

APPROVED

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

See Open Session Minutes of 04-14-22.

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| Board/Commission: | LIQUOR CONTROL COMMISSION | Meeting Date | March 10, 2022 |
| Location | Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 930 694 009# https://bit.ly/3oqyCgD | Start of Meeting: 4:00 p.m. | End of Meeting: 5:13 p.m. |
| Tele Present | Chair Dee Crowell, Vice Chair Leland Kahawai, Members: William Gibson, Randy Nishimura, Gary Pacheco, Tess Shimabukuro, Lorna Nishimitsu Also: Liquor Control Staff: Director Leo Sandoval, Liquor Clerical Assistant Mary Ann Ornellas & Anela Segreti, Ellen Ching Administrator Boards & Commission, Deputy County Attorney Charles Foster | | |
| Excused | | | |
| Absent | | | |

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| A. <u>CALL TO ORDER</u> | | Chair Crowell called meeting to order 4:00 p.m. |
| B. <u>ROLL CALL</u> | Director Leo Sandoval called roll, noting 7 members were present and alone via Tele-Conference constituting a quorum. | |
| C. <u>ANNOUNCEMENTS:</u> | Next Scheduled Meeting: Thursday, March 24, 2022 – 4:00 p.m. or shortly thereafter | |
| D. <u>APPROVAL OF AGENDA</u> | Correction to Consent Agenda Item J it should be Point HB LLC. and not Point BH LLC. | Agenda is approved as modified Item J. Point HB LLC and not BH LLC. |

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| <p>E.</p> | <p><u>CONSENT AGENDA</u></p> <ol style="list-style-type: none"> 1. <u>APPROVAL OF MINUTES: None</u> 2. <u>DIRECTORS REPORT: February 18, 2022 – March 3, 2022</u> 3. <u>INVESTIGATORS ACTIVITY REPORTS:</u> 4. <u>EMPLOYEES IN LICENSED PREMISES:</u> Managers and Assistant Managers Red/Blue Card exam list - See Attachment "A" 5. <u>ACTIONS OF THE DIRECTOR:</u> <ol style="list-style-type: none"> a. <u>CHICKEN IN A BARREL WAIMEA:</u> Approval of a special request for addition of (1) Friday night trivia and (1) Corn Hole entertainment device to be located on premises. 6. <u>TEMPORARY INCREASE OF PREMISES:</u> <ol style="list-style-type: none"> a. MPK MANAGEMENT CO. LLC., dba THE BEACH HOUSE RESTAURANT: Approval of Temporary Extension of Premises to include the patio lawn space, as seen in the attached packet. The space is approximately thirty feet by eighty feet from March 12, 2022, through April 12, 2022. b. All applicable requirements have been met and clearances obtained including a temporary emergency (SMA) Special Management Permit | <p><u>Motion:</u></p> <p>Mr. Gibson moved to approve the Consent Agenda. Mr. Pacheco seconded the motion. Motion carried 7.0</p> |

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| | <p>from planning, a clearance from Building Division, and Department of Health.</p> <p>c. MPK Management has filed with the Planning Commission an application for a permanent Special Use Permit (SMA), Public Hearing scheduled for April 12, 2022.</p> <p>7. <u>CHANGE IN OFFICERS/DIRECTORS/ MEMBERS:</u></p> <p>a. <u>COSTCO WHOLESALE CORPORATION dba COSTCO WHOLESALE 640 (4G-030):</u> The addition of Gary Dean Swearingen as Assistant Secretary and ownership of less than one percent. The addition of Roland Michael Vachris as President/Director and ownership of less than one percent. The deletion of Walter Craig Jelinek as President and will remain as CEO & Director.</p> | |
| <p>F.</p> | <p><u>PUBLIC TESTIMONY:</u></p> <p>Director Sandoval stated public testimony is open for any agenda item and any person in the public that would like to testify on any agenda item was allowed to do so at this time and it would be separate from the Public Hearing Agenda.</p> <p>Chair Crowell noted that Public Hearing for Hometown Canteen closed at the last meeting (February 24, 2022). Therefore, anyone wanting to provide testimony on this item was allowed to do so under this item.</p> <p>Ms. Tapia present, representing the neighborhood, testified they are happy about the limited outdoor seating, and they talked with Mr. Tennberg about stating how many</p> | |

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| | <p>tables he is planning to have outside. The homeless has taken over that entire area and it would be beneficial and healthy for the community to have life in that area.</p> <p>Mr. Patt, present and testified he was a tenant of Old Koloa Town for 20 years. Mr. Patt indicated at the last meeting; Mucho Aloha purported that they would provide additional measure of security to Ms. Tapia. Mucho Aloha is a restaurant and the kind of security that a shopping center provides is episodic. Its' not 24/7, in fact it's not 7. Mr. Tennberg cannot provide security beyond the premises as they promised, and security is up to Koloa Town and Bill Corp. If Ms. Tapia thinks she's going to get more protection from Mucho Aloha security guards, they are not. They are not going to go chasing homeless people out. That's not there kuleana (responsibility), they can't do that. Do not believe them. It's not in their domain. It's up to Old Koloa Town. Historically, a shopping mall still does not provide the kind of security that Mrs. Tapia is looking for and she will need to talk to the Police Department.</p> <p>Jonathan Chun present, testified on behalf of applicant. He thanked the Commission for allowing him and his client time during this public testimony period. He wanted to point out that Mr. Patt's misrepresented to the Commissions statements made by applicant and other people.</p> <p>Mr. Chun pointed out that Mr. Patt's comments regarding security by a landlord is based upon his 20-year-old experience with a different landlord. I don't believe he is qualified to testify or to offer comment as to what their current landlord will currently do. The applicant has never ever said they we will provide security at the parking sites. We've always said in our public testimony, we will provide security on the licensed premises and the landlord will be providing security at the parking sites. Mr. Chun disagreed and objected to Mr. Patt's continued misuse and misquoting of statements. Mr. Chun further expressed Mr. Patt's statements must be taken with a grain of salt because he is misstating a lot of the facts and testimony.</p> | |

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| <p>G.</p> | <p><u>PUBLIC HEARING:</u></p> <ol style="list-style-type: none"> <u>HOMETOWN CANTEEN LLC. dba Mucho Aloha:</u> HOMETOWN CANTEEN LLC. dba Mucho Aloha filed Application No. 2022-034 on April 6, 2021, for a New Brew Pub B (With Live Entertainment and Dancing) License located at 5330 Koloa Rd, Suite 13-1, Koloa, Kauai, Hawaii. Deposited \$450.00. (Continued from 1/13/2022, 1/27/2022 2/10/2022 and 2/24/2022) Public Hearing was closed on 2/24/2022, pending Commission decision. <p>Director Sandoval stated, this public hearing has been closed previously during the previous Commission meeting, pending the motion by Commissioner Nishimura.</p> <p>Commissioner Nishimura shared the draft motion with the conditions. He noted the information was taken from correspondences that was on record and he synthesized it into a motion which, he understood, applicant was willing to accede to. He wanted the Commission and the applicant a chance to review the motion and see if there are any changes that Commission would need to make prior to formally moving forward with the motion.</p> <p>Mr. Chun and his client commented on the draft motion and conditions and had agreed to all the representation except for the representation on the outdoor seating.</p> <p>Mr. Chun questioned whether 50 feet was needed to be included in the condition regarding landscape screening and fencing. He further stated, we will comply with all federal, state and county agency requirements as a condition of this approval. Mr. Chun further indicated the process for permit approval and any Department of Health issue and believed last sentence in that in that condition is not needed because that's part of</p> | <p><u>Motion:</u></p> <p>Mr. Nishimura moved that the Liquor Control Commission approve Liquor License application No. 2022-034 for Hometown Canteen, LLC dba Mucho Aloha Koloa subject to the following conditions:</p> <p>As represented by the applicant, music will end no later than 8:00 pm and business will close no later than 9:00 p.m. daily.</p> <p>As represented by the applicant, outdoor seating shall be limited to the lanai seating under a future new roof structure and outdoor seating will not exceed 65 patrons.</p> <p>As represented by the applicant, landscape screening and fencing shall be installed between the licensed premises and adjacent properties within 50 feet of the</p> |

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| | <p>the normal processing by the liquor department.</p> <p>Representation Re: Outdoor seating Mr. Chun expressed, the proposed condition as written would stop all outdoor seating, which he believed was not agreed to. Applicant will agree to limited outdoor lanai seating under a future new roof structure does not exceed 65 patrons, which he understands was taken from a letter that Mr. Tapia wrote to the Commission.</p> <p>Mr. Chun asked Commission to have his client comment on the condition of the 65 outdoor seating.</p> <p>Commissioner Nishimura stated he has no objection to allowing Mr. Tennberg to comment.</p> <p>Mr. Tennberg thanked the Commission for getting to this point and as Mr. Chun represented everything in the draft motion is exactly as represented, except for outdoor seating condition. The intent is not to have an extensive seating area outside, but to have some seating which is part of the licensed premises. This was one of the main reasons why he chose this location. He stated the ability to have seating out by the lanai is very important.</p> <p>Commissioner Nishimura stated, Mr. Chair, for the record, the condition that I put in there was primarily to limit the outdoor seating to 65. It is not to impose a total number of 65 and not the entire operation, it's just on the outside.</p> <p>Mr. Tennberg stated, that would be more than adequate, and I thank you for that.</p> <p>Commissioner Nishimura stated, that was my understanding when I read through Mr. Tapia's letter and the Tapia's were ok with the outdoor seating. I would say let's leave it</p> | <p>licensed premises to enhance privacy and mitigate noise, at the applicant's cost.</p> <p>As represented by the applicant, the applicant shall work with the Department of Liquor Control to install adequate Parking, signage, egress, and ingress at its cost as represented in their letter to Ms. Colleen Iwai's counsel dated January 26, 2022.</p> <p>As represented by the applicant, the large outdoor cooler equipment is to be fenced and insulated to reduce noise as well as not interfering with the driveway easement road on the south side of the Mucho Aloha Koloa premises.</p> <p>The applicant shall comply with all Federal, State and County Agency requirements as a condition of this approval. Any Department of Health issues shall be addressed prior to issuance of the liquor permit.</p> |

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| | <p>in there.</p> <p>Mr. Tennberg and Mr. Chun replied yes, with that understanding.</p> <p>Chair Crowell asked Ms. Tapia if this was her understanding.</p> <p>Ms. Tapia replied, yes, we're per happy about it.</p> <p>Commissioner Nishimura indicated, we could make it clearer to read "under the future new structure and outdoor seating will not exceed 65 patrons".</p> <p>Mr. Chun stated, yes, that wording is clear and would be acceptable to the applicant.</p> <p>Commissioner Nishimura stated, if no further discussion, I move that we introduced this motion with the conditions as amended. Vice Chair Kahawai seconded.</p> <p>Chair Crowell stated it's been moved and seconded to approve the application with the conditions and asked if there are further discussions.</p> <p>Commissioner Nishimitsu questioned, whether the liquor license issued, will be held until completion of the new structure, the completion of the installation of the landscape screening and fencing, and the coordination with the department on installing parking signage etc. Is this the intent?</p> <p>Commissioner Nishimura replied, yes.</p> <p>Director Sandoval noted, since we made the second, we must do vote and can't continue with comments.</p> <p>Chair Crowell asked Director Sandoval to do roll call.</p> <p>Mr. Chun and Mr. Tennberg thanked the Commission.</p> | <p>The applicant is further advised that prior to and during construction and use, additional government agency conditions may be imposed. It shall be the applicant's responsibility to resolve those conditions with the respective agency(ies).</p> <p>Vice Chair Kahawai seconded.</p> <p><u>Roll call vote:</u> Mr. Gibson - Aye Mr. Nishimura - Aye Ms. Nishimitsu - Aye Mr. Pacheco - Aye Ms. Shimabukuro- Aye Vic Chair Kahawai - Aye Chair Crowell – Aye</p> <p>The motion carried 7.0.</p> |

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| | <p>Chair Crowell thanked Commissioner Nishimura for his hard work on the motion.</p> <p>2. <u>LAHAINA PETROLEUM, LLC dba RAINBOW GAS & MINI MART</u>: Application No. - 040 was filed on January 13, 2022, by Lahaina Petroleum, LLC. dba Rainbow Gas & Mini Mart for a transfer of Retail Dealer General No. 4G-050 from Lahaina Petroleum, LLC to Aloha Petroleum, LLC. located at 4-350 Kuhio Highway, Kapaa, Kauai, Hawaii. Deposited \$335.00</p> <p>b. All legal requirements have been met for today’s public hearing.</p> <p>c. The applicant has sent out notices to property owners or lessees of record within 500 feet of the proposed premises and up until this time of the public hearing the department has not received any letters in support, however we have received one letter in opposition to this application.</p> <p>Director Sandoval noted a correction to Item c, the department have not received any letters of support or opposition on this item.</p> <p>Mr. John Williams, representing the applicant Lahaina Petroleum.</p> <p>Chair Crowell asked Mr. Williams if he received a copy of the investigators report and if he had any comments.</p> <p>Mr. Williams stated, he received the report and had no comments.</p> <p>Chair Crowell opened the public hearing and there was no public testimony. Its’ been moved and seconded to close the Public Hearing and no further discussion. Public Hearing closed.</p> | <p><u>Motion 1.</u></p> <p>Ms. Nishimitsu moved to close the Public Hearing. Mr. Nishimura</p> |

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| | <p>Commission discussed error on the agenda, typo on the names, whether Notice was correct and how to move forward with the Motion. Clarence Sales stated Notice of Hearing was published correctly with the correct names. Mr. Foster opined, given the publication notice was correct, Commissioner can move ahead. Mr. Foster expressed; the motion must reflect correct names.</p> <p>Commissioner Nishimura asked Mr. Williams, is Lahaina Petroleum which you represent the proposed transferee, also dba Rainbow Gas and Mini Mart?</p> <p>Mr. Williams replied, yes, dba is being transferred to us as well. We just wanted to keep the same business name.</p> <p>Chair Crowell noted it's been moved and seconded to approve this application. Any discussion. No further discussion.</p> | <p>seconded.</p> <p>Motion carried 7.0</p> <p><u>Motion 2.</u></p> <p>Mr. Nishimura moved to approve Transfer of License No. 4G-050 from Rainbow Gas & Mini Mart LLC dba Rainbow Gas & Mini Mart to Lahaina Petroleum, LLC dba Rainbow Gas & Mini LLC. Mr. Pacheco seconded the motion.</p> <p><u>Roll call:</u></p> <p>Mr. Gibson - Aye Mr. Nishimura - Aye Ms. Nishimitsu - Aye Mr. Pacheco - Aye Ms. Shimabukuro - Aye Vice Chair Kahawai - Aye Chair Crowell - Aye</p> <p>Motion carried 7.0</p> |
| <p>H.</p> | <p><u>TRANSFER OF LIQUOR LICENSE APPLICATION</u></p> <p>1. <u>HAOLE GIRL ISLAND SWEETS, LLC. dba STREET BURGER</u>: Applicant No. 2022-046 was filed on February 25, 2022, by Haole Girl Island Sweets, LLC. dba Street Burger for a transfer of Restaurant General (A) No live music & No dancing from Double Rainbow Inc. to Haole Girl Island Sweets, LLC. located</p> | |

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| | <p>at 4-369 Kuhio Highway, Kapaa, Kauai, Hawaii. Deposited \$335.00</p> <p>Chair Crowell noted it's been moved and seconded to accept the application to publish and set for public hearing. No further discussion.</p> | <p><u>Motion:</u></p> <p>Vice Chair Kahawai moved to approved transfer of Liquor License application be set for Publication and Public Hearing on Application No. 2022-046 Mr. Pacheco seconded the motion.</p> <p>Motion carried 7.0</p> |
| <p>I.</p> | <p><u>REQUEST FOR TEMPORARY LIQUOR LICENSE</u></p> <p>1. <u>HAOLE GIRL ISLAND SWEETS, LLC dba STREET BURGER:</u> Application No. 2022-047 was filed on February 25, 2022, by Haole Girl Island Sweets, LLC dba Street Burger for a temporary Restaurant General (A) No Live Music & No Dancing to operate Double Rainbow Inc. dba Street Burger, License No. 2G-028 located at 4-369 Kuhio Highway, Kapaa, Kauai, Hawaii.</p> <p>Chair Crowell asked is this to start operating, today, or tomorrow is that the idea.</p> <p>Director Sandoval replied, yes, it's immediately to assume the existing license until their license is gone through the public hearing process.</p> <p>Chair Crowell noted it's been moved and seconded to approve the Temporary Liquor</p> | <p><u>Motion:</u></p> <p>Mr. Gibson moved to approve Request for Temporary Liquor License for HAOLE GIRL ISLAND SWEETS, LLC dba STREET BURGER Application No. 2022-047. Mr. Pacheco seconded the motion.</p> <p>Motion carried 7.0</p> |

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| | <p>License Request for HAOLE GIRL ISLAND SWEETS, LLC dba STREET BURGER.</p> <p>No further discussion. Temporary Liquor License has been approved.</p> | |
| <p>J.</p> | <p><u>EXTENSION IN TIME TO EXERCISE LIQUOR LICENSE REQUEST</u></p> <p>1. <u>POINT HB LLC. dba HANAIEI MARKET:</u> Request for extension in time for a one time period of 6 months to exercise Application No. 2021-025 which was approved on August 12, 2021.</p> <p>Director Sandoval stated, this location was approved back in August 2021, they did not activate their license within the time period. The time when it was received, it was in excess of the time to request an extension. However, we're still operating up until the 25th under the emergency period which would allow for us to be a little lenient on the timelines for this request. This is at the pleasure of the Commission to approve or deny this request and it would only be done for one time to our understanding.</p> <p>Chair Crowell asked for clarification whether HB Banks is the same as Harold Banks, 3rd. because application was signed by Harold Banks, 3rd.</p> <p>Mr. Banks replied yes, I go by HB.</p> <p>Chair Crowell asked, if the extension is granted, how long is it good for.</p> <p>Director Sandoval and Commissioner Nishimura replied, 6 months.</p> | |

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| | <p>Commissioner Nishimura asked, if the Commission has the authority to grant another 6-month extension in the event Water Department Permit is not approved.</p> <p>Director Sandoval referred to Commission Rules of 6-month extension that limits renewal and noted the Commission has the authority to extend if it had to be done again.</p> <p>Commissioner Nishimura stated he investigated applicant' history and it's a little unfair for applicant to be limited to one time 6-month extension since applicant cannot do his improvements until he gets Water Department approval and that will limit him to one time 6-month extension. In this case, he has all building permits and subcontractors in line.</p> <p>Commissioner Nishimitsu asked Mr. Banks, if the issues with the Department of Water is resolved or if its ongoing.</p> <p>Mr. Banks replied, we got the permit approved on February 22, 2022, and we will open within 90 days and definitely open within a 6- month extension and everything is approved.</p> <p>Commissioner Shimabukuro asked Mr. Banks, the extension expired after the 6-month period on February 12, 2022. Was there a reason why you didn't request for an extension?</p> <p>Mr. Banks replied, he emailed Mr. Herman on January 13, 2022, a letter to notify the Department that he needed an extension, but he believed Commission was not alerted.</p> <p>Director Sandoval stated, they had the information in the office it didn't make it onto that agenda at that time. We are still in the time frame to be able to add it to this</p> | |

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| | <p>agenda due to the emergency period. If the emergency period expired, he would not have made it in and wouldn't have been considered.</p> <p>Commissioner Nishimura stated, Mr. Chair, I move that we grant the extension.</p> <p>Commissioner Nishimitsu asked, when does the 6-month period begins.</p> <p>Director Sandoval noted, today.</p> <p>Chair Crowell noted, it's been moved and seconded to grant extension. No further discussion. Extension approved.</p> <p>Mr. Banks thanked the Commission.</p> | <p><u>Motion:</u></p> <p>Mr. Nishimura moved to approve request for the extension of the 6-month to exercise Application No. 2021-025 POINT HB LLC. dba Hanalei Market's. Mr. Pacheco seconded the motion</p> <p>Motion Carried 7.0</p> |
| <p>K.</p> | <p><u>UPDATE, DISCUSSION, AND POSSIBLE ACTION ON MEETING PROCEEDINGS (Continued from 2/24/2022)</u></p> <p>Commissioners continued discussion regarding possible dates and times to move Commission meetings and take into consideration Commissioners' and Boards and Commission staff schedule. Director Sandoval stated, Liquor Department will adjust their scheduling to accommodate whatever is decided and that decision need to be made today because the Department are holding off the public hearing and they don't know what to publish as to meeting dates. Commission discussed at length and</p> | <p><u>Motion:</u></p> <p>Mr. Nishimura moved to approved Liquor Control Commission meetings to the 2nd and 4th Wednesday starting at 10:00 a.m. and beginning July 13, 2022. Ms. Nishimitsu seconded the motion.</p> |

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| | <p>concluded that the 2nd and 4th Wednesday at 10:00 am would be a good day to move Liquor Control Commission meeting and it would start July 13, 2022. There was further discussion regarding virtual and in person meeting.</p> <p>Chair Crowell noted it's been moved and seconded to move Commission meetings to the 2nd and 4th Wednesdays at 10:00 a.m. starting July 13, 2022.</p> | <p>Motion carried 7.0</p> |
| <p>L.</p> | <p><u>EXECUTIVE SESSION:</u></p> <p>Pursuant to HRS §92-4, §92-5(a)(4), §92-9(a)(1-4) and (b), the purpose of this Executive Session is for Commission to approve or amend the Executive Session Minutes, 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 item.</p> | <p>No Action</p> |
| <p>M.</p> | <p>A. <u>RETURN TO OPEN SESSION</u></p> | <p>No Action</p> |
| <p>N.</p> | <p>A. <u>ROLL CALL FOR THE RETURN TO OPEN SESSION</u></p> | <p>No Action</p> |
| <p>O.</p> | <p>A. <u>RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION</u></p> | <p>No Action</p> |
| <p>P.</p> | <p>A. <u>EXECUTIVE SESSION:</u></p> <p>Pursuant to HRS §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 HRS §92-5(a)</p> | <p>No Action</p> |

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| <p>Q.</p> | <p><u>ADJOURNMENT</u></p> <p>Pursuant to HRS § 92-7.5, at the time the board packet is distributed to the Liquor Control Commission, the board packet will be available for inspection at the Liquor Control Commission’s office (Pi’ikoi Building 4444 Rice Street, Suite 300, Līhu’e, Hawai’i 96766). Please contact at (808) 241-4966 or liquor@kauai.gov to request access.</p> <p>Administrator Ching stated, this is Commissioner Gibson last meeting and wanted to recognize him. He was the chair last year and he was instrumental in the whole process doing the job description, generating all the tools for evaluating applicants and essays. It was a very lengthy and detailed process, and he certainly was a wonderful chair and moving the whole Commission. Ms. Ching thanked Commissioner Gibson for all his work and efforts and how much he is appreciated and wished him well. Everyone thanked Commissioner Gibson.</p> | <p><u>Motion:</u></p> <p>Mr. Pacheco moved to adjourn the meeting. Mr. Gibson seconded the motion.</p> <p>Motion carried 7.0</p> |

Submitted by: _____
 Mary Ann Ornellas, Liquor Clerical Assistant

Reviewed and Approved by: _____
 Dee Crowell, Chair

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