MINUTES OF THE MEETING OF THE UTAH

 ALCOHOLIC BEVERAGE SERVICES COMMISSION

HELD TUESDAY, JULY 26, 2022.

*[A copy of the final agenda was posted on the bulletin board at the DABS 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 July 25, 2022.]*

Commissioner Tara Thue called the meeting to order at 10:00 a.m. and conducted the meeting on behalf of Chair Tennert who participated virtually. Ms. Thue congratulated Ms. Tennert on her appointment as Chair of the commission.

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

Commissioner Participating Virtually: Juliette Tennert.

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

PLEDGE OF ALLEGIANCE:

Jeff Colvin led the group in the Pledge of Allegiance.

COMMISSION BUSINESS:

Ms. Tennert noted Governor Cox appointed her as Chair for the next year. She explained that the commission is tasked with appointing a Vice-Chair.

Ms. Tennert moved to appoint Ms. Thue as Vice-Chair of the Alcoholic Beverage Services Commission. Ms. Orton seconded the motion which passed unanimously.

APPROVAL OF MINUTES:

Ms. Tarazon moved to approve the minutes of the Commission Meeting held June 28, 2022. Ms. Orton seconded the motion which passed unanimously.

ANNOUNCEMENTS:

Ms. Thue made the following announcements:

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

 - Tuesday, August 30, 2022

 - Tuesday, September 27, 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.

UTAH STATE AUDITOR REPORT:

Utah State Auditor, John Dougall, came forward to address the commission. Mr. Dougall noted his office is tasked with performing annual audits in accordance with state statute. He introduced Audit Director, Bertha Lui.

Ms. Lui gave an overview of the findings and recommendations outlined in Report No. 22-01 Agreed-Upon Procedures For the Year Ended June 30, 2022.

Ms. Clason thanked Mr. Dougall and Ms. Lui for their thorough review and professionalism. She also provided an overview of the actions taken by the department in response to the findings and recommendations.

FINANCIAL UPDATE:

Mr. Williford provided an update on the June 2022 financials. In June, sales totaled $47 million, increasing YTD sales to $556.2 million, a $38.8 million (7.5%) increase over the previous year. He added that using 2018 as the base year where sales revenue totaled $453.7 million, the compound annual growth rate (CAGR) in retail sales revenue over the last five years equals 5.22%.

Mr. Williford noted the fiscal year is still being closed but preliminary numbers show a general fund transfer of $128 million which is $5 million over the previous year. YTD the department has transferred a combined $60.5 million to the various programs such as school lunch and public safety enforcement; $1.75 million for the underage drinking prevention program; and $2.8 million for the Parents Empowered campaign.

PARENTS EMPOWERED UPDATE:

Doug Murakami provided an update on the Parents Empowered (PE) campaign. He showed a news clip from a community event in northern Utah where vehicles were wrapped in PE messaging. He also noted the new television spots will be shot next week and available next month.

APPOINTMENT OF THE GENERAL WAREHOUSE MANAGER:

Mr. Parrish noted the department received 32 applications and selected seven candidates to interview. The department is recommending the appointment of Dustin Thompson as General Warehouse Manager.

Mr. Parrish moved to approve the appointment of Dustin Thompson as General Warehouse Manager. Mr. Jacobson seconded the motion which passed unanimously.

PROPOSED ADMINISTRATIVE RULES:

Ms. Thue noted several of the proposed rules are a result of recent legislation and some are to clean up verbiage. She also noted that the commissioners were able to review the proposed rules prior to the meeting.

Ms. Micklos gave an overview of each proposed administrative rule. Ms. Thue called for public comment after each rule was introduced.

a. R82-1-102 Definitions (Controlled Group of Manufacturers)

b. R82-1-208 Percentage Lease Agreements

c. R82-2-107 Background Checks

d. R82-2-202.1 Late License Renewals

Tanner Strickland Lenart came forward to make a public comment supporting the rule change.

e. R82-2-306 Operational Matters (Type 5 PA Sales)

f. R82-2-308 Consignment Inventory Package Agencies

g. R82-2-309 50 ml Spirituous Liquor/187 ml Wine Sales

h. R82-5-102 Licensing, Change of Ownership, & Change of Location

i. R82-5-202 Retail License Renewals

j. R82-6-701 On-Premise Beer Retailer - Commission Approved Activity

Tanner Strickland Lenart came forward to comment in support of the rule change and asked that the approved list be further extended to include recreational activities such as museums.

Sean McCoy from Immersive Game Box came forward to explain his business model and the control measures they take regarding alcohol consumption. He expressed concern that their business may not be considered an approved activity. Ms. Lenart also stated they were under the impression his business model may not be considered an approved activity.

Mr. Jacobson noted the rule can’t enumerate all activities and referenced the verbiage allowing the commission to approve similar activities. Ms. Tennert clarified the intent of having the Immersive Game Box presentation was to see if this particular type of business would be approved under the new rule as currently written. She may have a motion to consider an amendment to the language. Ms. Micklos reiterated that there is language in the proposed rule dealing activities not specifically listed. Ms. Lenart suggested the language be altered to include any other activity the commission deems recreational and not dangerous. Ms. Clason outlined the benefits of having a premise licensed as a beer rec versus obtaining temporary permits.

k. R82-9-201 Application Requirements (Event Permits)

l. R82-9-201.1 Guidelines for Issuing Permits

Ms. Thue thanked the DABS staff for their work and called for a motion to send the rules through the rulemaking process.

Ms. Orton moved to approve the proposed administrative rules, items a. through l. and send them through the rulemaking process.

Ms. Tennert made an amended motion to add the language “any other activity that the commission deems recreational” to R82-6-701; and to send the proposed administrative rules through the rulemaking process. Ms. Orton seconded the amended 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 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) 7-Eleven Store # 36335A, Nephi and Trinity (SBI) (OP)

 Hammond (employee).

(2) Red Tacos, Orem and Johan Sotelo (employee) (SBI) (RB)

(3) Chilly’s Chevron/Arby’s, Nephi and Tyree (SBI) (OP)

 Coombs (employee).

(4) Hyatt Place SLC Airport, Salt Lake City and (SBI) (RE)

 Jessica Jones (employee).

(5) The Juan Café, Mexican Hat and Gabrielle Black (SBI) (RL)

 (employee).

(6) Chettinad House, Salt Lake City and Selvaraj (SBI) (RE)

 Sellamuthu (employee).

(7) Cottonwood Steakhouse, Bluff and Sandra (SBI) (RL)

 Dee (employee).

(8) Chevron Eagles Nest, Duchesne and Connie (SBI) (OP)

 May (employee).

(9) ~~World Famous Woody's Tavern, Moab~~. *STRIKE*

 (10) The Sushi Restaurant, Draper and Sarangerel (SBI) (RL)

 Ulambayar (employee).

 (11) ~~Valles Inc, Mexican Hat and Jess Neff (employee)~~. *STRIKE*

Erin Hinkel asked the commissioners to strike #11 Valles Inc and noted that the remaining items on the consent calendar are complete and ready for action by the commission.

Ms. Orton moved to strike #11 Valles Inc and approve the remaining items on the consent calendar. Ms. Randall seconded the motion.

Mr. Parrish asked for clarification on the violation for #9 World Famous Woody’s Tavern. Ms. Hinkel explained that the violation was consumption of alcohol on duty. Mr. Parrish expressed concern due to the nature of the violation and the precedent. He recommended that the item be sent back to staff for review and considered at the next commission meeting. Ms. Orton asked why the employee wasn’t listed as they are in other violations. Ms. Hinkel noted the employee wasn’t cited as it’s an administrative action. Ms. Tennert, Ms. Tarazon, and Mr. Jacobson also asked for further information on the employee’s actions that led to the violation. Ms. Micklos clarified staff’s interpretation (based on input from the AG’s office) that the business was open, and the person was performing work duties.

Patrick Shea, representing Woody’s Tavern, addressed the commission. Mr. Shea expressed concern regarding the SBI investigation into the incident. He maintained that the employee was off duty.

Mr. Parrish moved to strike #9 World Famous Woody’s Tavern to investigate further. Ms. Tennert seconded the motion which passed unanimously.

Mr. Jacobson moved to strike #9 World Famous Woody’s Tavern and #11 Valles Inc and approve the remaining items on the consent calendar. Ms. Orton seconded the motion which passed unanimously.

EXTENDED CLOSURE REQUESTS:

a. Ozora Izakaya Bar, Salt Lake City. (RE)

Rob Hansen gave an overview of the request for an extended closure until August 2022.

b. The Break Sports Grill, Murray. (BAR)

Nicole Tarleton gave an overview of the request for an extended closure until August 2022

c. Kolob Market Place, Virgin. (Summer Seasonal RE)

Rob Hansen gave an overview of the request for an extended closure until the May 2023.

d. Reef’s Cuisine, Park City. (RL)

Mike Bishop gave an overview of the request for an extended closure until September 2022.

Ms. Orton moved to approve extended closures for Ozora Izakaya Bar in Salt Lake City until August commission meeting, The Break Sports Grill in Murray until the August commission meeting, Kolob Market Place in Virgin until May 2023, and Reef’s Cuisine in Park City until the September commission meeting. Ms. Randall seconded the motion which passed unanimously.

PUBLIC SERVICE PERMIT APPLICANT:

a. ~~Allegiant Air, Provo~~. *STRIKE*

OFF-PREMISE BEER RETAILER APPLICANTS:

 *New Applicants:*

(1) Maverik #694, Nephi.

 (2) Holiday Oil #72, Roy. *(Conditional)*

Stephne Hanson gave an overview of the applications.

Mr. Parrish moved to approve an off-premise beer retailer license for #1 Maverik #694 in Nephi; and a conditional off-premise beer retailer license for #2 Holiday Oil #72 in Roy. Mr. Jacobson seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. Change of Ownership License Applications:

 **51% Change of Ownership of an Existing Entity:**

(1) Niccoli’s on 3rd , LLC, Salt Lake City. DBA Salt & Olive, Salt Lake

City.

  **Off-Premise Beer:**

(1) Junction Gas Station, LLC., Junction DBA: Piute Junction Pit Stop,

Junction.

 (2) RAJ K Inc, Midvale DBA: Super 1 Smoke Shop, Midvale.

Erin Hinkel gave an overview of the change of ownership applications noting those that are conditional.

Mr. Jacobson moved to approve a 51% existing entity ownership change for #1 Salt & Olive in Salt Lake City; and off-premise beer ownership changes for #1 Piute Junction Pit Stop in Junction, and #2 Super I Smoke Shop in Midvale. Mr. Parrish seconded the motion which passed unanimously.

b. Bar Establishment Applicants:

 *Ready to operate:*

 (1) Durango Bar, Salt Lake City.  *(currently have a tavern license;*

 *will surrender tavern license if approved).*

(2) ~~High West Distillery, Park City~~. *STRIKE* (3) Verse, Salt Lake City. *(Conditional) (projected opening September*

*2022)*

 (4) The Coop by Roosters, Layton. *(Conditional)* *(projected opening*

 *August 2022)*

 *Projected Future Opening:*

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

 *September 2022)*

 (2) Marquis, Park City. *(Conditional) (projected opening November*

 *2022).*

 (3) Bout Time Pub & Grub, Bluffdale. *(Conditional)* *(projected opening October 2022)*

(4) Aker Restaurant, Salt Lake City. *(Conditional) (projected opening*

 *December 2022)*

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

*opening February 2023)*

 (6) Proper Brewing Moab Taphouse, Moab. *(Conditional)* *(projected opening September 2022) (violation pending)*

Ms. Thue noted the compliance subcommittee met and are asking for a few status updates from applicants. Representatives from Durango Bar, Verse, The Coop by Roosters, and Edison House came forward and gave an overview of their business plans and readiness to open.

After discussion, it was concluded that the applicants have outstanding items to address and are not ready to open immediately.

Mr. Jacobson made a motion to hold the bar establishment licenses until the August meeting. Mr. Parrish seconded the motion which passed unanimously.

c. Full Service Restaurant Applicants:

 *New Applicants:*

(1) Mazatlan, Hurricane. *(Conditional)*

(2) ~~Sandbar Lounge, Moab~~. *STRIKE*

 (3) Communal, Provo. *(Conditional)*

 (4) Via 313, Riverton. *(Conditional)*

(5) Italian Graffiti, Salt Lake City. *(Conditional)*

 (6) Marias Mexican Grill, South Jordan. *(Conditional)*

 (7) Terraza 90 Café, West Jordan. *(Conditional)*

Craig Warr asked the commissioners to strike #2 Sandbar Lounge and gave an overview of the balance of the applications noting all are conditional.

Ms. Orton moved to approve conditional full service restaurant licenses for #1 Mazatlan in Hurricane, #3 Communal in Provo, #4 Via 313 in Riverton, #5 Italian Graffiti in Salt Lake City, #6 Marias Mexican Grill in South Jordan and #7 Terraza 90 Café in West Jordan. Ms. Tarazon seconded the motion which passed unanimously.

d. Limited Service Restaurant Applications:

 *New Applicants:*

(1) Pretty Bird, Midvale. *(Conditional)*

(2) Asahi Sushi Bar & Restaurant, Orem.

 (3) Rusty Crab Daddy, St George. *(Conditional)*

 (4) Tamarind, Salt Lake City. *(Conditional)*

 (5) Square Kitchen, Salt Lake City. *(Conditional)*

 (6) Yumz Vegan Bakery, Salt Lake City. *(Conditional)*

 (7) Querubin and The Taco Lady, Salt Lake City. *(Conditional)*

 (8) Mozz, Salt Lake City. *(Conditional)*

 (9) Deadpan Sandwich, Salt Lake City. *(Conditional)*

 (10) 3 Cups, Salt Lake City. *(Conditional)*

(11) Red 88 Asian Bistro, South Jordan. *(Conditional)*

Bonnie Bills gave an overview of the applications noting those that are conditional.

Mr. Jacobson moved to approve conditional limited service restaurant licenses for #1 Pretty Bird in Midvale, #3 Rusty Crab Daddy in St. George, #4 Tamarind in Salt Lake City, #5 Square Kitchen in Salt Lake City, #6 Yumz Vegan Bakery in Salt Lake City, #7 Querubin and The Taco Lady in Salt Lake City, #8 Mozz in Salt Lake City, #9 Deadpan Sandwich in Salt Lake City, #10 3 Cups in Salt Lake City, and #11 Red 88 Asian Bistro in South Jordan; and a limited service restaurant license to #2 Asahi Sushi Bar & Restaurant in Orem. Ms. Orton seconded the motion which passed unanimously.

e. On-Premise Beer Recreational Applicants:

 *New Applicants:*

1. Soundwell, Salt Lake City. *(Conditional)*

(2) Soldier Hollow Nordic Center, Midway. *(Conditional)*

Dan Oberg gave an overview of the applications noting both are conditional.

Mr. Oberg outlined several concerns staff members have with the Soundwell application such as a visible bar and lack of culinary facilities. Ms. Clason and the commissioners added their operational and shared premise concerns. Brian Boreson from Soundwell addressed the commission. He outlined their business model and the control measures they use to limit alcohol sales. He also addressed questions and concerns from the commissioners regarding the beer recreational and the temporary permit applications.

Mr. Jacobson moved to table the application from #1 Soundwell in Salt Lake City until the August commission meeting. Ms. Orton seconded the motion which passed unanimously.

Mr. Jacobson moved to grant a conditional on-premise beer recreational license to #2 Soldier Hollow Nordic Center in Midway. Mr. Parrish seconded the motion which passed unanimously.

f. On-Premise “Tavern” Applicant:

 *Previous Applicant:*

 (1) ~~Verse, Salt Lake City~~. *STRIKE*

i. Package Agency Applicant:

 (1) Scion Cider, Salt Lake City. (Type 5)

Jeff Colvin gave an overview of the application.

Mr. Parrish moved to approve a Type 5 package agency license for #1 Scion Cider in Salt Lake City. Ms. Randall seconded the motion which passed unanimously.

TEMPORARY BEER PERMIT:

a. Soundwell, Salt Lake City.

Ms. Clason gave a quick overview of temporary beer and single event permits explaining what each permit allows and the process the department follows to approve or deny the applications.

Ms. Clason outlined her concerns regarding the temporary beer permit applications received from Soundwell for their August concert series. One concern was that the applicant wants to allow minors to attend with limited alcohol control measures. There is also concern the permits are not being used in the way statute intended.

Brian Boreson addressed the commission to respond to questions and concerns regarding the event permits.

The commissioners, Ms. Clason, staff, and Mr. Boreson discussed the use of temporary permits, the number of entities used to apply for the permits, and the measures used to control underage drinking. They also discussed the application submission date and possible penalties if alcohol is unavailable at the advertised events.

Mr. Jacobson made a motion to allow the Executive Director, at her discretion, to grant the applications that include events during the month of August – up to the next commission meeting – with the caveat that the events are only available to 21 and over. Ms. Orton seconded the motion. Ms. Tennert, Ms. Orton, Mr. Jacobson, Ms. Randall, Ms. Tarazon and Mr. Parrish voted yea. Ms. Thue voted nay. The motion passed.

OPERATIONS UPDATE:

Mr. Meier provided an update on the new stores coming online over the next few years. Stores are being developed or relocated in East Sandy, Foothill, Salt Lake City Downtown, Sugarhouse, St. George, and Park City.

COMMENTS FROM COMMISSIONERS AND PUBLIC:

a. Matthew Ostrander from Ibantik Craft Beverages addressed the commission regarding the case handling fee referenced in the State Auditor’s report. Mr. Ostrander noted that currently the case handling fee is added prior to the statutory markup of 88%. He asked that consideration be given to add the case handling fee after the markup is calculated.

There being no further business, the meeting adjourned at 12:50 p.m.