson, Ms. Tennert, Ms. Orton, Mr. Parrish, Ms. Thue, Ms. Tarazon and Ms. Randall voted aye. The motion passed. *[11:55 a.m.]*

Ms. Tennert made a motion to open the meeting. Ms. Thue seconded the motion which passed unanimously. *[1:12 p.m.]*

Mr. Jacobson stated, “After consultation with legal counsel, there is no specific action to be taken today. The currently-scheduled special commission meeting on April 4, 2022 will be a public hearing where the commission will meet with each person who has applied for a new Type 2 or Type 3 package agency contract that will begin on July 1, 2022 in order to fulfill the commission’s statutory obligations pursuant to §32B-2-603. The commission’s decision and action regarding new Type 2 and Type 3 package agency contracts will occur at its regularly scheduled meeting on April 26, 2022.”

There being no further business, Ms. Randall moved to adjourn the meeting. Ms. Thue seconded the motion which passed unanimously. The meeting adjourned at 1:15 p.m.