

APPROVED

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved with amendments. See 09/03/2020 minutes.

Board/Commission:	LIQUOR CONTROL COMMISSION	Meeting Date	June 18, 2020
Location	Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 178 128 333 #	Start of Meeting: 10:02 a.m.	End of Meeting: 11:56 a.m.
Tele Present	Chair Shirley Akita, Vice Chair Maryanne Kusaka, Members: Dee Crowell, William Gibson, Gerald Matsunaga, Randall Nishimura, Gary Pacheco Also: Liquor Control Staff: Liquor Control Director Gerald Rapozo, Liquor Clerical Assistant Malialani TM Kelekoma; Deputy County Attorney Todd Jenson		
Excused			
Absent			
SUBJECT DISCUSSION ACTION			
Call To Order		Chair Shirley Akita called the meeting to order at 10:02 a.m. with 5 members present, constituting a quorum.	
Roll Call	Director Rapozo called roll, noting 5 members were present, constituting a quorum. Commissioner Crowell entered the tele-conference @ 10:04 a.m. Commissioner Pacheco entered the tele-conference @ 10:04a.m.		
Approval of Agenda			Mrs. Kusaka moved to approve the agenda. Mr. Gibson seconded the motion. Motion carried 7:0
1. Public Hearing	<u>STREET BURGER: Application No. 2020-075 was filed on March 11, 2020 by Double Rainbow Inc. dba Street Burger for a transfer of Restaurant General License No. 2G-028 from Leikademus LLC dba Street Burger to Double Rainbow Inc. dba Street Burger located</u>		No action

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	<p><u>at 4-369 Kuhio Highway, Kapaa, Kauai, Hawaii. The Commission accepted Application No. 2020-075 for publication and public hearing on May 21, 2020 and ordered to print notice of public hearing in The Garden Island on Wednesday, May 27, 2020 scheduling the public hearing on June 18, 2020 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu‘e Civic Center, Mo‘ikeha Building, 4444 Rice Street, Līhu‘e, Kauai, Hawaii.</u></p> <p>Director Rapozo advised that a transfer of Restaurant General License No. 2G-028 from Leikademus LLC dba Street Burger to Double Rainbow Inc. dba Street Burger has withdrawn request for Public Hearing.</p>	
<p>2.</p>	<p><u>DIRECTOR’S REPORTS:</u></p> <p>a) <u>INVESTIGATORS’ REPORTS:</u></p> <p>b) <u>INFORMATIONAL MATTERS</u></p> <p>c) <u>ACTIONS OF THE DIRECTOR:</u></p> <p>1) <u>ROB’S GOOD TIMES GRILL: Approval of special request for temporary increase of premises to include area fronting the restaurant, per diagram submitted, from June 1, 2020 through July 31, 2020.</u></p>	<p>Mr. Pacheco moved to approve Items 2 (a) through (c). Mrs. Kusaka seconded the motion. Motion carried 7:0.</p>
<p>3.</p>	<p><u>CHANGE IN CORPORATE OFFICERS:</u></p> <p>a) <u>KAWAIOLOA DEVELOPMENT LLP: Resignation of Matsaatsu Ohga as Director; appointment of Yasuke Maezawa and Hiroyuki Takahashi as Directors.</u></p> <p>Chair Akita asked if there were any discussions.</p> <p>Commissioner Nishimura requested to amend the motion subject to correction of Toshiaki Shindo signed as a Director when he is not listed as one of the current list of Officers & Directors for the general partners of Kawaioloa Development LLP.</p>	<p>Mrs., Kusaka moved to approve change in corporate officers Resignation of Matasaatsu Ohga as Director; appointment of Yasuke Maezawa and Hiroyuki Takahashi as Directors. Mr. Pacheco seconded the motion.</p> <p>Mrs. Kusaka requested to</p>

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	<p>Chair Akita asked Director Rapozo do we have something in writing.</p> <p>Chair Akita asked Commissioner Nishimura to give an explanation, he advised that within the packet there is a letter to the Director from Toshiaki Shindo he signed as a Director. Toshiaki Shindo is a Secretary/Treasurer. Commissioner Nishimura recommended approval subject to correction from Kawaioloa Development LLP.</p> <p>Mr. Jenson stated this individual may serve as one of the Board of Directors, his official title is Secretary/Treasurer.</p> <p>Commissioner Nishimura questioned as to why they would have Akihiro Tachibana as Director & President, but not listed Mr. Shindo as Director. The document is in the packet.</p> <p>Chair Akita stated that the changes that the Commission are making will be voted on</p> <p>Commissioner Nishimura stated that according to the transmittal he is not.</p> <p>Commissioner Matsunaga stated he sees Commissioner Nishimura's concern, in the letter it has Kunihiro Nowatari as Treasurer and Yuta Naka as Secretary. Under Toshiaki Shino Secretary and Treasurer and Director is not applicable.</p> <p>Vice Chair Kusaka mentioned under his name it states Director.</p> <p>Commissioner Nishimura stated that is his concern all other Names on the list are concurrent to the title that they are holding.</p> <p>Chair Akita stated that we are not in authority to approve them as Director.</p> <p>Commissioner Nishimura stated it is a legal document.</p>	<p>withdraw her motion for change in corporate officer's resignation of Matasaatsu Ohga as Director, appointment of Yasuke Maezawa and Hiroyuki Takahashi as Directors. Mr. Pacheco seconded the withdrawal. Motion carried 7:0</p> <p>Mrs. Kusaka moved to defer the Change in Corporate Offices for Kawaioloa Development LLP to next meeting due to clarification. Mr. Pacheco seconded the motion. Motion carried. 7:0</p> <p>Mr. Matsunaga moved to approve change of Corporate Officers for Safeway, INC. addition of Vivek Sankaran as</p>

Commented [MM1]: Added (, but not list Mr. Shindo as a Director). Action corrected (withdrawal)

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	<p>Commissioner Crowell added it's signed Kawailoa Development LLP and not signed TAK Hawaii Inc. or TAK Development Inc.</p> <p>Director Rapozo stated Kawailoa Development LLP is the licensee, members of the LLP are TAK Hawaii Inc., and TAK Development Inc. Director Rapozo requested to defer this to the next meeting and have any clarifications needed at this time.</p> <p>b) <u>SAFWAY, INC.: Addition of Vivek Sankaran as CEO/President, and Gary R. Morton as Vice President/Treasurer/Assistant Secretary.</u></p> <p>c) <u>WALMART, INC.: Addition of Davin Leon Reading as Assistant Secretary; Removal of Daniel John Rice as Assistant Secretary.</u></p>	<p>CEO/President, and Gary R, Morton as Vice President/Treasurer/ Assistant Secretary. Mr. Pacheco seconded the motion. Motion carried 7:0.</p> <p>Mr. Matsunaga moved to approve Change of Corporate officers for Wal Mart Inc. addition of Davin Leon Reading as Assistant Secretary and removal of Daniel Jon Rice as Assistant Secretary. Mr. Pacheco seconded the motion. Motion carried 7:0.</p>
<p>4.</p>	<p><u>OFF-PREMISE WAREHOUSING:</u></p> <p><u>AVALON GASTROPUB:</u> Request approval for Off-Premise Warehousing at 4-356 Kuhio Highway, Kapa'a, Kauai, Hawaii.</p>	<p>Mrs. Kusaka moved to approve Off-Premise Warehousing for Avalon Gastropub. Mr. Pacheco seconded the motion. Motion carried 7:0.</p>
<p>5.</p>	<p><u>CANCELLATION OF TEMPORARY LIQUOR LICENSE:</u></p> <p><u>STREET BURGER:</u> Cancellation of Temporary Liquor License No. T 2020-03 issued to Double Rainbow Inc. dba Street Burger effective June 8, 2020.</p>	<p>Mr. Gibson moved to approve the Cancellation of Temporary Liquor License</p>

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		No. T 2020-03 issued to Double Rainbow Inc. dba Street Burger effective June 8, 2020. Mr. Pacheco seconded the motion. Motion carried 7:0.
6.	<u>WITHDRAWAL OF APPLICATION:</u> <u>DOUBLE RAINBOW INC.: Withdrawal of Application No. 2020-075 filed on March 11, 2020 by Double Rainbow Inc. dba Street Burger for a transfer of liquor license.</u>	Mr. Matsunaga moved to approve Double Rainbow Inc. withdrawal of Application No. 2020-075 filed March 11, 2020. Mr. Pacheco seconded the motion. Motion carried 7:0.
7.	<u>ALCOHOL PURCHASE PERMIT:</u> <u>GLOBAL ALGAE INNOVATIONS: Request permit to purchase ethyl alcohol for use in their lab.</u>	Mrs. Kusaka moved to approve Alcohol purchase Permit for Global Algae Innovations for use in their lab. Mr. Pacheco seconded the motion. Motion carried 7:0
8.	<u>UNAVAILABLE LIQUOR: Request from Aileen Kubo for permit to receive liquor from outside the State of Hawaii.</u>	Mr. Pacheco moved to approve request from Aileen Kubo to receive liquor from outside the State of Hawaii. Mr. Gibson seconded the motion. Motion carried 7:0
9.	<u>EXECUTIVE SESSION:</u> Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a).	Mrs. Kusaka requested to add the Advisory Bulletin from Attorney Todd Jenson. Mr. Pacheco seconded the

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	<p>Chair Akita requested to add the Advisory Bulletin from Attorney Todd Jenson.</p> <p>Ms. Ching, Administrator for Boards & Commission advised that the mayor will only be able to meet for an hour and has to be out by 11:30 a.m.</p> <p>Mr. Jenson suggested going into Executive Session to discuss and contact Ms. Ching when ready to meet with the Mayor.</p>	<p>motion. Motion carried 7:0</p> <p>Mrs. Kusaka moved to enter into Executive Session. Mr. Pacheco seconded the motion. Motion carried 7:0.</p>
<p>10.</p>	<p><u>DISCUSSION ON HIRING PROCESS OF NEW DIRECTOR:</u></p> <p>Ellen Ching of Boards and Commission advised the Commission of the three methods or options:</p> <ol style="list-style-type: none"> 1. Hiring an Executive Search. 2. Nominating an Individual to take the position. 3. Place an ad in the Newspaper, develop a process for hiring, interviewing the individual and selecting an individual. <p>Ms. Ching recommends that the Commission not Hire an Executive Search, in her experience it is costly and has not been satisfactory or productive. For option number two she does not have experience, it has been done in the past. The last option will be her fourth Commission that selected a Department Head. All four Commissions has used this option for the hiring process to place an Ad and determining what that process will be to select a New Director.</p> <p>Chair Akita stated the Commission should make a determination today as to what process to select.</p> <p>Ms. Ching stated that she would like some direction from the Commission.</p>	

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	<p>Commissioner Nishimura stated that the incoming Acting Director has indicated that he does not want to apply for the position. He also suggested that time should be given to the Acting Director in case he changes his mind that would enable him to go through the application process.</p> <p>Chair Akita responded to Commissioner Nishimura in his suggestion to go with option three to advertise and whoever is interested in applying for the position including the Temporary Hire.</p> <p>Commissioner Nishimura responded to defer this decision until the temporary incoming Acting Director have had the opportunity to serve in his capacity. At the moment he has no desire to serve in the position. In case he changes his mind.</p> <p>Chair Akita stated the process will take time and it will give the Acting Director time to serve in the position. How long should we keep this position temporary?</p> <p>Commissioner Nishimura stated three months.</p> <p>Mr. Jensen requested for clarification purposes what would be the time frame for hiring. The process may take up to nine months. He requested Ms. Ching give more direction on option three and that may resolve Commissioner Nishimura's concern.</p> <p>Ms. Ching stated that the County Attorney is correct it will be nine months. You allow applicants 30 days to respond to the ad, review all applications, and decide on what basis you will evaluate the applications. Other Commissions have selected to included essays questions</p>	

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	<p>when receiving it back the Commission interviews the remaining applicants. From that point they have selected a Department head.</p> <p>Chair Akita asked Commissioner Nishimura was that helpful in regards to his concern.</p> <p>Commissioner Nishimura responded yes.</p> <p>Ms. Ching advised the Commissioners at the next meeting she will provide the Commission with a draft of the Ad and the job description. The Commission will need to approve the ad and assign 1 or 2 Commissioners to assist. There are a lot of decisions that the Commission will make in regards to the hiring process.</p> <p>Chair Akita asked for volunteers to assist Ms. Ching.</p> <p>Commissioner Matsunaga and Commissioner Nishimura volunteered.</p> <p>Mr. Jensen stated that Ms. Ching suggested proposing a Permitted Interaction Group (PIG). This allows for the two Commissioners Nishimura and Matsunaga to work outside of the Open Meetings and to work directly with Ms. Ching. The next meeting on the agenda will be the creation of the Permitted Interaction Group (PIG).</p> <p>Ms. Ching stated that two individuals is a working group and three would be a Permitted Interaction Group (PIG). She will work with both Commissioners in drafting an Ad and Job Description for the next meeting. She suggested to put the Permitted Interaction Group (PIG) on the next agenda. Commission will need to select three members and define the scope of the group. Group will not be able to meet until the scope be defined and it will take three meetings.</p> <p>Here are the three things that need to take place:</p> <ol style="list-style-type: none"> 1. Form a Group 2. Commission to hear the report from the group 3. For the Commission make the decisions based on the recommendations and findings of 	

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	<p>the group.</p> <p>Commissioner Matsunaga requested Mr. Jenson share the Supreme Court decision of HGEA Vs. Maui County it would be informative for the rest of the members of the Commission.</p> <p>Mr. Jenson agreed will circulate the decision.</p>	<p>Mr. Nishimura moved to approve the recommendations for, the Administrator Boards and Commission to advertise for the position. Mrs. Kusaka seconded the motion. Motion carried 7:0.</p>
<p>Return to Open Session</p>	<p>Mr. Jenson stated that the actions of the Executive Session was the discussion:</p> <ol style="list-style-type: none"> 1. Memo re: Authority over Liquor Control Department 2. Pay raise for the Director of Liquor Control 	<p>Returned to Open Session @ 11:37 a.m.</p> <p>Mrs. Kusaka moved to accept and approve all actions discussed in the Executive Session. Mr. Pacheco seconded the motion. Motion passed 7:0.</p>
<p>Announcements</p>	<p>Next Scheduled Meeting: Thursday, July 2, 2020 - 10:00 am, Microsoft Teams</p>	
<p>Adjournment</p>		<p>Mr. Matsunaga moved to adjourn the meeting. Mr. Pacheco seconded the motion. Motion carried 7:0. Chair Akita adjourned</p>

Commented [MM2]: Added 10

SUBJECT	DISCUSSION	ACTION
		meeting at 11:56 a.m.

Submitted by: _____ Reviewed and Approved by: _____
Malialani TM Kelekoma, Liquor Clerical Assistant Shirley Akita, Chair

- () Approved as circulated.
- (X) Approved with amendments. See minutes of 09/03/2020 meeting.