

# APPROVED

COUNTY OF KAUAI  
Minutes of Meeting  
OPEN SESSION

Approved. See Minutes of 12-17-20

Board/Commission:	<b>LIQUOR CONTROL COMMISSION</b>	Meeting Date	<b>October 15, 2020</b>
Location	Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 763-002-650 #	Start of Meeting: 10:01 a.m.	End of Meeting: 11:55 a.m.
Tele Present	Chair Shirley Akita Members: Dee Crowell, William Gibson, Gerald Matsunaga, , Gary Pacheco Also: Liquor Control Staff: Acting Director Cecilio Baliaris, Investigator Kenneth Herman , Liquor Clerical Assistant Malialani TM Kelekoma; Boards and Commission Ellen Ching, Deputy County Attorney Todd Jenson		
Excused	Vice Chair Maryanne Kusaka		
Absent	Randall Nishimura (Absent) Commissioner Nishimura entered Tele-Conference @ 10:03 a.m.		

SUBJECT	DISCUSSION	ACTION
<b>Call To Order</b>		Chair Akita called meeting to order @ 10:01 a.m.
<b>Roll Call</b>	Acting Director Cecil Baliaris called roll, noting 5 members were present, Vice Chair Maryanne Kusaka (Excused) Commissioner Nishimura was not present constituting a quorum.	
<b>Announcements</b>	Next Scheduled Meeting: Thursday, November 5, 2020 – 10:00 a.m. via Tele-Conference.	
<b>Approval of Agenda</b>		Mr. Pacheco moved to approve the agenda. Mr. Matsunaga seconded the motion. Motion carried 6:0.
<b>Public Testimony</b>	Chair Akita opened the Public Testimony. <u>Testimony:</u>  Mr. Bob French Owner of Brennecke’s Beach Restaurant thank you for allowing us the opportunity to join you in this meeting, there was some concern and I did speak with. Needless to say I was shock when I received my statement my license fee for this current year. Initially they had sent out the wrong notice and there was an adjustment that was going to be made on it.	

SUBJECT	DISCUSSION	ACTION
	<p>But the adjustment was minimal, to give you an example of the reason I was shock, last year our fees were roughly \$7100.00 for the restaurant and a little over \$600.00 for the deli. Those fees this current year the amended figure was in excess of \$14,000.00 and the deli was in excess of \$1400.00 that was a substantial figure. Over a 103% in the restaurant in increase in over 115% for the deli over the previous year. This was given our revenue is down in the restaurant this is only through the month of August. Our liquor revenue is down in the restaurant and we had a very busy January, February and March and nothing since then. Overall revenue is down 41% in the restaurant and 35% in the deli. So with revenues down and the cost of the liquor license increasing over a 100% in both departments in puts a financial burden on our restaurant. We are struggling right now granted the State opens up for visitors. You know it is going to take a while. Now I did speak with one of the Liquor Commissioners and he said they are in the process of speaking with the Finance Department and there were some adjustments that were gonna be made, but as to date there was no adjustment made on the actual License Fee. The adjustment that was going to be made is that we would be able to pay 50% by the 23<sup>rd</sup> of October which is in a week and the remaining 50% postponed till the end of January. There is not going to be that much substantial business. I feel that an adjustment should be made there, a reasonable adjustment for you and ourselves would be to retain the same rate as was proposed last year. I really think that the equation needs some modification given the COVID situation. Thank you very much.</p> <p>Chair Akita thanked Mr. French, she asked the name of the Restaurant and Deli, to which he replied Brennecke's Beach Broiler located in Poipu and has been in business for 36 years. She asked Hoku if there was anything he wanted to add that his father has not spoken of yet.</p> <p><u>Testimony:</u></p> <p>Hoku Gordines General Manager for Brennecke's Beach Broiler and Deli, as you all know we are in a very challenging time we are at a financial hardship. The closure that happened in April and May of all businesses was helping and was a good safety measure. However, because of the closures we have been down 85-90% with the number of people that are dining with us. Our liquor sales is down 40% from last year. There are rising costs for every product and service, coming to small businesses. In a short period of time there is no way we could change our prices or push those fees on to our customers and expect them to return. I'm concerned I have been working with my father for 12 years and I thought this business could potentially do really</p>	

SUBJECT	DISCUSSION	ACTION
	<p>well for many, many years. The reality of after years of working hard for him, even if we are busy. The food industry, hospitality industry the profit margin is 1% and that's if you are doing everything correctly. You're budgeting, if you are really looking at your food cost, labor cost, insurance cost is incredible how much we pay for in insurance, just to employ so many families. Small businesses really employ a large majority of the communities' population. I can only assume that other business are experiencing these financial burdens. I think that it's only fair if we have to borrow against our life savings, home and assets, it's only fair for a better more reasonable way to determine what kind of taxes are passed on to small businesses. Otherwise we're sure to go Bankrupt and be out of business and then there is less revenue for the state, less revenue for all these products and services. Thank you.</p> <p>Chair Akita thanked Hoku.</p> <p><u>Testimony:</u></p> <p>Ellen McConnell, Owner of the Wine Shop and Tasting Room. I would like to echo pretty much what Hoku just said. Its simple math our numbers might be a little bit different from Brennecke's. We are 60% down in revenue here in the Wine Shop and our percentage fee went up 78%. Our restaurant next door, the tasting room was just opened just a year ago we were on a nice trajectory beginning the first few months and had to shut down. We were able to scramble and take advantage of some of the funds that were available, the government funds and able to pull back some of the employees and keep them insured and just barely making ends meet. This is the first year we are paying a percentage fee for the Tasting Room, the amount is more than our net income is in a given month. So with that said, I feel we are all struggling here with an increase in expenses and then to have this fee come at us. Is almost overwhelming. I hope there is some way this can be adjusted or perhaps pushed into the following year. We may have some increase in relief with visitors coming to the island, I'm not sure how it might happen that's a budgeting issue on your side. I just hope there is some way we can get some relief with this percentage fee. Thank you.</p> <p>Chair Akita thanked Mrs. McConnell and asked if her husband wishes to give any testimony.</p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>Testimony:</u></p> <p>Don McConnell, Owner of The Wine Shop and Tasting Room. What Ellen said Hoku, I assume the rest of the people testifying will probably echo the same response. It's very difficult for us to fathom the increase in the fees. The fees are budgeted every year when we get blind-sided by a 78% increase, you just can't budget for that. I just hope that the County or Liquor Department, not quite sure how it was all figured out this year. When I approached the Liquor Department they told me that the Mayor's Office took care of this budgeting system this time, which is a little strange. The Liquor Commission is solely funded on these fees paid by those who participate and have a Liquor License. So that would be another one of my questions, why did it go to the County for assessment instead of the Liquor Department. It went up exponentially, budget constraint's I realize that, you guys gotta tighten your belt to. I feel like we are footing the bill for the shortfall of all monies not collected by us individuals and all the restaurants that are closed. Holy Moly your debt income in sales dropped out. So if we consider all the testimonies today and we need relief. Thank you.</p> <p>Chair Akita thanked everyone and advised that there is a presentation from the Finance Department. She closed the Public Testimony.</p> <p>Ms. Ching stated that there are people that joined later, you may want to ask if they would like to Testify.</p> <p>Chair Akita asked if there was anyone that would like to testify or give your name and if it's similar to what was already presented and you don't wish to provide any more testimony you may give your name for the record and the establishment you represent.</p> <p>Felicia Cowden, County Council Member, I don't mind making a testimony, is that okay.</p> <p>Chair Akita asked Ms. Cowden to wait and if there was anyone else that would like to give testimony. She asked Georgine if she wanted to provide testimony.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Georgine Deason from the Kauai Marriott Food and Beverage Operations, not needed what the other establishments have said, I support that and those are my questions also and my concerns as the Food and Beverage Operations within the Hotel. With the times that we are all experiencing is very challenging to come up with that type of goal.</p> <p>Chair Akita thanked Ms. Deason and advised that we will note what you stated. Ms. Cowden you know have the floor and three minutes.</p> <p><u>Testimony:</u></p> <p>Ms. Cowden I just wanted to make a very simple testimony that I listened in today, because I have deep concern for the continuation of so many of your businesses that are very important. I go around to all the different areas of the island and we see restaurants and bars and things like that are failing so much. Everybody is on the very edge and of course as one looking at the budget, I understand how important it is to have the income, but is more important to keep them viable. So I am basically honoring the request they made and it is important to me that the continuation of the businesses especially so many in which represents generations of effort. That is my testimony.</p> <p>Chair Akita thanked Ms. Cowden. She asked if there was anyone else hearing none.</p>	
<p>1.</p>	<p><b><u>VIOLATION HEARING:</u></b></p> <p>a) <u>WHALER GENERAL STORE #1158</u>: Violation of Rule 10.2 Manager on duty, qualifications.</p> <p>Chair Akita asked if there was anyone representing Whaler’s General Store.</p> <p>Mr. Jerry Caliva, District Manager for Whaler’s General Store was present via tele-conference to represent.</p> <p>Chair Akita asked if he was represented by counsel.</p> <p>Mr. Caliva responded no.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Akita asked Acting Director Baliaris to read the violation. She asked Mr. Caliva if he received a copy of the charges and do you understand the charges. Do you admit or deny the charges. He responded, yes and admitted to the charges. Please explain what happened.</p> <p>Mr. Caliva stated, we do have a system in place to check all expired liquor cards. This particular employee which was on duty at the time came from another store. Due to the Pandemic his store closed and transferred him to Whaler's General Store in Anahola #1158, not to make excuses we do have something in place to check all the liquor card expiration. We lost track of this employee as we closed the store in which he was working at and furloughed all the employees except for this one employee. It's is our fault we did not follow up on the resumed testing. We do have something in place that follows all these expiration cards. Wanted to let the Commission know, that due to a lot of events happening during the Pandemic and closure we lost touch with certain things. We shouldn't have and we know the importance of carrying a validated liquor card in each store. The violation occurred on 8/13/20 and took him off the schedule that way he does not work by himself. He renewed his card on 8/26/20 when we got the appointment to do so. Every employee has their card.</p> <p>Chair Akita asked if there was any questions, hearing none she closed the Public Hearing.</p>	<p>Mr. Matsunaga moved that a fine of \$500.00 be imposed of which \$250.00 is suspended for a period of one year, provided a similar offense does not occur within that time frame. Mr. Nishimura second the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
2.	<p><b><u>DIRECTOR'S REPORTS:</u></b></p> <p>a) <u>INVESTIGATORS' REPORTS:</u></p> <p>b) <u>ACTIONS OF THE DIRECTOR:</u></p> <p>1) <u>GATHER FEDERAL CREDIT UNION: Approval of Application No. Free 202-02 filed on September 30, 2020 by Gather Federal Credit Union for a Free One-Day Special Dispenser Beer &amp; Wine license on October 24, 2020 from 7:30 a.m. to 3:00 p.m. at Puakea Golf Course located at 4150 Nuhou Street, Lihue, Kauai, HI 96766</u></p> <p>c) <u>INFORMATIONAL MATTER</u></p>	<p>Mr. Gibson moved to accept Director's Reports a through c. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
3.	<p><b><u>EXPLANTION FROM DEPARTMENT OF FINANCE OF THE PERCENTAGE FEES CALCULATED FOR THE LICENSEES</u></b></p> <p>Chair Akita stated to Ms. Lizama as far as where the Commission is coming from she was astonished since the Commission at no time made any changes in how we determine the fees during this past year. So this is why we felt a need to invite you to make this presentation. First of all is this a new system or is this what they always used.</p> <p>Michelle Lizama Deputy Director of Finance, replied to her question this is not a new system we have had the financial system for a while. She was requested to come before the Commission to explain the percentage fees and how it is calculated, and how the amounts are collected.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Acting Director Baliaris stated as far as the Percentage Fees are concerned nothing has changed. If you go to the percentage fee summary item # 1 the State Statues establishes the authority of the Liquor Commission to prescribe by rule the amount and manner of the payment of the fees for Licenses and Permits. Those are the fees that are collected upon renewing their License at the end of the year or new Fiscal Year. The fees range from \$408.00-\$1200.00 depending on the License.</p> <p><u>Example:</u> 81 Restaurants and multiplied by \$480.00 upon their renewal, the total is \$38,880.00 that is the fees in which the Commission has established.</p> <p>Fees are when they open a Liquor License or when it's renewed. There are different classes of Licensees there is a certain amount of Licenses: 13 Hotels, 81 Restaurant General, etc. and is multiplied by the fees that are turned in upon their renewal. These fees if you look at the formula which is established by the Legislature is totaled. Those fees which is the Basic Fees and the estimated expenditures or Budget minus that from the estimated expenditures given to us by the Finance Department and is used to get the percentage. That percentage multiplied by the total number of gross sales that everyone sent in and came up with 0.010728 which is the percentage fee multiplied by each gross liquor sales that was handed in, gives the percentage fee that each licensee was asked to pay. He stated that he would like to make a clarification we do not refer anything to the Mayor's Office. We take care our own, does not know where that information came from, or who it came from, he would like to know. Aside from that, the carry over which was \$208,000.00 which was given from Finance and Michelle will be able to explain that. The power point in which was prepared by Michelle, he went over pages 1, 2, and 3. She will begin with page 4 and continue on.</p> <p>Chair Akita asked if there were any questions for Acting Director Baliaris.</p> <p>Commissioner Nishimura stated on the agenda there is the percentage fee calculation formula and shows the sum of the calculation of 0.10728.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Acting Director Baliaris responded that is the percentage that was used to multiply.</p> <p>Commissioner Nishimura he was curious if that was a typo the other numbers came out to .010728.</p> <p>Acting Director Baliaris stated that it should be the percentage, not the percentage fee.</p> <p>Chair Akita asked, the difference between the percentage and percentage fee is.</p> <p>Acting Director Baliaris replied the percentage is what we multiply by the gross sales that each Licensee turns in at the end of the Fiscal Year, it is multiplied and that is what they need to pay their fee.</p> <p>Chair Akita asked if this the same formula every year.</p> <p>Acting Director Baliaris yes we use the same formula that was established by the Legislature every year, we do not change anything. We have to use it by-law.</p> <p>Commissioner Crowell the percentage fee is it 10% or 1% so the one that we have is incorrect?</p> <p>Investigator Herman asked what date is the one in your packet, he replied it should be September 23.</p> <p>Commissioner Crowell asked is it .001%?</p> <p>Investigator Herman responded it is .010728.</p> <p>Acting Director Baliaris responded, yes.</p> <p>Commissioner Gibson asked is it a 10% charge or .107% charge.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Akita responded .10728 that is more than 10% was in her packet, that's a big mistake.</p> <p>Investigator Herman stated it's a mistake he is looking at the power point, which is the percentage fee that went out to the Licensees. The item on the power point is what went out to the licensees.</p> <p>Commissioner Crowell asked the letter on the right hand side of the power point is what got sent to the Licensee, that's a 1% fee.</p> <p>Chair Akita asked if the Liquor Department charges all of the licensees, was it done accurately, what was sent to the Commission is a big difference from what the Finance Department has listed.</p> <p>Investigator Herman explained there seems to be a typo in the percentage fee that was sent to the Commission. The final number of \$118,468.37 is the same.</p> <p>Chair Akita asked you are not using what was sent to the Commission.</p> <p>Investigator Herman replied correct and there seems to be a typo. The final result is from the .010%, the number that was sent to the Licensee is correct.</p> <p>Commissioner Gibson, asked if the percentage has been consistent. .010728, why are the clients are reporting such a radical increase in this year's fees over the previous year.</p> <p>Acting Director Baliaris replied Michelle will explain that to the Commission.</p> <p>Investigator Herman stated the carry over amount was \$800K the previous year and this year is \$200K, as well as sales dropping.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Akita stated that's our whole point, the sales dropped, but the percentage fee remains the same is more then what we charged the Licensee's that the confusion that I have. You are saying that the Finance Department will answer that.</p> <p>Acting Director Baliaris replied, Chair Akita there is confusion as to what is being collected the fees and the percentage fees. The fees are the same it does not change, whether they renew a license or gets a brand new license, for that classification in which they are applying for.</p> <p>Commissioner Crowell stated the problem is the gross sales dropped so the denominator in your formula dropped that would make the percentage bigger.</p> <p>Acting Director Baliaris replied, yes.</p> <p>Investigator Herman replied the carry over amount changed because of that, our budget does not change much every year. There has been some miscommunications in which a letter was sent to a Council Member in which the numbers were incorrect, that the person claimed. Noting it was for all gross liquor sales. Their gross liquor sales was different. Michelle will be explaining the carryover amount. Because of some other issues in which we could not anticipate either. The sales are down and the fees from our end did not change. It effected the carryover amount in the formula which resulted in the higher fees. Another thing that is incorrect, in the last meeting, per Rule 4.7 any licensees who owes over \$5,000.00 is allowed to make two equal payments. At our last meeting it was agreed upon that this is for all Licensees and we are not requiring an equal amount to be paid. Any Licensees that has called the department directly has been explained to them. Make a payment on the 23<sup>rd</sup> of what you can as long as the final payment is made by the end of January. We are trying to work with the Licensees also.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Chair Akita asked if there were any questions for the Acting Director Baliaris.</p> <p>Michelle Lizama Deputy Director of Finance, thanked Chair Akita. She shared her Power Point Presentation with the Commission.</p> <p>Disclaimer: The Finance Department is not responsible for the Liquor Department's Budget. They do their budget on their own. The Finance Department is responsible for counting of those budgeted amounts. Ms. Lizama's presentation will consist of:          The formula that is used to calculate the percentage fees to the Licensees, which was explained by Acting Director Baliaris. She skipped over the Carryover, and will explain the Liquor Fund Balance and how fees are collected:          Basic Percentage Fees formula from the Liquor Control Commission rules and regulations. This will come in handy for the next two slides. Regarding the carryover this is gleaned from the Financial Software as of June 30, 2020. She disclosed this is an unaudited draft and has not concluded their CAFR yet. The \$200,430.69 is what Finance and the Liquor Department calls the carryover. What the carryover is the amount that is able to be expended, not committed or restricted, but may be assigned. The Liquor Fund Balance consist of the fund balance of last year of June 30, 2019 plus the revenue of ending of fiscal year June 30, 2020 subtracting the Fiscal Year's expenditure within that year which is expenses. The Committed amounts and restricted accounts will be explained in the next slide, that formula provides the carry over amount. There was \$720,293.26 which was revenues and \$991,753.35 in expenditures that exceeded the revenue, in which affected the percentage fees. The liquor fund balance as of June 30, 2020, Restricted is the Fine Revenues, net of expenses, Committed Encumbrances (Open PO's, Open Contracts) that needs to be paid out for that fiscal year, Assigned Unappropriated &amp; available for budget used in the carry over for the percentage fees.          Fund Balance = (Assets – Liabilities)</p>	

SUBJECT	DISCUSSION	ACTION
	<p>An example in which was gleaned from the Liquor Department, the Percentage Fee Formula, she used Stinger Rays as an example in which the Department mailed out on September 23, 2020. In their letter it showed the percentage fees, the estimate expenditures for the current fiscal year, the basic fees is determined by the Liquor Department for current fiscal year an estimate. The carryover is from the Finance Department as of June 30, 2020. The Total Final Gross Sales from prior license year is how they came up with the percentage fee. So when the EE(Estimated Expenditures)- (Basic Fees+ Carryover) divided by the TFGS (Total Fines Gross Sales) = Percentage Fee</p> <p>Commissioner Crowell asked does the EE (Estimated Expenditures) equals the Liquor Department budget.</p> <p>Ms. Lizama asked that Acting Director Baliaris explain.</p> <p>Acting Director Baliaris responded it's the budget.</p> <p>Commissioner Crowell stated that he is new to the Commission and has not gone through the budget process.</p> <p>Chair Akita asked Acting Director Baliaris what percentage of the budget goes to cost of the personnel for the Liquor Department.</p> <p>Acting Director Baliaris stated as far as Personnel and Salaries he does not touch that, due to the Union we are unable to go into that. The budget covers the Salaries for the Personnel and the Director of the Liquor Department.</p> <p>Commissioner Crowell asked what percentage of the EE (Estimated Expenditures) covers the Salaries.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Investigator Herman stated that they did not have that breakdown.</p> <p>Chair Akita stated she wanted a percentage, do you have an answer.</p> <p>Acting Director Baliaris responded he will call Clarence and sees what he comes up with, and will get back to the Commission.</p> <p>Chair Akita requested a list of the personnel and what position they hold in the Liquor Department.</p> <p>Acting Director Baliaris responded, there are three Investigator's Red, John, Lawrence, Investigator III is Kenneth Herman who is assigned to Investigator IV which is Acting Director Baliaris position, Clarence Accounting Clerk, Private Secretary which is non-union.</p> <p>Chair Akita asked how many employees the Liquor Department has.</p> <p>Acting Director Baliaris responded there are seven employees.</p> <p>Chair Akita thanked Acting Director Baliaris.</p> <p>Commissioner Nishimura pointed out there is one vacant position, there are eight full-time positions.</p> <p>Acting Director Baliaris responded and stand to be corrected there is a vacant position in which Malia is assigned to that as a Temporary Hire. So there are eight employees.</p> <p>Commissioner Crowell asked TFGS (Total Fines Gross Sales) \$118,468,037.00 is for fiscal year 2019-June 2020 is that correct.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Ms. Lizama stated it should be TFGS (Total Final Gross Sales).</p> <p>Commissioner Crowell asked if it is final or projected.</p> <p>Acting Director Baliaris responded, it is the total sales from all Licensees.</p> <p>Commissioner Crowell that is actual, does it include sales from March 2020 to June 30, 2020.</p> <p>Acting Director Baliaris responded for the Fiscal Year 2019-2020.</p> <p>Investigator Herman responded to Chair Akita in regards to the percentage for Salaries which is 40%.</p> <p>Chair Akita the total \$118,468,037.00 how much more or less from the prior Fiscal Year.</p> <p>Acting Director Baliaris responded, he is unable to answer that, he does not have the numbers available he only has for this year only.</p> <p>Chair Akita when you were doing all the calculations did you see whether it was more or less.</p> <p>Acting Director Baliaris responded he is only using what is in front of him and did not refer back to what it was. If you are referring to the letter that was sent to the Council Men Chock, the error that was sent it quotes \$118,468,037.00 for this year. The individual compares last year \$140,395,855.00 that's the total Gross Liquor Sales for last year and the carryover was \$800,000.00.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Nishimura stated it would be instructive to get through this summary with Ms. Lizama so that everyone has a general idea of how calculations are being made and defer anything else until such time items as the department can give a comparative of last fiscal year and this Fiscal year. He think is somewhat difficult for them to present all these numbers and put it an understandable format.</p> <p>Chair Akita asked Ms. Lizama to continue with her presentation.</p> <p>Ms. Lizama continued with her presentation, the percentage fee is then multiplied by each businesses gross sales, use the percentage fees times by the gross sales equals the total amount due. It's stated in the letter which is sent by the Liquor Control Department. She gave an example of the decrease in the carryover in which will help in understanding the decreases and increases. She is focusing on the decreases and increases on the carryover. This also could come into play of the decreases and increases in expenditures of basic fees. In the formula there is a direct correlation between the numbers of the formula will give you a different percentage fee.</p> <p>For example if there is a decrease in the carryover of \$100,000.00 that would increase the fees, if there's a decrease in the carryover. If there was an increase in the carryover it would result in a decrease in the fees for the business. You could decrease in expenditures perhaps, what that formula would look like in the end etc.</p> <p>How the budget affects the percentage fee in the formula, revenue and expenses. Need to look into what was your revenue, expenses, was there in increase in expenses and less in revenue for the year. Or was there an increase in revenue and less expenses for the year that would determine what you put in your formula and determine the percentage fee is calculated. Also, Assets and Liabilities, what are and how much are the Liabilities at the end of the year? How much you are paying out, how much actually is committed, how much was encumbered throughout the year (Open Po's, Open Contracts).</p>	

SUBJECT	DISCUSSION	ACTION
	<p>The result is how fees are collected, the Liquor Department collects fees from the Licensees. They are remitted directly to the Liquor Department, create a deposit slip, submit balancing documentation and then the Treasury Department enters the payment into the Cashiering System and deposited into bank. She noted that while it is the responsibility of the Finance Department to deposit and account for the liquor revenue, we do not assess fees through the County. This applies basically to all countywide revenue resources, except for Real Property Taxes. Mahalo.</p> <p>Chair Akita thanked Ms. Lizama, are there any additional questions before she leaves. Are there any reports in which the Commission would like the staff to prepare in regards to this item?</p> <p>Commissioner Nishimura suggested comparative figures for Fiscal Year 2018, 2019 and 2020 it would give the Commission a good starting point and the various categories and their calculations and look at how the percentage fees has varied over time and the overall TFGS (Total Final Gross Sales). The Commission would be able to have a better idea on sustainability as to what is going on now, how it's affecting both Licensees and the Department of Liquor Control budget.</p> <p>Chair Akita asked Acting Director Baliaris did you get the requested information from Commissioner Nishimura.</p> <p>Acting Director Baliaris replied he will be getting with Clarence.</p> <p>Chair Akita asked the Commission if there were any questions.</p> <p>Commissioner Crowell asked he would like to have an idea what the non-salaried portion of the budget gets used for.</p> <p>Chair Akita requested the Budget for this Fiscal Year.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Acting Director Baliaris replied he will be getting with Clarence.</p> <p>Commissioner Gibson asked Acting Director Baliaris, since you been working with these numbers, do you have any idea why the restaurants like Brennecke’s had such a huge increase in their fees when their sales has dropped drastically. Do you have any idea where that huge assessment is being created within the formula?</p> <p>Acting Director Baliaris responded with the Carryover and the Total Gross Liquor Sales from each Licensees is where it comes from. He also added with sales going down also adds to the assessment of percentage fees.</p> <p>Ellen Ching, Boards and Commission stated for the Commission’s information this formula is used by every County in the State of Hawaii.</p> <p>Chair Akita stated that she got that it was already established by the Legislature.</p> <p>Ms. Ching stated, no the calculation of the percentage fee was established by the Liquor Control Commission Rules and Regulations. The authority for the Liquor Commission is to establish that is by State Law.</p> <p>Chair Akita asked so you are saying that the Commission at some point established that percentage.</p> <p>Ms. Ching stated it’s in your rules, the formula is in Rule 4.4.</p> <p>Chair Akita stated we the Commission at some point established that rule.</p> <p>Ms. Ching answered yes every Liquor Commission in the State has the same formula.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Crowell stated the formula works in normal times, but we are not in normal times.</p> <p>Commissioner Gibson had a question for Administrator Ms. Ching, the people that testified today are suffering and if we are using the same formula Statewide, I'm sure every island, every Commission is faced with the same problems. Are we able to get a polling from the other Directors as to what they are doing to appease the complaints?</p> <p>Acting Director Baliaris advised Commissioner Gibson he will get back to him on that matter.</p> <p>Chair Akita asked if there were any more questions.</p> <p>Commissioner Crowell asked County Attorney Mr. Jenson if the Commission would be able to amend the rules.</p> <p>Mr. Jenson replied yes the Commission may amend the rules.</p> <p>Commissioner Crowell asked does it need to go through the regular rule making process that takes forever.</p> <p>Mr. Jenson replied due to the Pandemic Emergency that has already been declared, some of the rules have been suspended. The Administrative Rule making process is one of those rules that has been suspended. The answer to your question the timeframe to amend or create rules is shorter.</p> <p>Chair Akita asked Mr. Jenson to explore some of possibilities the rules and what was presented today, the percentage is the same every business has problems. What are some avenues?</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Matsunaga stated he has some concern in regards to Commissioner Crowell he is looking at the possibility of lowering the percentage fee. If we do who is gonna make up the short fall. Would like Mr. Jenson to look into that as to who would make up the shortfall in the operation of the Liquor Department.</p> <p>Chair Akita, suggested that the Commission explores all possibilities, looking at the budget, we do not have all of the information. We know how the percentage fees are being applied to all of the Licensees.</p> <p>Commissioner Matsunaga stated Commissioner Gibson's recommendations to check with the other Counties, they must have the same problem, if they have the same formula for the calculation of the percentage fees.</p> <p>Investigator Herman stated they are looking at the budget for next Fiscal Year and anticipate and we know about COVID-19, we are preparing for next year. Unfortunately these percentage fees are from last fiscal year, so that's kind of a done deal. The department is working on trying to ease the pain to the Licensees on the fees that are set right now, by allowing for ease of payments.</p> <p>Commissioner Crowell stated by using this formula next year will be worse, since the TFGS (TOTAL FINAL GROSS SALES) will be lower.</p> <p>Investigator Herman stated you are correct and we are trying to anticipate, but will not affect as to what already happened.</p> <p>Commissioner Matsunaga stated that there will be no carryover.</p> <p>Investigator Herman stated we are aware of COVID and what the situation is, we are looking at the budget, it was set-up by the previous Director.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Hoku Gordines from Brennecke’s Beach Broiler asked to make a statement:            Thank everyone for spending the time that we did here this morning on this subject. It’s been made very clear, the percentages calculated and the percentage has not been adjusted for this year. Looking over years 2020, 2019, 2018, 2017, and 2016 what I see is the carryover number affects the percentage fee. It’s the carryover that really affected us this year, bringing us up 74% of last year. I might be wrong about the percentage. My point is how we can as a community, small business owners affect the carryover and finally if the carryover is also based on funds available. How is the Liquor Commission look for funding? If I’m not mistaken, so that next year were not facing a higher percentage for less TFGS (TOTAL FINAL GROSS SALES). Unless business taking on those percentages. I’m afraid that more business will go out of business and we will be experiencing an even larger percentage for operating. If more business cannot continue to operate everyone that has a Liquor License will be paying more, if I’m not mistaken. It seems like a really out of control snow ball effect. Again thank you for looking into this and everyone’s presentation and patience. I hope the conversation carries over to action. Thank you very much.</p>	
<p>4.</p>	<p><b><u>STATUS REPORT DISCUSSION AND DECISION MAKING ON THE JOB ADVERTISEMENT AND JOB DESCRIPTION OF THE DIRECTOR OF THE DEPARTMENT OF LIQUOR CONTROL (Deferred from July 2, 2020, July 16, 2020 August 20, 2020, September 3, 2020, September 17, 2020, October 1, 2020 meeting)</u></b></p> <p>Ms. Ching Administrator for Boards &amp; Commission stated in your packet a copy of the Advertisement for the Director of Liquor Control and a copy of the Job description. The Advertisement for the Director of Liquor Control the revisions is highlighted in yellow. In lieu of a college degree eight years of experience in the Liquor Industry, Police or Law will be considered and there are similar to that of the job description. The reason this has come back before the Commission is when the PIG (Permitted Interaction Group) started working on the screening tool, they wanted to add those items and reviewed by the Human Resources Department. When adding those items the Human Resource</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Department recommended that those items be added to the Job Advertisement and Job Description. At the last meeting the Commission asked that all three documents come before the Commission and be in agreement.</p> <p>Chair Akita asked if there were any questions.</p> <p>Commissioner Crowell pointed out to check the page numbering.</p>	<p><u>Motion #1</u>            Mr. Nishimura moved to approve the Job Description for the Director of Liquor Control Position E-14. Mr. Matsunaga seconded the motion. Motion carried 6:0</p> <p><u>Motion#2</u>            Mr. Nishimura moved to approve the Advertisement for the Director of Liquor Control and be released for publication. Mr. Matsunaga seconded the motion. Motion carried 6:0.</p>
<p>5.</p>	<p><b><u>DISCUSSION AND POSSIBLE DECISION MAKING ON RECOMMENDATIONS REGARDING THE HIRING OF A NEW DIRECTOR OF LIQUOR FROM THE PERMITTED INTERACTION GROUP (PIG) ON THE SCREENING PROCESS FOR THE APPLICANTS (Deferred from July 2, 2020, July 16, 2020 August 20, 2020, September 3, 2020, September 17, 2020, October 1, 2020 meeting)</u></b></p> <p>Chair Akita stated the PIG (Permitted Interaction Group) did a phenomenal job. Are there any questions.</p> <p>Commissioner Matsunaga inquired about #2 (Mandatory Charter Qualifications) on the points says 25, asked Commissioner Nishimura was it reduced to 10.</p> <p>Commissioner Nishimura responded that was for #4, it's part of qualifications.</p>	

SUBJECT	DISCUSSION	ACTION
	<p>Commissioner Crowell asked will this form will be used for every applicant, based on #2 the bottom.</p> <p>Ms. Ching stated that yes, the screening tool, the process is devised to have a fair and equitable screening of every application. Members of the PIG (Permitted Interaction Group) would use this screening tool to review the applications, fill out a worksheet for every single application. Based on that they would convene make a recommendation to the full Commission on what applications you would be moving forward.</p> <p>Commissioner Crowell should there be a highlighted category for automatic disqualification. If they do not meet the Charter qualifications, be automatically out.</p> <p>Ms. Ching responded she would be able to do that, she recommended to highlight #2</p>	<p>Mr. Crowell moved to approve the screening process for the hiring of a New Director of Liquor Control as amended. Mr. Gibson seconded the motion. Motion carried 6:0</p>
<p>6.</p>	<p><b><u>STATUS REPORT AND RECOMMENDATIONS, REGARDING THE HIRING OF A NEW DIRECTOR OF LIQUOR FROM THE PERMITTED INTERACTION GROUP (PIG) ON THE WRITTEN QUESTIONS FOR THE APPLICANTS AND THE REVIEW OF THE SCREENING TOOL. (Deferred from September 3, 2020 meeting).</u></b></p> <p>Ms. Ching requested a deferral of this item and take the item of the agenda until the PIG (Permitted Interaction Group) is ready to provide a recommendation.</p> <p>Commissioner Nishimura asked if it applies to item 7 as well. For point of reference were there any comments or questions from the Commissioners.</p>	<p>Mr. Matsunaga moved to continue Item # 6 &amp; 7, until moved on. Mr. Nishimura seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
	Chair Akita and Ms. Ching both replied, no.	
7.	<b><u>STATUS REPORT AND RECOMMENDATIONS, REGARDING THE HIRING OF A NEW DIRECTOR OF LIQUOR FROM THE PERMITTED INTERACTION GROUP (PIG) ON ORAL INTERVIEW QUESTIONS AND A SCREENING TOOL OF THE APPLICANTS</u></b> (Deferred from September 3, 2020 meeting).	Mr. Matsunaga moved to continue Item # 6 & 7, until moved on. Mr. Nishimura seconded the motion. Motion carried 6:0.
	<b><u>EXECUTIVE SESSION:</u></b> 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).	
<b>Adjournment</b>	With no further business to conduct, Chair Akita called for a motion and a second to adjourn the meeting.	Mr. Matsunaga moved to adjourn the Meeting. Mr. Pacheco seconded the motion. Motion Carried 6:0  At 11:55 a.m. the meeting was adjourned.

Submitted by: \_\_\_\_\_  
 Malialani TM Kelekoma, Liquor Clerical Assistant

Reviewed and Approved by: \_\_\_\_\_  
 Shirley Akita, Chair

- (X) Approved as circulated.  
 ( ) Approved with amendments. See minutes of \_\_\_\_\_ meeting.