

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Board/Commission	LIQUOR CONTROL COMMISSION	Meeting Date	June 27, 2019
Location	Mo'ikeha Building, Liquor Control Conference Room 3	Start of Meeting: 4:04 p.m.	End of Meeting: 5:35 p.m.
Present	Chair Paul Endo, Vice-Chair Shirley Akita; Members: Maryanne Kusaka, Jean Iida, Gerald Matsunaga-left at 5:19pm, Gary Pacheco Also: Liquor Control Staff: Director Gerald Rapozo, Boards & Commission Staff: Anela Segreti, Administrative Specialist; Deputy County Attorney Cameron Takamura		
Excused	William Gibson		
Absent			

SUBJECT	DISCUSSION	ACTION
Call To Order		Chair Endo called the meeting to order at 4:04 p.m. with 6 members present, constituting a quorum.
Roll Call	Director Rapozo called roll, noting 6 members were present.	
Approval of Agenda		Mr. Pacheco moved to approve the agenda. Ms. Iida seconded the motion. Motion carried 6:0.
Approval of Minutes	<u>APPROVAL OF MEETING MINUTES:</u> Open Session Minutes of June 6, 2019 Chair Endo pointed out correction to page 5, meeting adjourned at 4:27pm and on first page end of meeting at 5:46. Page 5 should be amended to 5:46pm.	Mr. Pacheco moved to approve open session minutes of June 6, 2019 with amendments. Ms. Kusaka seconded the motion. Motion carried 6:0.
1. Public Hearings	<u>SUSHI BUSHIDO:</u> Application No. 2019-084 was filed on April 26, 2019 by Sushi Bushido LLC dba Sushi Bushido for a New Restaurant General (live entertainment with dancing) license at The Coconut Marketplace in Kapaa located at 4-484 Kūhi'ō Highway, Kapaa, Kauai, Hawaii. The	

Commission accepted Application No. 2019-084 for publication and public hearing on May 02, 2019 and ordered to print notice of public hearing in The Garden Island on Wednesdays, May 8 & 15, 2019, scheduling the public hearing on June 27, 2019 at 4:00 p.m. or shortly thereafter in Meeting Room #3 of the Līhu‘e Civic Center, Mo'ikeha Building, 4444 Rice Street, Līhu‘e, Kauai, Hawaii.

All legal requirements for today's public hearing has been met. Notices were sent to 24 property owners within 500 feet of proposed premises.

Up until the time of the hearing, the department received two letters in opposition from David Wilkman and Kelly Wilson, and Robert Middleton and no letters in support of the application.

Victor Heresa, owner, and Leroy Tangalin, Manager, were present to represent the applicant.

Chair Endo asked for comments on the investigator's report.

There was no comments on the investigator's report.

Chair Endo asked if there was anyone who wished to object to the application.

David Wilkman, 4-436 Kuhio Hwy., stated he objected as there is no security in the parking lot. There have been fights in front of where Sushi Bushido is going to be, normally Wednesday and Friday nights. People drink and do drugs, police are called and people leave, but 10 minutes later they return. He has nothing against applicant, it's the shopping center, they say they have someone, but they don't. No one is there to control partying after restaurant is closed. Not fair to those that live around there.

Ms. Kusaka asked the location of his home.

Mr. Wilkman stated that his is the last on Kuhio Highway before Papaloa. His kitchen window faces the parking lot and he has had people throwing signs in his backyard at 2 in the morning.
Vice Chair Akita asked about the applicants. Concerned that new applicants is being judged on what has happened in the past.

Mr. Wilkman stated that he is concerned that this will cause more trouble as he has called the Coconut Marketplace and nothing has changed.

Report states that there has been no complaints against the applicant in the past.

Commission clarified that the problems Mr. Wilkman is having is not with the applicant, but with the owners/management of the Shopping Center.

Chair Endo thanked him for his testimony and asked for anyone else in opposition.

Robert Middleton stated he's lived in the area for over 30 years. He submitted a letter and also complained when ABC applied for a liquor license for their store. Sited the lack of security at the Marketplace. His complaint is regarding construction by applicant that occurred after 6:00pm, which he states is against the law, and that he Shopping Center security which responded after checking with Police and construction ceased that evening. It started again the past two nights, past midnight. In his letter his original concern was the dancing and entertainment part of the liquor license. Now since the construction incidences he feels they are breaking the law, and he is against them having a liquor license at all.

Chair Endo asked if there was anyone else wishing to object. Seeing none he asked if there was anyone in support of the application.

Mr. Heresa responded to Mr. Middleton's complaint of construction. He stated that he was present when the security guard told them to shut down that evening. His understanding with the owners and management of the

	<p>mall is that they prefer him to work nights because of the operations of the mall during the day. He stated he checked with his business neighbor and he did not have a problem. He also had the permission from the owners who informed security that he could work at night. He also stated that he will have a doorman watching when they have live music and they can watch the parking lot and will call police right away if there are problems. He has a policy with his landlord to police his area. He will police his place during his hours of operation. Live music and dancing will not be every night.</p> <p>Ms. Kusaka commented that other establishments in the area should be responsible for their customers and not let them leave drunk. All businesses should monitor their places. Cannot disallow their business because other establishment's customers are making "humbug" in the parking lot. She feels having a doorman is an excellent idea.</p> <p>Chair Endo asked for any more comments from the Commissioners. Hearing none.</p> <p>The public hearing for Application No. 2019-084 was closed.</p> <p>Chair Endo entertained a motion.</p>	<p>Mr. Matsunaga moved to approve Application No. 2019-084. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p>2. Violation Hearing</p>	<p><u>THE POOL BAR</u>: Violation of Rule 7.8(a) Manager on duty, qualifications.</p> <p>Mr. Pacheco recused himself as he has business with the establishment and a possible conflict of interest.</p> <p>Mr. George K. Costa, General Manager of Hanalei Bay Resort was present on behalf on the licensee; no counsel. The licensee admitted to the charges.</p> <p>Mr. Costa explained that the bartender with the blue card left the premises to go to the liquor storage about 50 feet away to get more liquor.</p>	

	<p>Mr. Matsunaga asked if there had been a similar violation in May of 2018. Mr. Costa was not aware of it as he started in January 2019.</p> <p>Director Rapozo noted that May 2018 failed to have a manager in active charge of his premises. At time fine of \$500 with \$250 suspended provided no conviction of single offense within 1 year ending May 4, 2019.</p> <p>Mr. Matsunaga noted that offense occurred on January 9, 2019. Mr. Costa acknowledged that he understood.</p>	<p>Mr. Matsunaga moved that a fine of \$500 be imposed. Ms. Kusaka seconded the motion. Motion carried 5:0; 1 abstention</p>
<p>3.</p>	<p><u>DIRECTOR'S REPORTS:</u></p> <p>a) <u>INVESTIGATORS' REPORTS:</u></p> <p>b) <u>INCOMING COMMUNICATIONS:</u></p> <ol style="list-style-type: none"> 1) From Avid Marketing Group, Re: Jagermeister Deer and Beer Sweepstakes, and Dogfish Head Slightly Mighty sweepstakes 2) From County of Kauai Salary Commission, Re: Salary Resolution 3) Disturbance Reports from Tahiti Nui <p>c) <u>OUTGOING COMMUNICATIONS:</u></p> <ol style="list-style-type: none"> 1) To Avid Marketing Group, Re: Jagermeister Deer and Beer Sweepstakes, and Dogfish Head Slightly Mighty sweepstakes <p>d) <u>EMPLOYEES IN LICENSED PREMISES:</u></p> <p>Managers and Assistant Managers – See Attachment “A”</p> <p>e) <u>ACTIONS OF THE DIRECTOR:</u></p>	

- 1) THE POINT AT POIPU: Approval of special request for addition of the following games: Ping Pong Table, and Bingo
- 2) BEACH HOUSE RESTAURANT: Approval of special request for temporary increase of premises to include the patio lawn space (30' x 80'), per diagram submitted, for special event on June 4, 2019; June 5, 2019; June 6, 2019; June 7, 2019; June 8, 2019; June 9, 2019; June 10, 2019; June 11, 2019; June 14, 2019; June 15, 2019; June 20, 2019; June 21, 2019; June 22, 2019; June 23, 2019; June 24, 2019; June 29, 2019.
- 3) NATIONAL TROPICAL BOTANICAL GARDEN: Approval of Application No. Free 2019-99 filed on May 29, 2019 by National Tropical Botanical Garden for a Free One-Day Special Beer & Wine license on June 8, 2019 at the NTBG South Shore Visitors Center Garden and Lanai located at 4425 Lāwa'i Road, Kōloa, Kauai, Hawaii.
- 4) NAWILIWILI YACHT CLUB: Approval of Application Nos. Free 2019-100 through Free 2019-101 filed on May 14, 2019 by Nāwiliwili Yacht Club for Free One-Day Special Dispenser General licenses on June 21, 2019, and June 22, 2019 at 2494 Niumalu Road, Nāwiliwili Small Boat Harbor, Līhu'e, Kauai, Hawaii.
- 5) HOMESTEAD COMMUNITY DEVELOPMENT CORPORATION: Approval of Application No. Free 2019-102 filed on June 28, 2019 by Homestead Community Development Corporation for Free One-Day Special Dispenser Beer & Wine license on June 26, 2019 at Kumu Camp Main Pavilion located at 4270 Poha Road, Anahola, Kauai, Hawaii.
- 6) PACO'S TACOS: Approval of Application Nos. 2019-088 through 2019-090 filed on May 21, 2019 by Cloroshko LLC dba Paco's Tacos for One-Day Special General licenses on July 19, 2019, July 20, 2019, and July 21, 2019 at CJM Country Stables located at 2545 Kiahuna Plantation Drive, Kōloa, Kauai, Hawaii.

	<p>7) <u>MARK'S PLACE</u>: Approval of Application No. 2019-129 filed on June 6, 2019 by Contemporary Flavors Inc. dba Mark's Place for a One-Day Special Beer & Wine license on June 20, 2019 at the Kauai Community College Culinary Facility located at 3-1901 Kaumuali'i Highway, Līhu'e, Kauai, Hawaii.</p> <p>f) <u>INFORMATIONAL MATTERS</u></p>	<p>Mr. Pacheco moved to approve Items 3a through f. Mr. Matsunaga seconded the motion. Motion carried 6:0.</p>
4.	<p><u>CHANGE IN CORPORATE OFFICERS</u>:</p> <p>a) <u>PARADISE BEVERAGES</u>: Addition of John Erickson as President, General Manager, and Director; addition of Raymond Stride as Chief Financial Officer, and Director.</p>	<p>Ms. Akita moved to approve change in corporate officers Paradise Beverages addition of Mr. John Erickson as President, General Manager and Director; addition of Raymond Stride as Chief Financial Officer, and Director. Mr. Matsunaga seconded the motion. Motion carried 6:0</p>
	<p>b) <u>WALMART, INC.</u>: Removal of Cynthia Petersen Moehring as Sr. Vice President.</p>	<p>Ms. Akita moved to approve change in corporate officers Walmart removal of Cynthia Peterson Moehring as Sr. Vice President. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
	<p>c) <u>CAPT. ANDY'S SAILING INC.</u>: Addition of Lisa Fleming as Treasurer; removal of Andrew Evans as Treasurer.</p>	<p>Ms. Akita moved to approve change in corporate officers Capt. Andy's Sailing Inc. addition of Lisa Fleming, Treasurer and removal of Andrew Evans as Treasurer. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
	<p>d) <u>KAWAILOA DEVELOPMENT LLP</u>: Removal of Yujin Yamaai as Secretary; Addition of Yuta Naka as Secretary.</p>	<p>Mr. Pacheco moved to approve change in corporate officers Kawaihoa Development LLP</p>

		removal of Yujiin Yamaai as Secretary, addition of Yuta Naka as Secretary. Ms. Akita seconded the motion. Motion carried 6:0.
	e) <u>AOAO OF TK RESORT CONDOMINIUM</u> : Removal of Crista Aguano as Treasurer and Director, and Zach Edwards as Vice President and Director; Addition of Gary Moore as Vice President and Director.	Ms. Akita moved to approve change in corporate officers AOAO of TK Resort Condominium removal of Crista Aguano as Treasurer and Director, and Zach Edwards as Vice President and Director; addition of Gary Moore as Vice President and Director. Mr. Pacheco seconded the motion. Motion carried 6:0.
5.	<u>NEW LIQUOR LICENSE</u> : <u>BAMBOO GRILL TRIPLE B'S</u> : Application No. 2019-091 was filed on May 29, 2019 by R. Ogata LLC dba Bamboo Grill Triple B's for a New Restaurant General license at 2-2514 Suite #216, Kaunuaui'i Highway, Kalāheo, Kauai, Hawaii. Deposited \$450.	Ms. Akita moved for publication and public hearing of Application No. 2019-091. Mr. Pacheco seconded the motion. Motion carried 6:0
6.	<u>VIOLATION REPORTS</u> : a) WALMART SUPERCENTER: Violation of HRS 281-78(b)(1)(a) Prohibitions. b) WHALERS GENERAL STORE #1158: Violation of HRS 281-78(b)(1)(a) Prohibitions. c) AOAO OF HANAIEI BAY RESORT: Violation of HRS 281-78(b)(1)(a) Prohibitions. d) KOLOA LANDING AT POIPU BEACH: Violation of HRS 281-78(b)(1)(a) Prohibitions. e) LONGS DRUG STORES #410474: Violation of HRS 281-78(b)(1)(a) Prohibitions. f) MARKETPLACE EXPRESS: Violation of HRS 281-78(b)(1)(a) Prohibitions. g) PONO MARKET: Violation of HRS 281-78(b)(1)(a) Prohibitions.	

	<p>h) ISHIHARA MARKET: Violation of HRS 281-78(b)(1)(a) Prohibitions. i) WAILUA COUNTRY STORE: Violation of HRS 281-78(b)(1)(a) Prohibitions.</p>	<p>Mr. Pacheco moved to call licensees for violation hearings items 6a-i. Ms. Akita seconded the motion. Motion carried 6:0.</p>
7.	<p><u>CLOSED MEETING FOR THE PURPOSE OF THE COMMISSION EXERCISING ITS ADJUDICATORY FUNCTIONS PURSUANT TO HAWAI'I REVISED STATUTES SECTIONS 92-6 AND 91-9 REGARDING:</u></p> <p>a) <u>7-ELEVEN STORES (LIHUE)</u>: Violation of HRS 281-31(s) Licenses, classes. b) <u>7-ELEVEN STORES (HANAMAULU)</u>: Violation of HRS 281-31(s) Licenses, classes. c) <u>7-ELEVEN STORES (LAWAI)</u>: Violation of HRS 281-31(s) Licenses, classes.</p>	<p>The Commission entered into a closed meeting at 4:45 p.m.</p> <p>Motion carried 5:0; 1 abstention; to deny 7-Eleven Stores' Motion to Dismiss</p> <p>Motion carried 5:0; 1 abstention; to sustain each of 7-Eleven Stores' violations and to impose for each violation a fine of \$250 of which \$100 is suspended provided that there is no conviction of a similar offense within one year.</p> <p>Motion carried 5:0; 1 abstention; to instruct the prevailing party to prepare and submit proposed Findings of Fact and Conclusions of Law within 10 business days.</p>
Return to Open Session		<p>The Commission resumed in open session at 5:15p.m.</p>
8.	<p><u>MEMORANDUM FROM HR REGARDING PAY ADJUSTMENTS FOR COMMISSION APPOINTED DEPARTMENT HEADS</u></p> <p>Chair Endo acknowledged notification regarding salary increases. On July 18, the Commission will receive the evaluation form.</p>	
9.	<p><u>KAUAI DISTILLING COMPANY</u>: Application No. 2019-070 was filed on March 7, 2019 by LBD Coffee, LLC dba Kauai Distilling Company for a New Manufacturer Other Specified Liquor license at 5907 C Kawaihau</p>	

	<p>Road, Kapaa, Kauai, Hawaii.</p> <p>Discussion of investigator's report. Mr. Herman investigated the petition line by line: are signers living within 500 feet, owners per the Tax Map Key and came up with 32% of Tax Map Key owners were against the license.</p> <p>Mr. Rapozo clarified statute regarding the majority of property owners, if it's a husband and wife both would have to say yes or no to be valid.</p> <p>The majority protest was not met. Not enough votes for an automatic denial. Mr. Herman will complete a supplemental report and present for the July 18 meeting.</p>	
Announcements	Next Scheduled Meeting: Thursday, July 18, 2019 – 4:00 p.m., Mo'ikeha Building, Meeting Room #3.	
Adjournment		Vice Chair Akita move to adjourned the meeting. Mr. Pacheco seconded the motion. Motion carried 5:0 Meeting adjourned at 5:35 p.m.

Submitted by: _____
 Anela Segreti, Administrative Specialist

Reviewed and Approved by: _____
 Paul Endo, Chair

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