

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

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| Board/Commission: | LIQUOR CONTROL COMMISSION | Meeting Date | November 05, 2020 |
| Location | Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 425 449 683 # | Start of Meeting: 10:00 a.m. | End of Meeting: 10:54 a.m. |
| Tele Present | Chair Shirley Akita, Members: Dee Crowell, William Gibson, Gerald Matsunaga, Randall Nishimura, 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 | | | |
| Absent | Vice Chair Maryanne Kusaka | | |
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| SUBJECT | DISCUSSION | ACTION | |
| Call To Order | | Chair Akita called meeting to order @ 10:00 a.m. | |
| Roll Call | Acting Director Cecil Baliaris called roll, noting 6 members were present, Vice Chair Kusaka was not present constituting a quorum. | | |
| Announcements | Next Scheduled Meeting: Thursday, November 19, 2020 – 10:00 a.m. via Tele-Conference. | | |
| Approval of Agenda | | Mr. Pacheco moved to approve the agenda. Mr. Matsunaga seconded the motion. Motion carried 6:0. | |
| Public Testimony | None | | |

| SUBJECT | DISCUSSION | ACTION |
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| <p>1.</p> | <p><u>DIRECTOR'S REPORTS:</u></p> <p>a) <u>INVESTIGATORS' REPORTS:</u></p> <p>b) <u>ACTIONS OF THE DIRECTOR:</u></p> <p>1) <u>BEACH HOUSE RESTAURANT: Approval of special request for temporary increase of license to include the patio lawn space (30' x 80'), per diagram submitted, for special event on October 29, 2020 from 4:00 p.m. to 10:00 p.m.</u></p> <p>2) <u>ROB`S GOOD TIME GRILL: Approval of special request for temporary increase of license to include area fronting the restaurant, per diagram submitted, from November 1, 2020 to December 31, 2020.</u></p> <p>3) <u>ROB`S GOOD TIME GRILL: Approval of special request for temporary increase of license to include area fronting the restaurant, per diagram submitted, from January 1, 2021 to January 31, 2021.</u></p> <p>4) <u>KAUAI BEER COMPANY: Approval of special request for temporary increase of premises to include the Courtyard area, per diagram submitted, on October 22, 2020 to December 31, 2020 from 11:00 a.m. to 10:00 p.m.</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> |
| <p>2.</p> | <p><u>NEW LIQUOR LICENSE:</u></p> <p><u>POSTCARDS CAFÉ INC: Application No.2021-010 was filed on August 27, 2020 by Postcards Café INC. dba Postcards Café for a New Restaurant General (Live entertainment and dancing) license at 5-5075 Kuhio Highway, Hanalei, Kauai, Hawaii. Deposited \$450.</u></p> | <p>Mr. Nishimura moved to accept Application No. 2021-010 for Postcards Café New Restaurant General for Publication and Public Hearing. Mr. Pacheco seconded the motion. Motion carried 6:0.</p> |

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| <p>3.</p> | <p><u>CHANGE IN CORPORATE OFFICERS:</u></p> <p>a) <u>POSTCARDS CAFÉ INC.: Removal of Marti Paskal as Vice President; Addition of Darren Paskal as Vice President.</u></p> <p>b) <u>ABC STORES: Removal of Warren Ishii as Director and Russell Jeremiah Jr. as Vice President/Director.</u></p> <p>c) <u>FOODLAND SUPER MARKET, LIMITED: Addition of Suzy Hollinger as Chief Financial Officer and Kimberly Yoshimura as Vice President.</u></p> | <p>Mr. Nishimura moved to accept the change in Corporate Officers for Postcards Café Inc. Mr. Pacheco seconded the motion. Motion carried 6:0.</p> <p>Mr. Matsunaga moved to approve the change in Corporate Officers for ABC Stores. Mr. Pacheco moved to second the motion. Motion carried 6:0.</p> <p>Mr. Matsunaga moved to approve Foodland Supermarket, Limited request in change of Corporate Officers be approved. Mr. Pacheco seconded the motion. Motion carried 6:0.</p> |

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| | <p>d) <u>FOOD PANTRY, LTD: Addition of Suzy Hollinger as Chief Financial Officer; Kimberly Yoshimura as Vice President; and Jamie Tokunaga as Vice President; Removal of Vernon Ikebe as Vice President.</u></p> <p>e) <u>KALAMA BEACH CORPORATION: Addition of Suzy Hollinger as Chief Financial Officer; Kimberly Yoshimura as Vice President; and Keoni Chang as Vice President; Removal of Vernon Ikebe as Vice President.</u></p> | <p>Mr. Nishimura moved to approve Food Pantry, LTD change, additions and removal in Corporate Officers. Mr. Matsunaga seconded the motion. Motion carried 6:0.</p> <p>Mr. Nishimura moved to approve Kalama Beach Corporation change in Corporate Officers. Mr. Matsunaga seconded the motion. Motion carried 6:0.</p> |
| <p>4.</p> | <p><u>UPDATE AND DISCUSSION ON THE STATUS OF HIRING OF A NEW DIRECTOR OF LIQUOR</u></p> <p>Ellen Ching Boards and Commission Administrator, updated the Commission on the placement of the Ad for the New Director of Liquor Control. The Ads were placed in the Garden Island Newspaper and Star Advertiser on November 1, Mid-Week on November 4, Government Jobs Website on November 1. In addition, per the request of the Commission Ads were placed in three publications: National Conference of State Liquor Administrators, National Liquor Law Enforcement Association and National Association of Beverage Control Association. In the next meeting the PIG (Permitted Interaction Group) will be providing a report to the Commission on their recommendations.</p> <p>Chair Akita asked what the deadline for submittal is.</p> | |

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| | <p>Ms. Ching responded from the time the Human Resources Department places the Ad, the applicants have 30 days to respond.</p> <p>Commissioner Gibson asked were there any responses.</p> <p>Ms. Ching responded it's quite early, she will provide an update to the Commission at the next meeting. By the end of November it will be closed and you will have an idea of how many applications were received.</p> <p>Chair Akita, thanked Ms. Ching and the members of the PIG (Permitted Interaction Group). Depending on the timeline and looking at the review of all the applications, both Commissioner Matsunaga and Chair Akita will be off the Commission at the end of 2020. To give fairness to all the applicants, as to who should be sitting on the Interview Committee and was that decided on. She would like to be put this on the agenda for the next meeting.</p> <p>Ms. Ching stated, the PIG (Permitted Interaction Group) has completed their tasks about the criteria and developing the written questions for essays. The last task is the Interview Question's and scoring sheet, this may be put on the next agenda. In other Commissions, the full Commission has participated in interviewing. Just to keep that in mind and also the election of officers.</p> <p>Commissioner Nishimura stated the work of the PIG (Permitted Interaction Group) has a draft of the written questions and will finalize and would like to be put on the next agenda. Can these questions be discussed in Open Session or in Executive Session they relate to hiring of Personnel?</p> <p>Ms. Ching stated, there were issues with that question, due to the New Supreme Court ruling last year July, which narrowed what can be discussed in Executive Session, the questions and tools need to be discussed in Open Session.</p> | |

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| | <p>Chair Akita asked were there any questions.</p> | |
| <p>5.</p> | <p><u>STATUS REPORT ON THE PERCENTAGE FEES, PERCENTAGE VARIABLES AND TOTAL FINAL GROSS SALES FOR FY 2020-2021, FY 2019-2020 AND FY 2019-2018</u></p> <p>Acting Director Baliaris stated the Commissioners were given three handouts. He went over the 1st Handout of the Percentage Fees Variables for each Fiscal Year, increases was due to salary. 2nd Handout- Total Final Gross Sales this reflects the Percentage Fees, budget and the Final Gross Liquor Sales. 3rd Handout three year Comparison Variables, the amount went up and the totals.</p> <p>Commissioner Gibson stated the reason we are looking into the budget percentage fees how it is derived, due to the complaints from the Clientele about the increase and if the Commission was able to cut or spread out payments. What has been done with the Licensees?</p> <p>Acting Director Cecil Baliaris stated that two meetings ago he made a proposal for a payment plan. There are Licensees who are participating in the payment plan. He also stated that they have collected from most of the Licensees. For those Licensees that are on the Mainland the Department is unable to get a hold of them. For the Licensees here, they have collected from a lot of the Licensees. He clarified that they have received calls that the percentage fees affects their financial situation within the last three months. He also gave a short scenario using the amount of \$1,400,400.40 and came up with a percentage fee of \$15,230.50 and divide by nine that is the average amount each month in which the Licensees will be making multiply by three and add to the Gross Liquor Sales. For this year there is nothing that can be done.</p> | |

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| | <p>Commissioner Nishimura thanked Acting Director Baliaris for his presentation. In terms of where we are right now and moving forward, looking at your recommendation and how can we provide potential relief for the upcoming year? You have allowed for a payment plan, has given the Licensee some form of relief. The bigger things is the understanding of the budget, he is in hopes of trimming down the expenses and as a Board doing some kind of relief measure for the upcoming year.</p> <p>Chair Akita asked about the percentages for Salaries and was told it was 30%, which she found was a very low amount, of the expenditure of the past year what is the percentage for Salaries.</p> <p>Acting Director Baliaris stated that he does not have the information right now. He does not know how the previous Director made his budget, the salaries was in limbo due to the Union and was not clear if they were going to get a raise of 2%, for the next budget will be able to look on.</p> <p>Commissioner Crowell where does the other portion of the budget go?</p> <p>Acting Director Cecil Baliaris stated that the budget for salaries is 61%. The other percentage of the budget is travel and equipment and will be doing major cuts.</p> <p>Commissioner Matsunaga asked besides Salaries, what's the next two largest expenditures?</p> <p>Acting Cecil Baliaris replied, travel and airfare in which will be cut dramatically.</p> <p>Commissioner Nishimura asked if Finance gives quarterly numbers to look at the projected TFGS (Total Final Gross Sales) for this year.</p> | |

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| | <p>Acting Director Cecil Baliaris responded, he was looking at that and is unable to project anything should we go on lockdown these Licensees are going to be closed. So unable to go on what they are doing at this moment as to see what is going to happen.</p> <p>Commissioner Crowell stated that when the TFGS (Total Final Gross Sales) goes down the percentage fees are going up, and it will get worse.</p> <p>Acting Director Cecil Baliaris stated yes he is aware of that.</p> <p>Commissioner Nishimura stated typically in his business, in terms of how this may affect things in the long run, take a point in time, best guess or goes backwards or at least have some measure as to where we may be next year. It it's a little easier instead of waiting till June. Suggested a quarterly figure, there may be some measures to look at.</p> <p>Commissioner Crowell mentioned they need to start preparing for budgets right at the beginning of next year and submit their budget to Council in March at the latest.</p> <p>Investigator Herman stated on a good note there were no further closures and working on some new Licensees.</p> <p>Commissioner Gibson asked are there monthly reports on revenues.</p> <p>Acting Director Baliaris responded no only the TFGS (Total Final Gross Sales), it has never been done. Does not know how to go about it, if a rule needs to be made.</p> <p>Commissioner Crowell replied, ask a cross section of Licensees what their income will be like and compare to last year to prepare your budget.</p> <p>Commissioner Matsunaga asked Acting Director Baliaris, of the existing Licensees how many decided not to renew their license.</p> | |

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| | <p>Acting Director Baliaris replied there were seven closures. There are other Licensees that are not open, they are waiting to see what happens with the Tourist. The main problem are the On-Premise Licenses, Restaurants and places that sell liquor. There are no problems with the retail, most of the retail is open and some have closed.</p> <p>Investigator Herman mentioned Nation Wide there are trending the same as everywhere else, according to the reports that he keeps up with. The markets are being majority affected.</p> <p>Chair Akita asked if there were any more discussion.</p> | <p>Mr. Crowell moved to accept the Status Report on the Percentage Fees, Percentage Variables and Total Final Gross Sales for FY 2020-21, FY 2019-2020 and FY 2019-2018. Mr. Pacheco seconded the motion. Motion Carried 6:0.</p> |
| <p>6.</p> | <p><u>STATUS REPORT ON PERCENTAGE FEES FOR THE COUNTY OF MAUI, COUNTY OF HAWAII AND CITY & COUNTY OF HONOLULU</u></p> <p>Investigator Herman reported that the County of Maui, did not make any changes due to COVID19. The County of Hawaii, did a monthly installment plan similar to the County of Kauai, and deferred their renewal fees to November. The City and County of Honolulu normally due in July, extended to October 31. They cut their recommended late filing in half, the Commission has the option to do a letter of reprimand, instead of a monetary penalty. Which is something the Commission may look at once the due date has arrived, which is the end of January 202, we may make a decision at that point. How the Commission would like to proceed if there are any violations.</p> <p>Chair Akita asked are there any questions.</p> <p>Commissioner Crowell asked to go over the formula, last year the carryover was \$832,000.00 and this year it's \$200,000.00. The carryover is from not spending the whole budget from the prior year. Is that right?</p> <p>Investigator Herman replied from his understanding, the carryover is anything that was not spent in our budget, and is returned to the Licensees.</p> | |

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| | <p>Commissioner Crowell stated through this formula.</p> <p>Investigator Herman replied, yes it gets returned to the Licensees, how it is done, he is not clear on, if it is forwarded to the next Fiscal Year, a check is not cut to the Licensees.</p> <p>Chair Akita would like Acting Director Baliaris to check on how it is returned to the Licensees. She did not realize it went back to the Licensee.</p> <p>Investigator Herman stated by-law it needs to be returned. With the budget the way it is, he is unsure if anything was returned back to the Licensees.</p> <p>Acting Director Baliaris advised Chair Akita that he would check on that.</p> <p>Chair Akita would like to know: What is the carryover money and where does it come from. The second question if the Law says that we need to give it back to the Licensees how is it being done. She asked Commissioner Crowell, does that answer your question.</p> <p>Commissioner Crowell responded yes kind of, he needs to dig more into the formula a little bit more. It appears that they are giving it back through the formula and not writing them a check.</p> <p>Investigator Herman responded that is his understanding of the formula as well but not positive.</p> <p>Commissioner Crowell stated it looks like they are taking it away from the estimated expenditures minus the carryover which brings down the estimated expenditures, which lessens the percentage.</p> <p>Chair Akita responded to have this confirmed.</p> | |

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| | <p>Commissioner Crowell questioned the 2019-2020 of \$832,000.00 carryover and the budget for 2018-2019 was \$1.3 million and did not spend over half of the budget, is that correct.</p> <p>Investigator Herman responded that is the hard part, Acting Director Baliaris was thrown into this after it was already a done deal. A lot of these questions they did not get with former Director Rapozo.</p> <p>Commissioner Crowell stated he did realized that, just want to get his arm around this.</p> <p>Chair Akita asked were there any more questions.</p> <p>Commissioner Gibson asked was the formulas set up by the Legislature, is that correct.</p> <p>Acting Director Baliaris replied it was set up by Director Takase of Hawaii Island and it was agreed upon by the other Directors to follow that formula.</p> <p>Commissioner Gibson responded Honolulu is not following what Maui and Hawaii Island.</p> <p>Investigator Herman replied Oahu is different.</p> <p>Acting Director Baliaris responded, Oahu has 1,500 Licensees compared to Kauai at 200, so they did some thinking in how to help the Licensees. Their formula is way different.</p> <p>Investigator Herman replied they have a Commission and Adjudication Board. Their whole operations is different.</p> <p>Chair Akita stated Maui has two Commissions, Kauai is the only one that handles everything.</p> <p>Chair Akita asked were there any more questions.</p> | <p>Mr. Crowell moved to accept the Status Report on the Percentage Fees for the County of Maui, County of Hawaii and City & County of Honolulu .Mr. Pacheco seconded the motion. Motion Carried 6:0</p> |

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| Adjournment | With no further business to conduct, Chair Akita called for a motion and a second to adjourn the meeting. | Mr. Pacheco moved to adjourn the Meeting. Mr. Matsunaga seconded the motion. Motion Carried 6:0 At 10:54 a.m. the meeting was adjourned. |

Submitted by: _____
Malialani TM Kelekoma, Liquor Clerical Assistant

Reviewed and Approved by: _____
Shirley Akita, Chair

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