

COUNTY OF KAUAI  
 Minutes of Meeting  
 OPEN SESSION

**APPROVED**

Approved as circulated 1/16/20

Board/Commission	<b>LIQUOR CONTROL COMMISSION</b>	Meeting Date	<b>December 5, 2019</b>
Location	Mo'ikeha Building, Liquor Control Conference Room 3	Start of Meeting: 4:05 p.m.	End of Meeting: 5:10 p.m.
Present	Chair Paul Endo; Vice-Chair Shirley Akita; Members: Jean Iida, William Gibson, Maryanne Kusaka, Gerald Matsunaga, Gary Pacheco Also: Liquor Control Staff: Director Gerald Rapozo, Liquor Clerical Assistant Malia Marrotte; Deputy County Attorney Todd Jenson; Boards and Commissions Administrator Ellen Ching		
Excused			
Absent			

SUBJECT	DISCUSSION	ACTION
<b>Call To Order</b>		Chair Endo called the meeting to order at 4:05 p.m. with 7 members present, constituting a quorum.
<b>Roll Call</b>	Director Rapozo called roll, noting 7 members were present.	
<b>Approval of Agenda</b>		Mr. Pacheco moved to approve the agenda. Mr. Gibson seconded the motion. Motion carried 7:0.
<b>Violation Hearing</b>	<p><b>1.</b> VIOLATION HEARING (continued from November 21, 2019 meeting):            KAUAI PASTA: Violation of Rule 4.7(b) Percentage fee due; when. (8 counts)</p> <p>Director Rapozo stated, that they have not received any word from the Licensee, the initial Notice of Hearing was sent via certified mail and to date the certified mail card has not been received. Investigator Hernan sent Licensee two emails of the Notice of Hearing and the continuance, to date no phone calls or mail has been received from the Licensee. Director Rapozo recommended that the Commission adjudicate the case without the Licensee being present.</p>	

	<p>Commissioner Matsunaga requested that three calls be made to the Licensee.</p> <p>Investigator Herman made three calls to the Licensee, none of which were answered.</p> <p>Commissioner Gibson asked, “What would be the result of the commission making a ruling on the eight count violation?”</p> <p>Commissioner Matsunaga explained that it would be a default judgement. For the record, three calls were made and the Licensee did not answer the call made by Investigator Herman.</p> <p>Director Rapozo explained that the Licensee would be sent the findings of fact and conclusions of law to the last known address. Licensee would have 30 days to pay the fine or penalty. If no payment is received we may file a claim with small claims court. Will it be worth chasing the penalty compared to what the court cost?</p> <p>Commissioner Kusaka asked Chair Endo about the holding of the License in Abeyance, should the Licensee not show up, are we able cancel her license and collect the fines.</p> <p>Deputy County Attorney Todd Jenson stated that if it’s an agenda item, the Commission will have the discretion to cancel the license.</p> <p>Director Rapozo stated that it will be on the Agenda.</p>	<p>Mr. Matsunaga moved that a default judgement be made against Kauai Pasta for \$100.00 for each of the 8 counts for a total of \$800.00. Mr. Gibson second the motion. Motion carried 7:0.</p>
<p><b>2.</b> <b>Public Hearing</b></p>	<p><b>THE FISH EXPRESS:</b> Application No. 2020-041 was filed on October 17, 2019 by Fat Pug LLC dba The Fish Express for a transfer of Retail Dealer Beer &amp; Wine license No. 4BW-003 from The Fish Express, Ltd. dba The Fish Express to Fat Pug LLC dba The Fish Express located at 3-3343 Kuhio</p>	

Highway, Lihue, Kauai, Hawaii. The Commission accepted Application No. 2020-041 for publication and public hearing on November 7, 2019 and ordered to print notice of public hearing in The Garden Island on Wednesday, November 13, 2019, scheduling the public hearing on December 5, 2019 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Lihue Civic Center, Mo'ikeha Building, 4444 Rice Street, Lihue, Kauai, Hawaii.

Director Rapozo stated that all legal requirements for the public hearings have been met. Application 2020-041 is a transfer of an existing retail dealer license. No mail notifications was required. The department has not received any letters of support or opposition to the application.

Calvin Tamagawa, Co-Owner of Fat Pug LLC dba The Fish Express was present.

Chair Endo, asked Mr. Tamagawa if he received a copy of the investigators reports.

Mr. Tamagawa stated that he received the investigators report.

Chair Endo, asked if he had any comments in regards to the investigators report?

Mr. Tamagawa replied, no.

Chair Endo, asked if there was anyone to object to this application? And if there was anyone that would like to speak on behalf of this application?

Mr. Tamagawa stated that they are transferring the license for cooking. An ample supply of sake and sherry will be on hand at all times for cooking.

Commissioner Matsunaga, asked if they had any intention of selling alcohol?

Mr. Tamagawa stated there is no sale of alcohol on the premise. Should we decide to sell alcohol it will be on a smaller scale.

	<p>Commissioner Matsunaga asked is it just for cooking?          Mr. Tamagawa stated yes this is just for cooking.</p> <p>Chair Endo requested that the Public Hearing be closed on Application No. 2020-041 by Fat Pug LLC dba The Fish Express for a transfer of Retail Dealer Beer &amp; Wine license.</p>	<p>Mrs. Kusaka moved to approve Application No. 2020-041 to transfer the Beer &amp; Wine license No. 4BW-003 from the Fish Express, Ltd to Fat Pug LLC. Mrs. Iida seconded the motion. Motion carried 7:0.</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> <p>1) From Remy Cointreau USA, Inc., Re: Remy Martin coupon offers 2) Disturbance Reports from Grand Hyatt Kauai</p> <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <p>1) To Remy Cointreau USA, Inc., Re: Remy Martin coupon offers</p> <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u>          Managers and Assistant Managers – See Attachment “A”</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u></p> <p>1) <u>THE BEACH HOUSE:</u> Approval of special request for temporary increase of premises to include the patio lawn space on December 2, 18, 19, 24, 25, 27, 30, &amp; 31, 2019 from 4:00 p.m. to 10:00 p.m.</p> <p>2) <u>ROB’S GOOD TIMES GRILL:</u> Approval of special request for temporary increase of premises to include the cordoned off outside area fronting the establishment, per diagram submitted, from 8:00 p.m. on November 23, 2019 to 2:00 a.m. on November 24, 2019; from 8:00 p.m. on December 6, 2019 to 2:00 a.m. on December 7, 2019; and from 8:00 p.m. on December 13, 2019 to 2:00 a.m. on December 14, 2019.</p> <p>3) <u>WRANGLER’S RESTAURANT:</u> Approval of special request for temporary increase of premises to include the area fronting the restaurant,</p>	

per diagram, on November 30, 2019 from 11:00 a.m. to 11:00 p.m.

4) PRINCESS CRUISE LINES: Approval of Application No. 2020-053 for Sea Princess on April 22, 2020; App. Nos. 2020-060, 2020-043 through 2020-045 for Emerald Princess on February 8, 2020, April 6, 2020, April 20, 2020 and May 6, 2020; App. Nos. 2020-046 through 2020-051 for Grand Princess on January 4, 2020, February 3, 2020, February 26, 2020, March 14, 2020, April 12, 2020 and April 25, 2020; App. No. 2020-052 for Island Princess on April 18, 2020; App. Nos. 2020-054 through 2020-058 for Star Princess on January 20, 2020, February 4, 2020, February 19, 2020, March 4, 2020 and March 21, 2020; and App. No. 2020-059 for Navigator on December 11, 2019 for Transient Vessel licenses for the above-mentioned cruise vessels, which will be arriving at Nāwiliwili Harbor on the above-mentioned dates at 8:00 a.m. to depart at 5:00 p.m.

5) HOLLAND AMERICA LINE N.V.: Approval of Application No. 2020-062 for MS Noordam on May 3, 2020; App. No. 2020-063 for MS Maasdam on March 28, 2020; and App. No. 2020-064 for MS Eurodam on March 29, 2020 for Transient Vessel licenses for the above-mentioned cruise vessels, which will be arriving at Nāwiliwili Harbor on the above-mentioned dates at 8:00 a.m. to depart at 5:00 p.m.

6) FREE SPIRITS LLC: Approval of Application No. 2020-061 filed on November 19, 2019 by Free Spirits LLC for a One-Day Special Dispenser General license on November 30, 2019 at Kauai Veterans Center located at 3215 Kapule Highway, Līhu‘e, Kauai, Hawaii.

7) HANALEI SCHOOL PTA: Approval of Application No. Free 2020-45 filed on November 19, 2019 by Hanalei School PTA for a Free One-Day Special Dispenser General license at Pooku Stables located at 4520 Kapaka Street, Princeville, Kauai, Hawaii.

8) NATIONAL TROPICAL BOTANICAL GARDEN: Approval of Application No. Free 2020-46 filed on November 25, 2019 by National Tropical Botanical Garden for a Free One-Day Special Dispenser General license at 4425 Lāwa‘i Road, Kōloa, Kauai, Hawaii.

Mr. Pacheco moved to approve Items 3(a) through f. Mr. Matsunaga seconded the motion. Motion carried 7:0.

	<p><u>f) INFORMATIONAL MATTERS</u></p>	
	<p>4. <u>ALCOHOL PURCHASE PERMIT:</u>          OMAO LANDS LLC: Request permit to purchase Ethanol for use in their processing center.</p> <p>By request of Vice Chair Akita requesting an overview of operations. Representatives Darryl Kaneshiro Owner, and Megan Wamble Operations Manager, is requesting to purchase 600 gallons of ethanol for processing of CBD Oils. Omao Lands LLC, has partnered with the following agencies: State Department of Agriculture, Kauai Fire Department, and Kauai Police Department. Mr. Kaneshiro stated, they are in compliance with all three agencies. Mr. Kaneshiro, explained that each of the departments have visited his site where the CBD oil is to be produced. Mr. Kaneshiro is requesting that the Liquor Commissioners approve his permit to purchase Ethanol for his processing center.</p> <p>5. <u>LICENSE IN ABEYANCE (deferred from November 7, 2019 meeting):</u>  <u>KAUAI PASTA CORPORATION:</u> Request from Kauai Pasta Corporation dba Kauai Pasta to hold Restaurant General license No. 2G-060 in abeyance (safekeeping) as they consider transferring the license.</p> <p>Director Rapozo requested the license include the cancellation of the license.</p> <p>Vice Chair Akita, requested that the motion be repeated.</p> <p>Chair Endo, stated the motion is to deny Kauai Pasta’s request to hold Kauai Pasta’s License in Abeyance, and to cancel the License.</p> <p>Vice Chair Akita asked if they asking for their license to be cancelled and should these two items be put in one motion?</p>	<p>Mr. Gibson moved to approve Alcohol purchase permit for Omao Lands LLC. Mr. Pacheco seconded the motion. Motion carried 7:0.</p>

	<p>Counsel Jenson advised that it can be done, the statute code that allows to cancel it without discretion. The initial request was under a separate section 281-41 which allows for safekeeping or to hold the license, you have the option to do either of the two.</p> <p>Vice Chair Akita, requested that they act upon their first request to hold their license in abeyance and that cancellation be a separate motion.</p> <p>Chair Endo stated that they would need to amend the motion.</p> <p>Mr. Jenson noted that Commissioner Matsunaga suggested that the license be cancelled. Letter stated that the last day of business for Kauai Pasta in Kapa'a was September 17, 2019. This item should be moved to the next commission meeting on December 19, 2019. A Post Cancellation of the License as they have seized business. Under the section code that has been distributed you may consider that at the next meeting, make findings in facts and conclusions of law if you decide to cancel that license.</p> <p>Commissioner Kusaka stated that the agenda may reflect the company to appeal of the License, Public Notice.</p>	<p>Mr. Matsunaga moved to deny Kauai Pasta's Corporation request to hold their License in Abeyance. Mrs. Kusaka seconded the motion. Motion carried 7:0</p>
<p>6.</p>	<p><u>DISCUSSION AND POSSIBLE DECISION MAKING ON DIRECTOR OF LIQUOR CONTROL COMPENSATION:</u></p> <p>Ellen Ching Administrator for Boards and Commissions, stated that the evaluation for Director Rapozo is completed. Commissioners were given two handouts (on file) with the current department heads and deputy's for the County of Kauai, it showed the current and maximum salaries as established by the Salary Resolution and the difference between the two. A comparison sheet was given to the Commissioners from the other counties, state, City &amp; County of Honolulu, County of Hawaii, County of Maui, and County of Kauai maximum raise for the Director of the Liquor Department. Director of</p>	<p>Mr. Matsunaga moved that the Director of Liquor Control be awarded the maximum salary provided by law effective December 1, 2019 of</p>

	Liquor Control's current salary is \$109,560. The increase may go up to \$117,912 maximum that would be an increase of \$8352, 7.62% raise.	\$117,912.00. Mrs. Kusaka seconded the motion. Motion carried 7:0
7.	<p><u>DISCUSSION AND POSSIBLE DECISION MAKING ON DIRECTOR OF LIQUOR CONTROL JOB DESCRIPTION:</u></p> <p>Ellen Ching Administrator of Boards and Commission reported that she has the job description from the County of Kauai, and all other county's within the State of Hawaii. Ms. Ching requested doing a rough draft or to work with a sub-committee.</p> <p>Vice Chair Akita suggested working with Director Rapozo since we are more rural and to give the Commission a draft.</p> <p>Commissioner Matsunaga requested to seek the county attorney and legal counsel.</p> <p>Chair Endo stated that no motion is needed.</p>	
<b>Announcements</b>	Next Scheduled Meeting: Thursday, December 19, 2019 – 4:00 p.m., Mo'ikeha Building, Meeting Room #3.	
<b>Adjournment</b>		Chair Endo adjourned the meeting at 5:10 p.m.

Submitted by: \_\_\_\_\_  
 Malia Marrotte, Liquor Clerical Assistant

Reviewed and Approved by: \_\_\_\_\_  
 Paul Endo, Chair

(X) Approved as circulated.

( ) Approved with amendments. See minutes of \_\_\_\_\_ meeting.