

APPROVED

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

Approved with amendments. See minutes of 2-4-21.

Board/Commission:	LIQUOR CONTROL COMMISSION	Meeting Date	January 7, 2021
Location	Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 627 267 255#	Start of Meeting: 10:02 a.m.	End of Meeting: 11:25 a.m.
Tele Present	Chair William Gibson, Vice Chair Dee Crowell Members: Shirley Akita, Gerald Matsunaga, Randall Nishimura, Gary Pacheco Also: Liquor Control Staff: Acting Director Cecilio Baliaris, Liquor Clerical Assistant Malialani TM Kelekoma; Ellen Ching Administrator Boards & Commission, Deputy County Attorney Charles Foster		
Excused			
Absent	Vice Chair Crowell joined the meeting @ 10:05 a.m.		
SUBJECT	DISCUSSION	ACTION	
Call To Order			
Roll Call	Acting Director Cecil Baliaris called roll, noting 5 members were present constituting a quorum. Vice Chair Crowell was absent.		
Announcements	Next Scheduled Meeting: Special Meeting Friday, January 8, 2021 – 10:00 a.m. via Tele-Conference Thursday, January 21, 2021 – 10:00 a.m. via Tele-Conference.		
Approval of Agenda		Mr. Pacheco moved to approve the Agenda. Mrs. Akita seconded the motion. Motion carried 5:0.	
Approval of Meeting Minutes	<u>APPROVAL OF MEETING MINUTES:</u> a) <u>Open Session Minutes of December 17,2020</u>	Mr. Nishimura moved to approve the Open Session Minutes of December 17, 2020. Mrs. Akita seconded the motion. Motion carried 5:0.	

SUBJECT	DISCUSSION	ACTION
	<i>Vice Chair Crowell joined the meeting @ 10:05 a.m.</i>	
Public Testimony	Brian D. Kennelly – Partner, Hanalei Town Center, In favor of Application No. 2021-010, submitted via email.	Mrs. Kelekoma advised the Commissioners of the Public Testimony of Mr. Kennelly in favor of Application No.2021-010.
1.	<p><u>PUBLIC HEARING:</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 license is located at 5-5075 Kuhio Highway, Hanalei, Hawaii. The Commission accepted Application No. 2021-010 for publication and public hearing on November 5, 2020 and ordered to print notices of public hearing in The Garden Island on November 11&18, 2020, scheduling the public hearing on January 7, 2020 at 10:00 a.m. or shortly thereafter via Tele-Conference.</u></p> <p>Chair Gibson opened the Public Hearing for Application No.2021-010. Is there a departments report for the application?</p> <p>Acting Director Cecil Baliaris stated that there was only one testimony that was submitted by Brian D. Kennelly – Partner, Hanalei Town Center, In favor of Application.</p> <p>Chair Gibson asked that the report be read in regards to the Application.</p> <p>Acting Director Cecil Baliaris stated this application was submitted by Postcards Café, INC. for a New Restaurant General License, located in Hanalei Town just before Hanalei Liquor Store. They have been practicing a restaurant license prior to this application. They are applying for a new type of License from Wine and Beer to a</p>	

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	<p>General License. They are also requesting a license for entertainment and dancing.</p> <p>Chair Gibson asked were there anyone representing the applicant.</p> <p>Joe Paskal, Owner and President of Postcards Café and Meredith Weiss, General Manager of Restaurant were present via tele-conference.</p> <p>Chair Gibson asked Mr. Paskal if he received a copy of the Investigator's Report.</p> <p>Mr. Paskal replied, yes.</p> <p>Chair Gibson asked if there were any comments on the report.</p> <p>Mr. Paskal replied, no.</p> <p>Chair Gibson asked anyone here who wishes to object to the application. Hearing none.</p> <p>Chair Gibson asked anyone here to speak on behalf of the application. He asked Mr. Paskal would you like to say anything. Hearing none.</p> <p>Chair Gibson asked the Commission were there any questions.</p> <p>Commissioner Matsunaga asked Mr. Paskal how often do you intend to have live entertainment and during what hours?</p> <p>Mr. Paskal replied not very often, should there be a wedding or a pre-wedding.</p> <p>Ms. Weiss replied hours are from 5pm to 9pm, so two hours max for entertainment.</p>	

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	<p>Commissioner Matsunaga asked if the entertainment will take place on special occasions for approximately two hours.</p> <p>Ms. Weiss responded we may have entertainment once or twice a week at the restaurant and the max would be two hours.</p> <p>Commissioner Matsunaga asked would it be from 7-9.</p> <p>Ms. Weiss replied either 6-8 or 7-9.</p> <p>Commissioner Matsunaga thanked the applicants.</p> <p>Chair Gibson asked the Commission were there any questions.</p> <p>Vice Chair Crowell asked is the music going to be inside or outside.</p> <p>Ms. Weiss replied outside.</p> <p>Chair Gibson closed the Public Hearing for Application No.2021-010.</p>	<p>Mr. Pacheco moved to approve Application No. 2021-010 Postcards Café, INC. for a New Restaurant General License. Mrs. Akita seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
2.	<p><u>DIRECTOR'S REPORTS:</u></p> <p>a) <u>INVESTIGATORS' REPORTS:</u></p> <p>Acting Director Cecil Baliaris Jr., noted for clarification, on Investigator John Berry's Report there was a typo, states 100 investigations, should be 100 inspections.</p> <p>Commissioner Matsunaga had a question on Investigator Stem's report it says on 12/29/20, I started a Trace Investigation. He asked Acting Director Baliaris to explain the Trace Investigation which was conducted.</p> <p>Acting Cecil Baliaris Jr. stated a Trace Investigation is done when there is a fatality, or something that has to do with Liquor. Investigator Stem was assigned by Acting Director Baliaris to investigate the fatality that occurred on December 24, 2020. Investigator Stem is still doing the investigation and assisting KPD (Kauai Police Department) Traffic Safety Unit in the investigation.</p> <p>Commissioner Matsunaga asked is that to determine whether or not an establishment sold alcohol to the individual.</p> <p>Acting Cecil Baliaris Jr. stated yes through investigation if the person was incapacitated by observations or videos as well as witness statements.</p> <p>Commissioner Matsunaga replied is that more in line of what the Police Department would do.</p> <p>Acting Cecil Baliaris Jr. stated yes they do, they often come to us for assistance as we have a tool in which they don't have. Our tool is we do not need a search warrant. Anything for the Licensee we may obtain evidence that they may want.</p>	

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	<p>Mr. Foster replied this may be a matter for an Executive Session. This may be noticed for an Executive Session at a later meeting.</p> <p>Commissioner Matsunaga replied sounds good may want to look into the fruits of the poisonous tree.</p> <p>Chair Gibson asked would this be appropriate to put on the agenda for a later meeting after the investigation is completed.</p> <p>Commissioner Matsunaga replied that's fine.</p> <p>Ms. Ching, Administrator for Boards and Commissions advised Chair Gibson you may consult with the County Attorney, there is provisions at the end of the agenda for Executive Session on any given matter on the agenda. Should the Commission wish to consult with the Attorney, for this specific matter in this meeting in Executive Session. She deferred to the County Attorney.</p> <p>Mr. Foster agreed, we should raise later on in Executive Session today.</p> <p>Chair Gibson, thanked Mr. Foster and asked were there any questions.</p> <p>Commissioner Nishimura requested to defer this item matter, to the latter part of the agenda once we are out of Executive Session.</p> <p>Chair Gibson stated are we advised to discuss this matter in Executive Session.</p> <p>Ms. Ching, Administrator for Boards and Commissions clarified to Chair Gibson that Commissioner Nishimura suggesting to defer the approval of the Directors Report until after Executive Session. This one particular item there are questions about,</p>	

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	<p>County Attorney has provided guidance to the Commission. Take that one item for discussion in Executive Session. When the Commission goes into Executive Session you may have discussion on that item. When you come out of Executive Session is when you may move to approve the Director's Report when you come out of Executive Session and return to Open Session.</p> <p>Commissioner Nishimura thanked Ms. Ching.</p> <p>b) <u>ACTIONS OF THE DIRECTOR:</u></p> <p>c) <u>INFORMATIONAL MATTERS: NONE</u></p>	<p><u>Motion No.1</u> Mr. Nishimura moved to defer Director's Report a) Investigator's Report. Mrs. Akita seconded the motion. Motion carried 6:0.</p> <p><u>Motion No.2</u> Mr. Nishimura moved to accept the Director's Report and the Actions of the Director. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p>3.</p>	<p><u>VIOLATION REPORT:</u></p> <p><u>ET & WT, LLC dba KENJI BURGER.:</u> Violation of Rule 3.1 Posting of License and availability of Rules and Regulations and Liquor Laws of the State of Hawaii.</p>	<p>Mrs. Akita moved to approve a Violation Hearing for ET & WT, LLC dba KENJI BURGER. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p>4.</p>	<p><u>NOTICE OF CHANGE IN TRADE NAME</u></p> <p><u>YOUNG'S MARKET COMPANY, LLC.</u> License number 3G-001 is giving notice of the change in trade name to RNDC of Hawaii. The trade name RNDC of Hawaii was registered with the Department of Commerce and Consumer Affairs on 12/01/20.</p> <p>Newton Chu, Attorney was present via tele-conference to answer any questions.</p> <p>Commissioner Akita asked Mr. Chu what the Tradename RNDC stands for.</p>	

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	<p>Mr.Chu responded two years ago there was a joint venture created between Young’s Market and Republic National Distributing Company in 2019. He appeared before the Commission, they filed that addition as another member of the Licensee. They are unifying the brand as a Nationwide group and changing from Young’s Market to RNDC. RNDC is a larger distributing company then Young’s Market based in the West and RNDC was based in the east. RNDC distributed to twenty two states and Young’s Market distributed to eleven states. Now they are distributing for thirty three states.</p> <p>Commissioner Akita thanked Mr. Chu.</p>	<p>Mr. Nishimura moved to approve the Notice of Change in Trade Name for Young’s Market Company, LLC, to RNDC of Hawaii. Mrs. Akita seconded the motion. Motion carried 6:0.</p>
<p>5.</p>	<p><u>CHANGE OF CORPORATE OFFICERS:</u></p> <p>a) <u>FOODLAND SUPERMARKET, LIMITED: Current Ownership Organizational Chart as of September 29, 2020 (i.e., prior to the change of the 640 Preferred (Non-Voting) Shares).</u></p> <p>b) <u>FOODLAND SUPERMARKET, LIMITED: Proposed Ownership Organizational Chart as of September 30, 2020 (i.e., prior to the change of the 640 Preferred (Non-Voting) Shares).</u></p>	<p><u>Motion #1</u> Mr. Nishimura moved to approve change in Corporate Officers for Foodland Supermarket, Limited. Mr. Pacheco seconded the motion. Motion carried 6:0.</p> <p><u>Motion #2</u> Mr. Nishimura moved to approve proposed Ownership Chart for Foodland Supermarket, Limited. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

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	<p>c) <u>ANHEUSER-BUSH SALES OF HAWAII INC.: Removal of John F. Godar s Director/President/Secretary and John J. Dueker as Treasurer.</u></p> <p>d) <u>ANHEUSER-BUSH SALES OF HAWAII INC.: Addition of Benjamin A. Halpert as Director/President/Secretary and Thomas D. Larson as Director/Treasurer.</u></p>	<p><u>Motion #3</u> Mr. Matsunaga moved to approve removal of John F. Godar as Director/President/Secretary and John J. Dueker as Treasurer. Mr. Nishimura seconded the motion. Motion carried 6:0.</p> <p><u>Motion #4</u> Mr. Nishimura moved to approve addition of Benjamin A. Halpert as Director/President/Secretary and Thomas D. Larson as Director/Treasurer Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
6.	<p><u>REQUEST EXTENSION TO ACTIVATE LIQUOR LICENSE:</u></p> <p><u>BAMBOO GRILL, R.OGATA, LLC: Request for extension in a time for a period of 6 months to exercise Application No. 2019-091, which was approved on February 20, 2020. Due to COVID19 from March to June, the building department was not operating and approving any permits.</u></p>	<p>Mr. Matsunaga moved to approve Bamboo Grill, R.Ogata, LLC request for an extension for a period of 6 months. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
7.	<p><u>CANCEL CONVERSION FROM A CORPORATION TO A LIMITED LIABILITY COMPANY</u></p> <p>ALOHA PETROLEUM, LTD. (ALOHA): Pursuant to HRS 281-41(k) Aloha Petroleum, Ltd. requests to cancel its request for conversion from a corporation to a limited liability company.</p>	<p>Mr. Nishimura moved to cancel conversion from a Corporation to a Limited Liability Company for Aloha Petroleum, LTD. Mr. Matsunaga seconded the motion. Motion carried 6:0.</p>
Executive Session	<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 Commission to discuss 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. Pacheco moved to enter into Executive Session. Mr. Matsunaga seconded. Motion carried 6:0.</p> <p>Meeting resumed in Executive Session at 10:39 a.m.</p>
8.	<p><u>PRESENTATION ON THE RECOMMENDATIONS OF THE PERMITTED INTERACTION GROUP (PIG) ON THE REVIEWING AND SCORING OF THE RÉSUMÉS FOR THE DIRECTOR OF LIQUOR CONTROL</u></p>	<p>Mr. Nishimura moved to ratify the actions taken in Executive Session including the PIG report. Mr. Matsunaga seconded the motion. Motion carried 6:0</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>	

SUBJECT	DISCUSSION	ACTION
	a) <u>INVESTIGATORS' REPORTS:</u>	
	<u>RETURN TO OPEN SESSION</u>	Returned to Open Session @ 11:12 a.m.
	<u>RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION</u>	Mr. Nishimura moved to ratify the actions taken in Executive Session including the PIG report. Mr. Matsunaga seconded the motion. Motion carried 6:0
Adjournment	With no further business to conduct, Chair Gibson called for a motion and a second to adjourn the meeting.	Mr. Nishimura moved to adjourn the Meeting. Mr. Matsunaga seconded the motion. Motion Carried 6:0 At 11:25 a.m. the meeting was adjourned.

Submitted by: _____
 Malialani TM Kelekoma, Liquor Clerical Assistant

Reviewed and Approved by: _____
 William Gibson, Chair

- () Approved as circulated.
- (X) Approved with amendments. See minutes of 02/04/2021 meeting.