MINUTES OF THE MEETING OF THE UTAH

 ALCOHOLIC BEVERAGE SERVICES COMMISSION

HELD TUESDAY, OCTOBER 25, 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, October 24, 2022.]*

Chair Juliette Tennert called the meeting to order at 10:00 a.m.

Commissioners Present: Juliette Tennert, Tara Thue, Jacquelyn Orton, Thomas N. Jacobson, and Jennifer Tarazon.

Commissioners Participating Virtually: Natalie Randall and Stan Parrish.

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

Staff Participating Virtually: Angela Micklos, Compliance and Licensing Director.

Also Present: Jeff Buckner, Assistant Attorney General and Scott Higley, Assistant Attorney General.

PLEDGE OF ALLEGIANCE:

Steve Lucero led the group in the Pledge of Allegiance.

APPROVAL OF MINUTES:

Ms. Orton moved to approve the minutes of the Commission Meeting held September 27, 2022. Ms. Thue seconded the motion which passed unanimously.

ANNOUNCEMENTS:

Ms. Tennert made the following announcements:

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

 - Tuesday, November 29, 2022

 - Tuesday, December 20, 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.

d. Holiday Closures:

 - Friday, November 11, 2022 (Veterans Day)

 - Thursday, November 24, 2022 (Thanksgiving)

 Liquor stores and the DABS administrative office and warehouse will be closed.

FINANCIAL UPDATE:

Mr. Williford provided an update on the September 2022 financials. In September, sales totaled $51.4 million, a $2.2 million (4.5%) increase over the prior year. The YTD general fund contribution is projected to be $32.9 million.

Mr. Williford also stated that the liquor profit transfer for last year (FY22) was completed this week and totaled $134 million which is 8.8% higher than the prior year.

PARENTS EMPOWERED UPDATE:

Tiffany Clason stated Doug Murakami along with other DABS staff members are attending a NABCA conference in Pittsburgh. She provided an update on the Parents Empowered (PE) campaign. Ms. Clason announced that a mural has been created at the Park City club store entitled, “Whatever Your Child’s Journey, Go Together.” The mural was funded through a NABCA grant and created in partnership with Encircle, the Park City Arts Council and Communities that Care. A link to the video announcement will be shared with the commissioners.

Ms. Clason also noted that the annual report will be presented to the USAAV council on October 27, 2022.

VIOLATIONS:

*\*Referral Sources – State Bureau of Investigation (SBI), Salt Lake Police Department (SLPD), North Salt Lake Police Department (NSLPD), Layton Police Department (LPD), Unified Police Department (UPD), Clearfield Police Department (CPD)*

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.]*

(1) Porky’s Carnitas, Salt Lake City and Mario \*SBI (RE)

 Tafoya (employee).

(2) Red 8 Asian Bistro and Sushi, Spanish Fork \*SBI (RL)

 And Xiaohan Yu (employee).

(3) Hive 435 Taphouse, St George and Vince \*SBI (BAR)

 Schiller and Caitlyn Connelly (employees).

(4) La Casa Del Tamal, Salt Lake City and Juan \*SBI (RB)

 Villalobos (employee).

(5) Mountain Mike’s Pizza, Orem and Danielle \*SBI (RL)

 Strong (employee).

Erin Hinkel noted the items on the consent calendar are complete and ready for action by the commission.

Ms. Orton made a motion to approve the items on the consent calendar. Ms. Thue seconded the motion which passed unanimously.

b. Violation Consideration:

(1) VFW #3586, Salt Lake City and Jason \*SBI (BAR)

 Pellum (employee).

Jason Pellum and John Wattson from VFW came forward to address the commission and explain their assertion of entrapment by SBI. Mr. Jacobson provided an overview of the covert underage buyer (CUB) program conducted by SBI. He explained that the minors use their actual drivers licenses, do not use disguises, and answer questions truthfully. He noted the program does not meet the legal standard of entrapment. He also referenced the number of licensees that successfully passed their CUB inspections. Mr. Jacobson outlined the actions of the minors and server as noted in the SBI report.

Mr. Jacobson made a motion to approve the settlement agreement for VFW #3586 in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

LICENSEE RECOGNITIONS: PASSED UTAH PUBLIC SAFETY SBI COVERT (CUB) INSPECTIONS.

Ms. Clason reported that since the September meeting, 32 licensees passed the SBI inspections. She congratulated those that passed and thanked them for following the alcohol safety laws.

VIOLATION GRID DISCUSSION.

Ms. Tennert explained that the commission is beginning to look at the violation and penalty schedule.

Mr. Jacobson will lead the project and provided an update. He explained that the review will look at local community expectations; as well as how other states handle violations and their scope of penalties. The commission will be looking for input from the licensee community.

EVENT PERMIT APPROVALS.

Ms. Clason gave an overview of the event permit approval process. She noted that the number of permit applications is up considerably from the last non-covid year. She encouraged those applying for the permits to get their applications submitted early, 30 days prior to the event, for the department to have enough time to process and identify potential issues.

Ms. Clason noted that there are several applications that need to be expedited for events this weekend. Fortunately, the commission meeting was already scheduled, and the events were added to the agenda.

Ms. Clason listed the events she preliminarily approved including their dates, location, and the preventative measures they are taking to prevent underage drinking or overconsumption.

Single Event Permits

Photo Collective Studios – “Clubhouse Halloween” 10/28 – 10/29

Mountain West Cider Company – “Guadalupe Boofest Halloween Festival” 10/29

Sugar Space – “LGBTQ Safe Space Music and Dance Events 2” 10/28 – 10/29

Utah Arts Alliance – “Ciderpunk Halloween/Art Night” 10/31

Park City Summit County Arts Council –“Create PC Give PC Arts & Culture Hour” 11/4–11/5

Photo Collective Studios – “Arts Weekend at Clubhouse” 11/4 – 11/6

Temporary Beer Permits

Vestar Gateway – “Yoga and Beer November” 11/2, 11/9, 11/16, 11/23 and 11/30

Summit and Wasatch County Amateur Hockey Association – “High Mountain Shootout 2022” 11/3 – 11/5

Mr. Jacobson moved to approve the event permits as listed. Ms. Orton seconded the motion which passed unanimously.

EXTENDED CLOSURE REQUESTS:

a. Wahso, Park City. (RE)

b. Grappa, Park City. (RE)

Mike Bishop gave an overview of the requests from Wahso and Grappa noting they are related. The group is requesting additional time for Wahso to complete a remodeling project. Additional time is needed for Grappa due to a kitchen fire.

Mike Brown from the restaurant group came forward to address the commission. He explained that the fire at Grappa took some of the resources from Wahso so both projects need additional time. Mr. Jacobson asked if both restaurants will be ready to open in December. Mr. Brown noted that Wahso will be ready, but Grappa may need additional time.

Mr. Jacobson moved to approve extended closures for Wahso in Park City until the December 2022 commission meeting, and for Grappa in Park City until the February 2023 commission meeting. Ms. Orton seconded the motion which passed unanimously.

c. Sandtrap, Ogden. (BAR)

Margaret Hardie explained that Sandtrap had a kitchen fire in July. Staff granted a closure that expires today. Ms. Hardie noted that she has had problems communicating with the licensee during the closure. Ms. Olson finally responded last Friday noting she is trying to find a location. Ms. Hardie explained that she would not get an extension if she didn’t have a premise. Ms. Hardie also noted that the landlord claims they are in civil litigation and Ms. Olson hasn’t been on the premise. A compliance specialist visited the site and found it boarded up.

Ms. Tennert asked staff to clarify if the commission can grant an extended closure if the premise does not currently exist and a change of ownership application hasn’t been processed.

Ms. Micklos responded the premise currently licensed is completely boarded up and no business being transacted at that location. Per statute, Ms. Micklos believes the license must be deemed forfeited because there is no existing premise to grant an extension. Mr. Jacobson noted there is a structure. Ms. Micklos responded that the landlord boarded up the premise and has been prohibiting access.

Rayna Olson from Sandtrap came forward to address the commission. Ms. Olson stated she has a five-year lease and outlined the issues that have developed since the fire in July. She is also looking for other locations.

The commission, staff, and Ms. Olson discussed the statute requirements, events after the fire, communication issues, current premise status, and efforts to find a new location.

Ms. Thue moved to deem the bar establishment license held by Sandtrap in Ogden forfeited. Ms. Orton seconded the motion. Ms. Tennert, Ms. Thue, Ms. Orton, Ms. Tarazon, Ms. Randall and Mr. Parrish voted yea. Mr. Jacobson voted nay. The motion passed.

INDUSTRIAL MANUFACTURING APPLICANT:

1. Modere USA Inc., Springville.

Jeff Colvin gave an overview of the application.

Mr. Parrish made a motion to grant an industrial manufacturing license to Modere USA Inc. in Springville. Ms. Orton seconded the motion which passed unanimously.

OFF-PREMISE BEER RETAILER APPLICANTS:

  *Change of Ownerships:*

(1) Kwik Stop IIII, Ogden.

 *New Applicants:*

 (1) Dick’s Market, Bountiful.

(2) Maverik #706, Castle Dale.
 (3) Kum & Go #2500, Draper. *(Conditional)*

 (4) Kum & Go #2502, Riverton. *(Conditional)*

(5) House of Green, Sandy.

(6)Kum & Go #2501, South Jordan. *(Conditional)*

(7) Maverik #705, Syracuse. *(Conditional)*

Stephne Hanson gave an overview of the new and change of ownership applications.

Mr. Jacobson moved to approve an off-premise beer retailer license ownership change for #1 Kwik Stop IIII in Ogden; off-premise beer retailer licenses for #1 Dick’s Market in Bountiful, #2 Maverik #706 in Castle Dale, and #5 House of Green in Sandy; and conditional off-premise beer retailer licenses for #3 Kum & Go #2500 in Draper, #4 Kum & Go #2502 in Riverton, #6 Kum & Go #2501 in South Jordan, and #7 Maverik #705 in Syracuse. Ms. Thue seconded the motion which passed unanimously.

LICENSE RENEWALS.

Ms. Micklos noted the renewal cycle included airport lounge, hospitality amenity, hotel, licensed as a restaurant, reception center, resorts, banquet catering, limited-service restaurant, and full-service restaurant licenses. Of the 1,330 licenses at issue, all but 20 renewed. The remaining 1,310 are ready for approval.

Mr. Jacobson moved to approve the 1,310 license renewals. Ms. Tarazon seconded the motion which passed unanimously.

LICENSE APPLICATIONS:

a. Change of Ownership License Applications:

 **Full Change of Ownership:**

(1) Derailed LLC DBA Derailed, to: Fans Only, Milford. (BAR)

 (2) Bayleaf LLC DBA Campfire Lounge, SLC to: Acme Bar Co, DBA

Campfire Lounge, SLC. (BAR) *(Conditional)*

 **51% or more restructuring of Entity:**

(1) Bangkok House Too LLC, Moab. (RE)

Margaret Hardie gave an overview of the change of ownership applications noting #2 Campfire Lounge is conditional.

Mr. Jacobson moved to approve a full ownership change for #1 Fans Only in Milford; a conditional full ownership change for #2 Campfire Lounge in Salt Lake City; and a 51% or more restructuring of entity change for #1 Bangkok House Too LLC in Moab. Ms. Thue seconded the motion which passed unanimously.

b. Bar Establishment Applicants:

 *Ready to operate:*

(1) West Side Tavern, Salt Lake City. *(currently have a tavern license; will surrender tavern license if approved).*

 (2) Fisher Brewing Company, Salt Lake City. *(currently have a tavern*

*license; will surrender tavern license if approved).*

 *Projected Future Opening:*

(1) Verse, Salt Lake City. *(Conditional) (projected opening October 24,*

*2022)*

(2) Lit Arcade Bar, Ogden. *(projected opening November 2, 2022*)

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

 *November 9, 2022)*

 (4) Bout Time Pub & Grub, Bluffdale. *(Conditional)* *(projected opening December 30, 2022)*

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

 *opening November 2022) (violation adjudicated August 30, 2022)*

 (6) Marquis, Park City. *(Conditional) (projected opening December*

 *2022).*

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

 *January 2023)*

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

*opening June 2023)*

 (9) Yuki, Salt Lake City. *(Conditional)* *(projected opening July 2023)*

Ms. Tennert noted there are two applicants ready to open and nine projected to open by mid-2023. Of the nine, three applicants are projected to open before the next commission meeting. Mike Bishop provided an overview of the current bar establishment applicants.

Ms. Tennert explained that with the new population numbers two bar licenses are available today, the Sandtrap license adds another, so three bar licenses are available today. She also noted that three additional licenses, or a total of six, will become available through the balance of the fiscal year (June 2023). Ms. Tennert and the commissioners discussed the factors to consider per statute and the need for careful consideration given the scarcity of licenses. Ms. Tennert recommended that rather than grant conditional licenses, the commission set a date for a special commission meeting to consider the three applicants projected to open before the November meeting. The special meeting will allow the bars to be open and operating prior to the Thanksgiving holiday. She also asked staff to assist with event permits where appropriate.

Ms. Orton provided an update from the compliance subcommittee. Ms. Orton visited all three applicants yesterday and found variations in their projected opening dates. She also recommended a special meeting be considered and the use of event permits where appropriate. Ms. Clason outlined the process, including statutory requirements, to obtain event permits.

Mr. Jacobson asked to hear from the three applicants about their readiness to open and if they’ve considered using winter seasonal licenses.

Representatives from Verse, Lit Arcade Bar, and Edison House came forward and gave an overview of their readiness to open. All expressed a preference for a full year license.

Representative from Verse stated that they just passed the fire inspection and should be able to get a business license, purchase product, and be open on Friday. They stated the necessary signatures will be obtained before the end of the meeting.

Ms. Tennert instructed staff to continue with the agenda and consider bar licenses again at the end of the meeting.

c. Full Service Restaurant Applicants:

 *New Applicants:*

(1) Ramblin Roads Restaurant, Ogden.

(2) Cortona Italian Café, Park City. *(Conditional)*

 (3) Homecoming Southern Kitchen & Bar, Salt Lake City. *(Conditional)*

(4) The Break Sports Grill, Salt Lake City. *(Conditional)*

(5) La Frontera Mexican Restaurant #6, Salt Lake City.

 (6) Hearth and Hill, Salt Lake City. *(Conditional)*

(7) Sweet Lake Biscuits & Limeade, Salt Lake City. *(currently have a*

*limited restaurant license; will surrender if approved)*

 (8) Gosu Korean BBQ, Salt Lake City. *(Conditional)*

 (9) Root’d Café, Salt Lake City. *(Conditional) (currently have a*

*limited restaurant license; will surrender if approved)*

 (10) Libertango Steakhouse, Sandy. *(Conditional)*

 (11) Tapa Sushi Japanese Cuisine, Saratoga Springs. *(Conditional)*

 (12) Whiptail Grill, Springdale. *(currently have a limited restaurant*

*license; will surrender if approved)*

Ms. Thue noted that there are 29 full-service restaurant licenses available today. After today, there will only be 17 licenses plus the seven that didn’t renew. She expressed concern that by spring the commission may not have any full service restaurant licenses to grant. The number available has been cut in half in less than a year. Ms. Clason added that legislative members have been briefed and that staff will include projected opening dates on future agendas.

Jeff Colvin gave an overview of the applications noting those that are conditional. He also provided project opening dates where available.

Mr. Jacobson moved to approve full service restaurant licenses for #1 Ramblin Roads Restaurant in Ogden, #5 La Frontera Mexican Restaurant #6 in Salt Lake City, #7 Sweet Lake Biscuits & Limeade in Salt Lake City, and #12 Whiptail Grill in Springdale; and conditional full service restaurant licenses for #2 Cortona Italian Café in Park City, #3 Homecoming Southern Kitchen & Bar in Salt Lake City, #4 The Break Sports Grill in Salt Lake City, #6 Hearth and Hill in Salt Lake City, #8 Gosu Korean BBQ in Salt Lake City, #9 Root’d Café in Salt Lake City, #10 Libertango Steakhouse in Sandy, and #11 Tapa Sushi Japanese Cuisine in Saratoga Springs. Ms. Thue seconded the motion which passed unanimously.

d. Limited Service Restaurant Applicants:

 *New Applicants:*

(1) China Star Chinese Restaurant, Bountiful.

 (2) Hana Ramen Bar, Park City. *(Conditional)*

 (3) Toastique, Riverton. *(Conditional)*

 (4) Royal Hot Pot & BBQ, Salt Lake City. *(Conditional)*

(5) Krua Thai Restaurant, Salt Lake City.

 (6) Tsubame Sushi, Vineyard. *(Conditional)*

 (7) Tokai Sushi Restaurant, West Jordan.

Craig Warr gave an overview of the applications noting #2 Hana Ramen Bar had a violation that was adjudicated in March 2022. The violation was at a different location under different management.

Ms. Orton moved to approve limited service restaurant licenses for #1 China Star Chinese Restaurant in Bountiful, #5 Krua Thai Restaurant in Salt Lake City, and #7 Tokai Sushi Restaurant in West Jordan; and conditional limited service restaurant licenses for #2 Hana Ramen Bar in Park City, #3 Toastique in Riverton, #4 Royal Hot Pot & BBQ in Salt Lake City, and #6 Tsubame Sushi in Vineyard. Ms. Tarazon seconded the motion which passed unanimously.

e. Restaurant Beer Only Applicants:

 *New Applicants:*

(1) El Gallo Giro, Provo. *(Conditional)*

 (2) Lemonshark Poke, Salt Lake City. *(Conditional)*

Craig Warr gave an overview of the applications.

Mr. Jacobson moved to approve conditional beer only restaurant licenses for #1 El Gallo Giro in Provo and #2 Lemonshark Poke in Salt Lake City. Ms. Orton seconded the motion which passed unanimously.

f. Hotel Applicant:

 *New Applicant:*

(1) Le Meridian/Element Hotel, Salt Lake City. (RE, HA, BC & BAR) *(Conditional)*

Anita Knowley gave an overview of the application.

Ms. Orton moved to approve a hotel license for #1 Le Meridian/Element Hotel in Salt Lake City. Ms. Thue seconded the motion which passed unanimously.

g. On-Premise Banquet Catering Applicant:

 *New Applicant:*

1. Cougar Ridge Resort, Torrey.

Mike Bishop gave an overview of the application.

Ms. Orton moved to grant a banquet catering license to #1 Cougar Ridge Resort in Torrey. Ms. Thue seconded the motion which passed unanimously.

h. Reception Center Applicant:

 *New Applicant:*

(1) Cedar Rose Estate, Parowan. *(Conditional)*

Mike Bishop gave an overview of the application.

Ms. Orton moved to grant a conditional reception center license to #1 Cedar Rose Estate in Parowan. Ms. Thue seconded the motion which passed unanimously.

i. On-Premise “Tavern” Applicant:

 *New Applicant:*

1. ~~Verse, Salt Lake City~~.

OPERATIONS UPDATE:

Ms. Clason provided a clarification on the wine subscription service recently covered in the news. She explained that the service is not a DABS wine club. The brokerage providing the service is using the special order program available to all patrons. Wine isn’t delivered to homes; customers pick up their products at the state stores. Ms. Clason added that DABS is working to develop a wine club as funded and allowed by statute.

Ms. Clason noted that Senator Stevenson asked that those in attendance and listening be reminded that there will be added law enforcement working this weekend and encouraged all to celebrate safely and responsibly.

Ms. Clason reported that DABS is beginning an ERP migration to Microsoft D365. Staff is working through issues as they are identified. Mr. Meier will provide an update next month.

LICENSE APPLICATIONS: *(continued)*

b. Bar Establishment Applicants:

 *Projected Future Opening:*

(1) Verse, Salt Lake City. *(Conditional) (projected opening October 24,*

*2022)*

(2) Lit Arcade Bar, Ogden. *(projected opening November 2, 2022*)

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

 *November 9, 2022)*

The commission resumed consideration of the prioritized list of three bar establishment applications.

Mike Bishop confirmed that Verse did pass today’s inspection by the Salt Lake City Fire Marshall.

Michael Repp from Verse came forward to address the commission. Mr. Repp explained that they just passed the fire inspection and are only waiting for signatures. They have one last brew gas permit inspection by the health department.

The commissioners discussed the status of Verse and how to establish readiness to open. The discussion focused on whether all permits are received or expected in the next 24 – 48 hours and if discretionary approvals are required prior to issuance.

Ms. Orton made a motion to grant a conditional bar establishment license to Verse in Salt Lake City. Ms. Thue seconded the motion. Ms. Tennert, Ms. Thue, Ms. Orton, Mr. Jacobson, Ms. Tarazon, and Ms. Randall voted yea. Mr. Parrish voted nay. The motion passed.

Ms. Thue moved to hold a special commission meeting to consider the other two prioritized applicants before the Thanksgiving break on a date to be determined. Ms. Orton seconded the motion which passed unanimously.

COMMENTS FROM COMMISSIONERS AND PUBLIC:

a. Tim Dwyer from Fisher Brewing came forward to address the commission. He explained that they are ready to open and asked to be considered at the special meeting.

b. Tim Ryan from Bout Time Pub and Grub came forward to give an overview of his efforts to make members of the legislature aware of the need for additional bar establishment licenses. He also commented on the CUB violations noting the cost to servers is minor compared to licensee costs. Finally, he asked about the use of electronic drivers licenses.

There being no further business, Ms. Orton moved to adjourn the meeting. Ms. Thue seconded the motion. The meeting adjourned at 12:50 p.m.