

Approved

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved as circulated 9/19/19

Board/Commission	LIQUOR CONTROL COMMISSION	Meeting Date	August 1, 2019
Location	Mo'ikeha Building, Liquor Control Conference Room 3	Start of Meeting: 4:00 p.m.	End of Meeting: 4:51 p.m.
Present	Chair Paul Endo; Vice-Chair Shirley Akita; Members: Maryanne Kusaka, William Gibson, Gerald Matsunaga, Gary Pacheco Also: Liquor Control Staff: Liquor Control Director Gerald Rapozo, Boards and Commissions Staff: Administrator Ellen Ching, Administrative Specialist Anela Segreti; Deputy County Attorney Cameron Takamura		
Excused	Jean Iida		
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Endo called the meeting to order at 4:00 p.m. with 6 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 6 members were present.	
Approval of Agenda		Ms. Akita moved to approve the agenda. Ms. Kusaka seconded the motion. Motion carried 6:0.
Approval of Minutes	<u>APPROVAL OF MEETING MINUTES:</u> Director Rapozo requested deferral of approval of June 27, 2019 minutes to Aug. 15, 2019 meeting, they have not been completed.	Ms. Kusaka moved to defer the approval of June 27, 2019 meeting minutes to Aug. 15, 2019. Mr. Pacheco seconded the motion. Motion carried 6:0.
1.. Public Hearings	a) <u>PINT SIZE HAWAII:</u> Application No. 2019-086 was filed on May 15, 2019 by Pint Size Hawaii Manager, LLC dba Pint Size Hawaii for a New Wholesale Dealer General license at 4255 Hanahao Street, Lihue, Kauai, Hawaii. The Commission accepted Application No. 2019-086 for publication and public hearing on June 6, 2019 and ordered to print notices of public hearing in The Garden Island on	

	<p>Wednesdays, June 12 & 19, 2019, scheduling the public hearing on August 1, 2019 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.</p> <p>Avery Matro, counsel was present to represent the applicant along with Sandra Hamada, Manager.</p> <p>Up until the time of the hearing, the department did not receive any letters in support or opposition to the application.</p> <p>Avery Matro had a minor change to the Investigator’s Report, below general information it indicates that the limited liability company will be member managed, but it actually will be manager managed, it has been corrected later in the report, as well as supplemental.</p> <p>Commissioner Gibson thought they were screen sales.</p> <p>Ms. Hamada answered affirmatively, and explained that they also acquired a business in January on Oahu which is engaged in frozen, chill and dry and expanding to kombucha drinks which has a little bit of alcohol.</p> <p>Vice Chair Akita asked about the operating times, starting at 4am.</p> <p>Ms. Hamada explained that that is the warehouse hours, but delivery will not start till after 6am. Monday – Friday.</p> <p>Ms. Matro asked for correction to operating days from daily to Monday-Friday, 4am-5pm, when warehouse opens.</p> <p>The public hearing for Application No. 2019-086 was closed.</p>	<p>Mr. Pacheco moved to approve Application No. 2019-086 filed on May 15, 2019 by Pint Size Hawaii Manager, LLC at 4255 Hanahao Street, Lihue. Mr. Gibson seconded the</p>
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	<p>b) <u>SIP WINE AND BEER BAR</u>: Application No. 2019-087 was filed on May 17, 2019 by QSI, Inc. dba Sip Wine and Beer Bar for a New Dispenser General (no live entertainment and dancing) license at 3-2600 Kaunualii Highway, Lihue, Kauai, Hawaii. The Commission accepted Application No. 2019-087 for publication and public hearing on June 6, 2019 and ordered to print notices of public hearing in The Garden Island on Wednesdays, June 12 & 19, 2019, scheduling the public hearing on August 1, 2019 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.</p> <p>Up until the time of the hearing, the department did not receive any letters in support or opposition to the application.</p> <p>Caroline Otani was present to represent the applicant as well as Christopher Gordon, Manager.</p> <p>Correction to Investigator’s Report under name of stockholders it’s currently listed as Pan Pacific International and Co. in May there was a name change it’s now Pan Pacific Retail Management USA, Co. Same company just name change and Commission notified.</p> <p>Vice-Chair asked about the location of the bar in Time’s and whether the patron’s will be able to go buy food and take it over to the bar area.</p> <p>Mr. Gordon answered that there will be a few items available to purchase in the bar area, but the majority of the items will need to be purchased separately.</p> <p>Commissioner Matsunaga asked about the control of taking alcohol outside of the area.</p>	<p>motion. Motion carried 6:0</p>
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	<p>Mr. Gordon stated there is only one inlet/outlet area and it will be in personnel sight of the person in charge of the bar area.</p> <p>Chair Endo asked where the person in charge of the area will be.</p> <p>Mr. Gordon answered that there will be one representative in the physical bar area and the management station is adjacent to the bar area and all management in the store have tested for and received their blue card.</p> <p>Mr. Gordon also answered Chair Endo that signs will be posted, no beverages outside of the area.</p> <p>Mr. Gibson asked about problems they've had on other islands.</p> <p>Mr. Gordon acknowledged that they had a selling liquor to a minor and since they have put stringent policies in place to help control that. They've implement training upon hire as well as monthly training/quiz and a full annual refresh training. Also hired a third party to audit all of the stores. They also have a no tolerance policy, and not able to sell alcohol and implemented a POS system that will not allow an override without a manager's clearance.</p> <p>Vice-Chair Akita asked if the bar will be on where you order from the bar and have id checked or a waitress.</p> <p>Mr. Gordon replied that they will have both and the two will monitor as well as retail managers. He reiterated that they never want to sell liquor to a minor.</p> <p>The public hearing for Application No. 2019-087 was closed.</p>	<p>Mr. Pacheco moved to approve Application No. 2019-087 filed on May 17, 2019 by QSI, Inc.dba Sip Wine and Beer Bar at 2600</p>
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<p>2. Violation Hearings</p>	<p>Director Rapozo asked to move e) Longs Drugs to the top of the calendar.</p> <p>Chair Endo asked if anyone opposed, none.</p> <p>e) <u>LONGS DRUGS #10474</u>: Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Vaughn Cook, Counsel and Mike Segno, Manager of the Poipu store was present on behalf of the licensee. The licensee agreed to waive the reading of the charges and plead no contest.</p> <p>Mr. Cook explained the Longs Drugs is committed to a zero tolerance policy for violations of commitment to not make sales to underage persons. They have a comprehensive training program and a software program on their registers that dictates to employees to check and input date of birth information into register before a sale is made. Violations occur when employees do not follow policies. When that happens employee is terminated.</p> <p>Mr. Segno explained that the employee entered the incorrect birthdate and confirmed employment was terminated.</p>	<p>Mr. Matsunaga moved that a fine of \$2000 be imposed with \$1000 suspended provided there is no similar offense occurs within 1 year. Ms. Kusaka seconded. Motion carried 6:0</p>
	<p>a) <u>WALMART SUPERCENTER #2308</u>: Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Diane Keeler, General Manager, was present on behalf of the licensee; no counsel. The licensee agreed to waive the reading of the charges. The licensee admitted to the charges.</p> <p>Ms. Keeler explained that the employee initially entered the correct date and it did not go through and another date was entered which did go through and that's when he sold to a minor. The employee was terminated based on Walmart's policies and procedures.</p>	<p>Mr. Matsunaga moved that a fine of \$2000 be imposed with \$1000 suspended provided there is no similar offense occurs within 1 year. Ms.</p>

		Kusaka seconded. Motion carried 6:0
	<p>b) <u>WHALERS GENERAL STORE #1158</u>: Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Robert Ueoka, Counsel, and Brandy Pacheco, District Manager, were present on behalf of the licensee. The licensee agreed to waive the reading of the charges. The licensee plead no contest.</p> <p>Mr. Ueoka explained that the employee did request an id, got confused and entered 1988 instead of 1998, which completed the sale. It was an error and employee was terminated. After the incident employees were retrained and met with.</p> <p>Commissioner Gibson asked if in the retraining it was emphasized that the minor's id is vertical.</p> <p>Mr. Ueoka acknowledge that it was a vertical id and a mistake was made. Employees told to be more careful when inputting date.</p> <p>Ms. Pacheco confirmed that employee was the store manager.</p> <p>Mr. Ueoka confirmed that the licensee has a zero tolerance policy.</p>	<p>Mr. Matsunaga moved that a fine of \$2000 be imposed with \$1000 suspended provided there is no similar offense occurs within 1 year. Ms. Akita seconded. Motion carried 6:0</p>
	<p>c) <u>AOAO OF HANALEI BAT RESORT</u>: Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Commissioner Pacheco recused himself from this case as there may be a conflict of interest.</p> <p>George Costa, Resort General Manager, was present on behalf of the licensee, no counsel. The licensee agreed to waive the reading of the charges. The licensee admitted to the charges.</p> <p>Mr. Costa explained that the Resort is the licensee for the Sundry Store</p>	

	<p>which they lease to a separate entity. The operator of the store claims she did the calculation of the age in her head and made the wrong calculation and sold to the underage individual. She said that when she realized it and ran out of the store it was too late. Because of the Resort's zero tolerance policy they are seeking another operator for the resort.</p> <p>Vice Chair Akita asked if she was aware of the vertical id.</p> <p>Mr. Costa said that when he asked her she said she had a lapse of poor judgement. He was not sure if the register is set-up to take the date.</p> <p>Commissioner Gibson asked if the register was set up to accept the date of birth.</p> <p>Mr. Costa was not sure, but agreed that they would consider requiring that of the next operator.</p>	<p>Mr. Matsunaga moved that a fine of \$2000 be imposed with \$1000 suspended provided there is no similar offense occurs within 1 year. Mr. Gibson seconded. Motion carried 5:1 abstain</p>
	<p>d) <u>KOLOA LANDING AT POIPU BEACH: Violation of HRS 281-78(b)(1)(A) Prohibitions</u></p> <p>Andy Evers, General Manager, was present on behalf of the licensee, no counsel. The licensee agreed to waive the reading of the charges. The licensee admitted to the charges.</p> <p>Mr. Evers explained that the associate used poor judgement. He saw card was vertical, but did the math wrong in his head. He acknowledged to customer that he just had a birthday. Customer said no, and he said that he could not sell it to him, but transaction had already been made. He realized after the fact and grabbed can back, but transaction already been made.</p> <p>Commissioner Gibson asked if they would consider using technology that does the math.</p> <p>Mr. Evers responded that they definitely will look into it. The resort gave the employee and other employees more intensive training. He is still employed, given disciplinary action, and taken off that duty until he receives</p>	<p>Mr. Matsunaga moved that a fine of \$2000 be imposed with \$1000 suspended provided there</p>

	<p>more intensive training.</p>	<p>is no similar offense occurs within 1 year. Mr. Pacheco seconded. Motion carried 6:0</p>
	<p>f) <u>MARKETPLACE EXPRESS</u>: Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Robert Ueoka, Counsel, was present on behalf of the licensee. He requested a continuance to August 15th to evaluate the charge and they will appear if Commission approves.</p>	<p>Mr. Matsunaga moved that a continuance be granted to August 15. Mr. Pacheco seconded. Motion carried 6:0</p>
	<p>g) <u>PONO MARKET</u>: Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Sherman Shiraishi, Counsel, was present on behalf of the licensee. Licensee waived their presence. The licensee agreed to waive the reading of the charges. The licensee admitted to the charges.</p> <p>Mr. Shiraishi explained that it was a matter of poor training. They acknowledged that the license is a privilege and the rules need to be followed. They hoped that the Commission would consider the following: 1. Pono Market has voluntarily chosen to not renew their license. It currently does not sell alcohol. 2. Has been in the community over 50 years, employs over 25 residents, active and supports local.</p> <p>Director Rapozo stated that the license expired June 30, 2019 and they did not renew.</p> <p>Discussion of intent to apply for a license in the future. Mr. Shiraishi explained that they do not have an intent. Commissioner Matsunaga stated the penalties of a fine or revocation of license. Mr. Shiraishi asked what the consequence would be for a license that hasn't been renewed. Deputy County Attorney Takamura stated that they would be barred from applying for one year.</p> <p>Vice Chair Akita asked for clarification of revoking on no license. She asked for an interpretation from Mr. Takamura.</p>	<p>Mr. Matsunaga moved that license for Pono Market be revoked. Mr. Pacheco seconded. Mr. Matsunaga withdrew the motion. Mr. Pacheco withdrew the second.</p>

	<p>Mr. Takamura stated that they could go into an executive session to discuss.</p> <p style="text-align: center;"><u>Open session resumed at 4:48pm</u></p>	<p>Mr. Matsunaga moved that a fine of \$2000 be imposed with \$1000 suspended provided there is no similar offense occurs within 1 year. Mr. Pacheco seconded. Motion carried 5:1</p>
	<p>h) <u>ISHIHARA MARKET:</u> Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Darryl Ita, District Manager, and Darren Curomay, Store Manager were present on behalf of the licensee, no counsel. The licensee agreed to waive the reading of the charges. The licensee admitted to the charges.</p> <p>Mr. Ita explained that it was a vertical id, the employee did check the id, she entered the wrong birthdate, it went through and collected the money. It was not intentional, but she punched in the wrong date.</p> <p>Commissioner Gibson asked if there is an audit of liquor sales id checks.</p> <p>Mr. Ita confirmed that there is and it was checked and she did punch in the wrong date. They do ongoing audits and trainings and zero tolerance. Employee was placed on suspension and once audit completed and confirmed employee was terminated.</p>	<p>Mr. Matsunaga moved that a fine of \$2000 be imposed with \$1000 suspended provided there is no similar offense occurs within 1 year. Mr. Pacheco seconded. Motion carried 6:0</p>
	<p>i) <u>WAILUA COUNTRY STORE:</u> Violation of HRS 281-78(b)(1)(A) Prohibitions</p> <p>Darrel Sanchez was present on behalf of the licensee, no counsel. The licensee agreed to waive the reading of the charges. The licensee admitted to the charges.</p> <p>Mr. Sanchez explained that it was an employee oversight. They need to do more training.</p> <p>Commissioner Matsunaga pointed out that employee did not ask for an idea.</p>	<p>Mr. Matsunaga moved that a fine of \$2000 be</p>

	<p>Mr. Sanchez was not present, but stated that on weekends they get busy and employee may have been distracted.</p>	<p>imposed with \$1000 suspended provided there is no similar offense occurs within 1 year. Mr. Pacheco seconded. Motion carried 6:0</p>
<p>3.</p>	<p><u>DIRECTOR’S REPORTS:</u></p> <p>a) <u>INVESTIGATORS’ REPORTS:</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ol style="list-style-type: none"> 1) From Resort Management International, Inc., Re: Notification of Movies at the Pool Events. 2) Disturbance Report from Nawiliwili Tavern. <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <ol style="list-style-type: none"> 1) To All Wholesale Licensees, Re: Sushi Bushido LLC and Kalama Beach Corporation, new liquor licenses. <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment “A”</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u></p> <ol style="list-style-type: none"> 1) <u>TORTILLA REPUBLIC KITCHEN & MARGARITA BAR:</u> Approval of special request for temporary increase of premises to include the area adjacent to the lanai per diagram submitted, on August 7, 14, 21, 28, 22019, September 4, 11, 18, 25, 2019, October 2, 9, 16, 23, 30, 2019 from 3:30 p.m. to 6:30 p.m. and August 30, 2019 September 20, 2019, October 18, 2019 from 5:30 p.m. to 9:30 p.m. 2) <u>BEACH HOUSE RESTAURANT:</u> Approval of special request for temporary increase of premises to include the patio lawn space per diagram submitted, on August 2, 10, 16, 17, 22, 23, 24, & 31, 2019 from 5:00 p.m. to 10:00 p.m. 	

	<p>3) <u>MERRIMAN’S KAUAI</u>: Approval of special request for temporary increase of premises to include the Palm Court area fronting the restaurant, per diagram submitted, on August 7, 14, 21, 28, 2019, September 4, 11, 18 & 25, 2019, October 2, 9, 16, 23 & 30, 2019 from 3:30 p.m. to 6:30 p.m. and August 30, 2019, September 20, 2019 and October 18, 2019 from 5:30 p.m. to 9:30 p.m.</p> <p>f) <u>INFORMATIONAL MATTERS</u></p>	<p>Mr. Pacheco moved to accept Items 3(a) through f. Ms. Akita seconded the motion. Motion carried 6:0.</p>
<p>4.</p>	<p><u>THE COMMISSION WILL BE EXERCISING ITS ADJUDICATORY FUNCTIONS PURSUANT TO HAWAII REVISED STATUTES (“HRS”) SECTIONS 92-6 AND 91-9 FOR THE FOLLOWING ITEMS AND THEREFORE, THIS PART OF THE MEETING IS EXEMPT FROM SUNSHINE LAW (HRS 92) UNDER 92-6 (a)(2) AND NO PUBLIC TESTIMONY WILL BE TAKEN:</u></p> <p>Deliberation and Decision-Making on Application No. 2019-070 filed by LBD Coffee, LLC. Public Hearing held on May 16, 2019.</p> <p>Before starting Mr. Takamura asked Commissioner Kusaka if she made herself familiar with the record of the public hearing that occurred on May 16th.</p> <p>Commissioner Kusaka replied that she tried to and reviewed the record.</p> <p>Commissioner Akita brought to the Commission's attention the request made to validate the percentage of people that responded to the petition that was circulated which fell short of the original report.</p> <p>Mr. Takamura suggested to Chair Endo that prior to the supplemental report being discussed that they go into a closed session to discuss with counsel.</p>	<p>Ms. Akita moved to go into an Executive Session. Mr. Gibson seconded. Motion carried 6:0</p>

		The Commission entered into an Executive Session at 5:03 p.m.
Return to Open Session	<p>Chair Endo stated that the petition filed in opposition to Application No. 2019-070 failed to meet the requisite of 50 plus 1.</p> <p>Mr. Takamura clarified that it failed for the automatic denial.</p> <p>Chair Endo entertained a motion on Application No. 2019-070 filed by LBD Coffee, LLC.</p> <p>Mr. Matsunaga stated that he believes that the applicant met all the necessary conditions.</p> <p>Mr. Takamura asked for a roll call vote.</p> <p>Mr. Rapozo conducted roll call vote.</p> <p>Mr. Takamura announced the vote failed, because a majority is needed. Commission can deliberate more or can extend another 30 days pursuant to HRS 281-59a, as long as provide notice to public of extension.</p>	<p>The Commission resumed in open session at 5:23 p.m.</p> <p>Mr. Matsunaga moved that Application No. 2019-070 be approved. Mr. Gibson seconded.</p> <p>Roll Call Vote: Commissioner Gibson – yes Commissioner Kusaka – no Commissioner Matsunaga –yes Commissioner Pacheco-no Vice Chair Akita-no Chair Endo-yes Vote failed: 3:3</p> <p>Vice Chair Akita moved to extend the decision making another 30days. Mr. Pacheco seconded. Motion carried 6:0</p>
5.	<u>ANNUAL EVALUATION OF THE DIRECTOR:</u>	

	<p>Discussion and decision-making on finalizing the evaluation tool and evaluation process, and possibly beginning the evaluation process.</p> <p>Ellen Ching, Administrator Boards & Commissions presented a draft for an evaluation of the Director (on file). Changes and additions to evaluation form adapted for Liquor Commission, using scale, questions to staff, self-evaluation by Director.</p> <p>Vice Chair Akita asked if Commission could still meet with staff. This can be accomplished with page 3.</p> <p>Ms. Ching asked for direction from Commission for process and tool.</p> <p>Commissioner Matsunaga asked what the purpose of the evaluation.</p> <p>Ms. Ching that it is required by Charter, it is Commissions discretion if want to link it to salary. Referenced communication from Mayor requesting that no increases be given until a positive job review is completed and 1 year of work. Commission's consideration as to whether want to link evaluation to salary and consideration of Mayor's memo.</p> <p>Commissioners discussed what was done in past, and tying it in to salary.</p> <p>Commissioners will review and follow up in next meeting.</p>	
<p>Announcements</p>	<p>Next Scheduled Meeting: Thursday, August 15, 2019 – 4:00 p.m., Mo'ikeha Building, Meeting Room #3.</p> <p>This is Mr. Takamura's last meeting. Todd Jensen, Deputy County Attorney will be taking his place starting next meeting.</p> <p>Mr. Jenson introduced himself.</p>	
<p>Adjournment</p>		<p>Mr. Pacheco moved to adjourn the meeting. Mr. Gibson seconded. Motion carried 6:0. Chair Endo adjourned the meeting at 5:44 p.m.</p>

Submitted by: _____
Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
Paul Endo, Chair

- Approved as circulated.
- Approved with amendments. See minutes of _____ meeting.