

APPROVED

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

See minutes of 5-20-21.

Board/Commission:	LIQUOR CONTROL COMMISSION	Meeting Date	February 18, 2021
Location	Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 743 198 263#	Start of Meeting: 10:00 a.m.	End of Meeting: 11:33 a.m.
Tele Present	Chair William Gibson, Vice Chair Dee Crowell Members: Shirley Akita, Leland Kahawai, Gerald Matsunaga, Randall Nishimura, Gary Pacheco Also: Liquor Control Staff: Acting Director Cecil Baliaris Jr., Liquor Clerical Assistant Malialani TM Kelekoma; Ellen Ching Administrator Boards & Commission, Deputy County Attorney Charles Foster		
Excused			
Absent			
SUBJECT	DISCUSSION	ACTION	
Call To Order		Chair Gibson called meeting to order 10:00 a.m.	
Roll Call	Acting Director Cecil Baliaris Jr., called roll, noting 7 members were present constituting a quorum.		
Announcements	Next Scheduled Meeting: Special Meeting Saturday February 20, 2021 10:00 a.m. via Tele-Conference Open Meeting Thursday, March 4, 2021 – 10:00 a.m. via Tele-Conference		
Approval of Agenda		Mr. Pacheco moved to approve the Agenda. Mr. Kahawai seconded the motion. Motion carried 7:0.	

SUBJECT	DISCUSSION	ACTION
<p>1.</p>	<p><u>PUBLIC HEARING:</u></p> <p><u>POINT HB LLC dba LEI HANAIEI:</u> Application No. 2021-014 was filed on December 7, 2020 by POINT HB LLC dba LEI HANAIEI for a New Retail Dealer license at old Harvest Market location in Hanalei Town located at 5-5161 Building F Kuhio Hwy, Hanalei, Kauai, Hawaii. The Commission accepted Application No 2021-014 for publication and public hearing on December 17, 2020 and ordered to print notices of public hearing in the Garden Island on February 3, 2021 February 10,2021 scheduling the public Hearing on February 18, 2021 at 10:00 a.m. or shortly thereafter via Tele-Conference.</p> <p>Acting Director Cecil Baliaris Jr. noted that the applicant did not meet the requirements or sent out the mailings. The applicant is requesting to be put on another date and was advised that they will be paying for the publication of the next Public Hearing. This Public Hearing was put on the agenda due to the publication.</p> <p>Mr. Foster commented no action is necessary, this item is between the applicant and Director when they have all of the requirements, it will be put back on a future agenda.</p>	
<p>2.</p>	<p><u>DIRECTOR'S REPORTS:</u></p> <ul style="list-style-type: none"> a) <u>INVESTIGATORS' REPORTS:</u> b) <u>ACTIONS OF THE DIRECTOR:</u> c) <u>INFORMATIONAL MATTERS:</u> 	

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	<p><u>NOTICE OF CHANGE IN MANAGERS OF A LIMITED LIABILITY COMPANY LICENSE</u> Young’s Market Co., LLC, a Delaware manager-managed limited liability company (Licensee) notifies the Commission by letter dated January 30, 2021 that on December 31, 2020, one of its managers, Young’s Holdings, Inc. a Delaware corporation (“YHI”) withdrew as a manager, and that YHI Spirits, LLC, a Delaware limited liability company (“YHI SPIRITS”) was admitted as a manager. Licensee also provides the Commission with further details concerning related business entities. (HRS § 281-41(e) provides in relevant part, “Where a license is held by a ... limited liability company, the admission or withdrawal of a ... manager of a manager-managed limited liability company shall not be deemed a transfer of the license; provided that the licensee shall, within thirty days from the date of the admission or withdrawal, so notify the commission in writing, stating the name of the ...manager, who has been admitted or withdrawn, and any other information as may be required by the commission.”).</p> <p><u>NOTICE OF CHANGE IN DIRECTORS OF CORPORATE LICENSE</u> <u>Seven-Eleven Hawai’i, Inc. dba 7 Eleven Stores notifies that Commission of the removal of Ryoji Sakai as Director. Appointment of Ryota Yokokura as Director. (HRS § 281-41(i) provides in relevant part that “the corporate licensee, if not a publicly-traded company, or an entity ultimately solely owned by a publicly-traded company, shall, within thirty days from the date of election of any officer or director, notify the commission in writing of the name, age, and place of residence of the officer or director. A publicly-traded company, or an entity ultimately solely owned by a publicly-traded company, shall, within thirty days from the date of election of any replacement of an officer designated as a primary decision-maker regarding the purchase and sale of liquor, notify the commission in writing of the name, age, and place of residence of the officer. If the commission finds that the transferee, officer, or director, for whom notification is required to be given as specified in this subsection, is an unfit or improper person to hold a license in the transferee's,</u></p>	

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	<p><u>officer's, or director's own right pursuant to section 281-45, it may in its discretion revoke the license or suspend the license until a retransfer or new transfer of the capital stock is effected to a fit or proper person pursuant to section 281-45 or until the unfit or improper transferee, officer, or director is removed or replaced by a fit and proper person pursuant to section 281-45.”).</u></p> <p>Mr. Foster commented on c) of the Director’s Report they don’t require action. They are under the statues: requires disclosures to this body for the change in Managers of the Young’s Market and change of Director’s for 7-11. If you have any questions, he will be happy to assist. No action is necessary accept to receive them.</p> <p>Commissioner Matsunaga asked about the Acting Director Cecil Baliaris Jr. report in regards to the Budget Committee, was there anything the Commission should be concerned with. Did the Budget Committee make any recommendations or comments regarding the budget request?</p> <p>Acting Cecil Baliaris Jr. replied they have not made any comments. He submitted his suggestions and has not gotten back to him. Right now they are working on the reallocation of the Senior Account Clerk position as he is doing double duties and that won’t affect any of the salary monies.</p> <p>Commissioner Akita inquired about the reallocation of the Senior Account Clerk position, what are you referring to?</p> <p>Acting Cecil Baliaris Jr. replied what they are trying to do is move him up to SR status. He is doing his job specifications and that of the Private Secretary job specifications. They are going to try and put it together and that is the reallocation so he get compensated for what he is doing.</p>	

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	<p>Commissioner Akita asked will you not have a Secretary.</p> <p>Acting Cecil Baliaris Jr. replied at this time we won't have one. Due to the budget cuts, we will wait to we have the New Director and they can work on a Secretary at that time. Right now the Senior Account Clerk is doing everything and we do not need to hire a Secretary.</p> <p>Commissioner Matsunaga replied in response to Commissioner Akita's question you are saying the Secretary position will be eliminated.</p> <p>Acting Cecil Baliaris Jr. replied it will be dollar funded and will not be eliminated.</p> <p>Chair Gibson asked are there any more questions.</p> <p>Vice Chair Crowell asked this is on the administration side, your meeting with the Budget Committee.</p> <p>Acting Cecil Baliaris Jr. replied yes and just for your information this is for the 2022 Fiscal Year, after that changes can be made.</p> <p>Commissioner Matsunaga asked when the Fiscal Year ends June 30th, 2022.</p> <p>Commissioner Matsunaga asked so when the New Director comes in May or June they will not have a Private Secretary till 2022?</p> <p>Acting Director Cecil Baliaris Jr. replied it all depends on what the Budget calls for. He can meet with HR and they will be able to discuss with him or her.</p>	

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	<p>Chair Gibson asked are there any more questions. Chair Gibson asked Acting Director Cecil Baliaris Jr. to expand his Investigator’s Report especially on this matter, there seems to be concerns when you present in future meetings.</p> <p>Acting Director Cecil Baliaris Jr. replied what reports are those.</p> <p>Chair Gibson replied, what we are discussing.</p> <p>Acting Director Cecil Baliaris Jr. replied it’s the same report that was proposed to the Commissioner’s a couple months ago. There are no changes I did the same thing that was presented to the Commission. I did not touch the Salaries, I am unable to do that, but the line items which was presented is what I did.</p> <p>Chair Gibson replied it looks like you didn’t do anything because there is nothing reported. You attended the meeting and that was it. So maybe you can elaborate on it in the future.</p> <p>Acting Director Cecil Baliaris Jr. replied I believe a couple months ago I sent copies to the Commission and showed what I did.</p> <p>Commissioner Matsunaga commented what Chair Gibson is getting at in your report, you will continue to work with the Budget Committee and wants you to expand on that. So the Commission knows what you are working on.</p> <p>Acting Director Cecil Baliaris Jr. replied will do.</p> <p>Commissioner Akita her concern is the continuity of whoever becomes the Director as of today we have not decided what the beginning date will be. I expected that the Secretary position whoever comes in have to go to HR, Budget Committee and ask for</p>	

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	<p>a Secretary. She asked Chair Gibson how the Commission can help. We are working to upgrade Clarence, will Clarence be the person the New Director will be working with.</p> <p>Acting Director Cecil Baliaris Jr. replied the position that Clarence will be having or maybe getting is below the Secretary's position. I was told the Secretary's position is appointed by the Mayor and I did not have anybody in mind to take the Secretary's position. He will deal with what he has now and be concerned with the budget cuts and saving the money.</p> <p>Commissioner Matsunaga replied, I believe there is the County Attorney's opinion that indicated it was not the Mayor's choice to select a Secretary it's the Director's choice, has that been changed?</p> <p>Acting Director Cecil Baliaris Jr. replied that is why I am leaving it up to the new Director, I don't want to appoint anybody, and I don't know anybody that is qualified to do that. The one that I am concerned about is Clarence he is doing everything now and I am familiar on what he is doing and it pertains to this Department.</p> <p>Commissioner Matsunaga commented you indicated that it was the Mayor's decision to appoint the Secretary. My understanding is the County Attorney's office wrote an opinion, basically stating it's the Director's prerogative to select his own Secretary. Mr. Foster has that changed.</p> <p>Mr. Foster replied, he is not aware of that being changed at all.</p> <p>Commissioner Matsunaga replied, it's still the Director's call.</p> <p>Mr. Foster replied, yes that is my understanding.</p>	

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	<p>Commissioner Nishimura asked Acting Director Cecil Baliaris Jr. a question relative to the budget, has the budget been set-up with the hire of the New Director in mind?</p> <p>Acting Director Cecil Baliaris Jr. replied negative everything that is being done now we have to work on the budget that has to be presented to the Council. The Budget Committee met with each department and we worked on our budgets and we were given specific levels in which we had to go by. They have asked and have not received anything back from the Committee, whether it was a yes or no. It must be a yes, they did not come back and say anything. We are mostly concerned about budget cuts and saving money. Especially the licensees that is where they are most concerned.</p> <p>Commissioner Nishimura responded that he understands, so right now in your budget you do not have a provision for a New Director, is that correct.</p> <p>Acting Director Cecil Baliaris Jr. responded at this time he is occupying the position right now. My position as Investigator IV is open, should the new Director come on board, and I will go back to my position. The new Director can take his position.</p> <p>Commissioner Matsunaga replied what Commissioner Nishimura is inquiring about is unless there a request for the funding of the position, the new Director will not have any funds for his position once you move back to your Investigator IV position.</p> <p>Acting Director Cecil Baliaris Jr. responded the position is still open it is not closed. It's when I go back to my position he will take over the position in right now.</p> <p>Commissioner Matsunaga commented will it be allocated for that.</p> <p>Acting Director Cecil Baliaris Jr. responded yes it should be.</p>	

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	<p>Vice Chair Crowell asked is your old position funded.</p> <p>Acting Director replied yes it is.</p> <p>Investigator Herman commented that he is filling the Investigator IV spot temporarily.</p> <p>Commissioner Nishimura asked if everyone is temporarily assigned upward and we were to hire a new Director will we have enough money in the budget to hire the new Director.</p> <p>Acting Director Cecil Baliaris Jr. replied yes I can't cut anything from the salaries, because it is already there, by the Union. The only thing I can cut from the budget is the line items. I don't touch the salaries, I guess it is up to Finance or the Budget Committee.</p> <p>Commissioner Nishimura asked besides the Private Secretary position is there any other dollar funded positions in the budget.</p> <p>Acting Director Cecil Baliaris Jr. replied the proposed budget funding would be the Senior Clerk position in which it has not been filled as well as the Private Secretary position. Should the Senior Clerk position be reallocated the two open position will help fund the allocation it won't affect the budget that much they will probably take from the open positions and use that.</p> <p>Chair Gibson asked are there any other questions.</p> <p>Commissioner Matsunaga asked the vacant positions are being funded.</p> <p>Acting Director Cecil Baliaris Jr. replied yes.</p>	

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	<p>Vice Chair Crowell replied except for the Private Secretary position.</p> <p>Commissioner Matsunaga commented that will be funded also.</p> <p>Acting Director Cecil Baliaris Jr. replied yes that will be funded.</p> <p>Chair Gibson replied the Private Secretary position is funded.</p> <p>Acting Director Cecil Baliaris Jr. replied yes it is funded.</p> <p>Vice Chair Crowell replied dollar funded?</p> <p>Acting Director Cecil Baliaris Jr. replied for 2022 the Private Secretary and Senior Clerk position may be dollar funded. It is up to the Committee on what they decide to do.</p> <p>Commissioner Akita when you say Committee, what Committee are you referring to?</p> <p>Acting Director Cecil Baliaris Jr. replied the Budget Committee, Finance and Mayor's Office.</p> <p>Commissioner Akita replied so does the Senior Clerk keeps his position, or is that the re-classification that you are now working toward. Is that it?</p> <p>Acting Director Cecil Baliaris Jr. replied yes right now HR is looking into it.</p> <p>Commissioner Akita replied to determine whether he maintains it for the next budget year is yet to be determined now. He can get compensated now for the work that he is doing. Is it temporary? Is that what you are saying?</p>	

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	<p>Acting Director Cecil Baliaris Jr. replied it may be permanent it's and SR rating and a Civil Service Position.</p> <p>Commissioner Akita replied will it be permanent?</p> <p>Acting Director Cecil Baliaris Jr. replied yes, the Private Secretary position is not permanent.</p> <p>Chair Gibson asked any other questions.</p>	<p>Mr. Pacheco moved to accept the Director's Report a through c. Mr. Crowell seconded the motion. Motion carried 7:0.</p>
<p>3.</p>	<p><u>OFF-PREMISE WAREHOUSING:</u></p> <p><u>WAINIHA COUNTRY MARKET, INC.:</u> Requesting for off-premise warehousing, per diagram and letter submitted, at 5-6607 Kuhio Highway, Hanalei, Kauai, Hawaii. (HRS § 281-39 (a) states in relevant part: "A license issued under this chapter shall authorize the doing of the business licensed only at the place described in the license, which shall be known as the licensed premises, except: (1) In case of a removal with the prior written consent of the liquor commission indorsed on the license, or outside warehousing which may be located off the licensed premises with prior written consent of the liquor commission.")</p>	<p>Mr. Pacheco moved to grant Wainiha Country Market, Inc. request for off-premise warehousing per diagram and letter submitted at 5-6607 Kuhio Highway, Hanalei, Kauai, Hawaii. Mr. Kahawai seconded the motion. Motion carried 7:0.</p>
<p>4.</p>	<p><u>UPDATE, DISCUSSION AND POSSIBLE DECISION-MAKING ON MATTERS RELATED TO THE HIRING OF THE DIRECTOR OF LIQUOR CONTROL</u></p>	

SUBJECT	DISCUSSION	ACTION
	<p><u>EXECUTIVE SESSION:</u> Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-4 and §92-5 (a) and (2) and (4), the purpose of this Executive Session is for the deliberation and decision-making by the Commission relating to the recommendations as presented by the Permitted Interaction Group on the hiring of a new Director of Liquor Control and other related items, and to consult with its attorney on questions and issues pertaining to the Commission's powers, duties, privileges, immunities and liabilities as they may relate to this agenda item.</p>	<p>Mr. Nishimura moved to go into Executive Session and invite the Boards and Commission Administrator Ellen Ching and the Liquor Clerical Assistant Malialani Kelekoma. Mrs. Akita seconded the motion. Motion carried 7:0.</p>
	<p><u>EXECUTIVE SESSION:</u> Pursuant to Haw. Rev. Stat. ("H.R.S.") §92-7(a), the Commission may, when deemed necessary, hold an executive session on any agenda item without written public notice if the executive session was not anticipated in advance. Any such executive session shall be held pursuant to H.R.S. §92-4 and shall be limited to those items described in H.R.S. §92-5(a).</p>	
	<p><u>RETURN TO OPEN SESSION</u></p> <p>Returned to Open Session @ 11:31 a.m.</p>	
	<p><u>ROLL CALL FOR THE RETURN TO OPEN SESSION</u></p> <p>Chair Gibson asked Mrs. Kelekoma is the 7 members online, constituting a quorum.</p>	
	<p><u>RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION</u></p>	<p>No action needed.</p>
<p>Adjournment</p>	<p>With no further business to conduct, Chair Gibson called for a motion and a second to adjourn the meeting.</p>	<p>Mr. Pacheco moved to adjourn the Meeting. Mr. Matsunaga seconded the motion. Motion Carried 7:0</p>

SUBJECT	DISCUSSION	ACTION
		At 11:33 a.m. the meeting was adjourned.

Submitted by: _____
Malialani TM Kelekoma, Liquor Clerical Assistant

Reviewed and Approved by: _____
William Gibson, Chair

Approved as circulated.

Approved with amendments. See minutes of _____ meeting.