

APPROVED

COUNTY OF KAUAI
Minutes of Meeting
OPEN SESSION

See minutes of 5-20-21.

Board/Commission:	LIQUOR CONTROL COMMISSION	Meeting Date	February 11, 2021
Location	Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 829 798 189#	Start of Meeting: 10:00 a.m.	End of Meeting: 11:33 a.m.
Tele Present	Chair William Gibson, Vice Chair Dee Crowell Members: Leland Kahawai, Gerald Matsunaga, Randall Nishimura, 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	Shirley Akita, Gary Pacheco		
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 5 members were present constituting a quorum.		
Announcements	Next Scheduled Meeting: Open Meeting Thursday, February 18, 2021 – 10:00 a.m. via Tele-Conference		
Approval of Agenda		Mr. Crowell moved to approve the Agenda. Mr. Kahawai seconded the motion. Motion carried 5:0.	
1.	<u>TEMPORARY LIQUOR LICENSE:</u> a) <u>KBR MANAGER, LLC dba KAUAI BEACH RESORT:</u> Application No. 2021-015 was filed on January 6, 2021 by KBR Manager, LLC dba Kauai Beach Resort for a temporary license located at 4331 Kauai Beach Drive, Hanamaulu, Kauai, Hawaii. Deposited		

SUBJECT	DISCUSSION	ACTION
	<p><u>\$60.00.</u> Mr. Craig Nakamura Attorney on behalf of KBR Manager was present to represent Kauai Beach Resort. This item was on the agenda last week so we can have the temporary license approved as it was not on the agenda last week.</p> <p>Mr. Foster stated the Rule and Statues giving authority for this action HRS 281-32, the Commissions Rule is 2.5 (f) it tracks the statue. It provides a temporary license of any class or kind maybe granted, where the premises have been operating under the license for the same class, kind and category for at least a year immediately prior. The issuance of a temporary license is based on a transfer, the temporary license shall terminate upon the transfer of a new license application. If the license transfer is denied or withdrawn, the temporary license is cancelled. That is the sum of the Commission Rule 2.5 (f).</p> <p>Commissioner Nishimura stated prior to taking action on this, he will recuse himself on this action item, he understands that it may be an issue.</p> <p>b) <u>JOHNNY’S WINGZ N TINGZ, LLC dba JOHNNY’S WINGZ N TINGZ: Application No. 2021-017 was filed on December 8, 2020 by JOHNNY’S WINGZ N TINGZ, LLC dba JOHNNY’S WINGZ N TINGZ for a temporary license located at 440 Aleka Place, Unit#1, Kapa’a, Kauai, Hawaii. Deposited \$60.00.</u></p> <p>Donna and John Copeland were present to represent JOHNNY’S WINGZ N TINGZ, LLC dba JOHNNY’S WINGZ N TINGZ.</p>	<p><u>Motion #1</u> Mr. Matsunaga moved to approve Application No. 2021-015 for a temporary Liquor License. Mr. Kahawai seconded the motion. Motion carried 4:0.</p> <p><u>Motion #2</u> Mr. Matsunaga moved to approve Application No.2021-017 for a temporary Liquor License. Mr. Crowell seconded the motion. Motion carried 5:0.</p>

SUBJECT	DISCUSSION	ACTION
<p>2.</p>	<p><u>VIVA KAI LLC dba KAI BAR COFFEE ROASTERS LIQUOR LICENSE:</u> Reconsideration of approval of license for Viva Kai LLC dba Kai Bar. The Commission approved at its regular monthly teleconference meeting on February 4, 2021, Application No. 2021-011 for a New Restaurant General license (live entertainment with dancing) with the condition based on agreement of Applicant and an objecting neighbor that the premises close by 9:00 pm nightly. The Commission will reconsider whether the intent of the parties was that the premises close by no later than 9:00 pm nightly or that live music and dancing cease by no later than 9:00 pm nightly or that live music and liquor service cease by no later than 9:00 pm nightly or a combination thereof.</p> <p>Mr. Foster advised the Commission that they are proceeding under Section 35 of the Roberts Rules and Orders called amend something previously adopted. To amend something previously adopted the motion to be used for a desire to change only a part of the text or substitute a different version. As we learn subsequent to last week's decision it did not reflect the true intent of the parties. This would not be reopening a Public Hearing or taking Public Testimony. We have the letter dated February 8, from Viva Kai Limited and we have one or more of the parties here. He would like to suggest a motion to the Commission to get this thing going. Move to amend the resolution taken from the February 4, 2021 meeting that approved Application No. 2021-011 for a New Restaurant General License to reflect the intent of the stipulating parties as clarified by the letter from Viva Kai LLC dba Kai Bear Coffee Roasters dated February 8, 2021 any representations made by the parties before the Commission today. If that motion was to be made and passed a second motion will be made to reflect the conditions to be placed.</p> <p>Chair Gibson asked Mr. Garcia are your present.</p> <p>Mr. Garcia responded, yes.</p> <p>Chair Gibson asked the Commission are there any questions for the party. Hearing none.</p>	<p><u>Motion #1</u> Mr. Nishimura moved to reconsider the action taken at the last meeting regarding Viva Kai LLC dba Kai Bar Coffee Roasters Liquor License Application No. 2021-011for a New Restaurant General License. Mr. Crowell seconded the motion. Motion carried 5:0.</p>

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	<p>Commissioner Nishimura stated if we reconsider the motion, then we can consider any changes to the prior approval. Unless we reconsider, we cannot properly reconsider any conditions attached to the approval of the last meeting.</p> <p>Mr. Foster stated he would like to ask the applicant what is intended by the term music. Is it live music as there were other concerns that were raised, would it include atmospheric music, karaoke or only live music. Please clarify.</p> <p>Mr. Garcia responded any live music that would fall under the normal liquor license stipulation. Any live or amplified music. If we were to stay open we generally have atmospheric music or played from an iPod through the house speakers. That is never loud, you can't hear that outside the building. So the stipulation that I am looking for is the normal sense of the general liquor license with live music and dancing. A guy sitting with a guitar and amplifier or a djay in the sense of amplified music. All of that would be over at 9 p.m.</p> <p>Mr. Foster thanked Mr. Garcia and clarified that the objecting neighbor is or is not present at this time.</p> <p>Mr. Garcia responded, I don't think he logged in, he did not log in last week as well. He did send him after last week's hearing he sent a recap of the meeting and the agenda for today. He also sent an invite, at this point he thinks he is ready to move on. There was also another neighbor who sent a letter a few weeks ago from a Joann Thompson, her letter had the same stipulation she asked for amplified music and liquor to cease at 9 p.m. We are keeping in line the general consensus of the closest neighbors.</p> <p style="text-align: center;"><i>Commissioner Pacheco entered in the Commission Meeting @ 10:20 a.m.</i></p> <p>Mr. Foster thanked Chair Gibson.</p>	

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	<p>Investigator Herman asked for a clarification between owner and telephone conversation yesterday about the vessels.</p> <p>Chair Gibson replied there is a motion on the floor.</p> <p>Investigator Herman apologized and will take care of it after the Commission Meeting.</p> <p>Commissioner Kahawai asked for clarification from the applicant, it says liquor and music does this include dancing.</p> <p>Mr. Garcia replied yes Liquor, music and live dancing, that is reasonable it should all be done by 9 p.m. Our biggest thing we did not want our overall hours of our business to be tied to the hours of when our liquor license are active. If we have to cease serving liquor, and allowing dancing and live music at 9 p.m. We would like to be able to serve coffee and pastries till 9:30 p.m. or 10 p.m., our revenue stream is not the alcohol. We don't want the alcohol to dictate our entire business. As I put in my letter a lot of people work from their computer also to study we are that kind of café. I don't want to be tied to those hours, because of our Liquor License is one our revenue streams, it is not our main revenue stream.</p> <p>Chair Gibson asked are there any other questions.</p> <p>Vice Chair Crowell asked Investigator Herman how easy is this to enforce when the liquor is stopped and the business is still open. Is that a problem?</p> <p>Investigator Herman replied, I don't believe it will be an issue. If we do an inspection after 9 p.m. and there is liquor out the Licensee can be cited. I do not perceive any problems enforcing it.</p>	

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	<p>Chair Gibson asked are there any other comments or questions.</p> <p>Chair Gibson asked Investigator Herman how they control Liquor service ending at 9 p.m.</p> <p>Investigator Herman stated for the Commission and Mr. Garcia clarifying the stipulations that was approved and put on your license: All Liquor service will cease at 9 p.m. including live entertainment and Dancing. What that construes prior to 9 p.m. should an Investigator walk in at 9:01 p.m. there can be no containers, glasses, bottles that contain any amount of liquor. So all tables and bar tops will need to be cleared of any liquor. No dancing will be allowed past 9 p.m. No live or amplified music, understanding that the house music is allowed. Any live amplified music will need to be completed prior to 9 p.m. Meaning at 9 p.m. it will have to be fully ceased. Is that clear of your understanding.</p> <p>Mr. Garcia replied yes all alcohol has to be cleared at 9:01 p.m.</p> <p>Investigator Herman replied technically at 9:00 p.m. He highly recommends having the bar clock set 5 to 10 minutes ahead to give you time to clear all glasses and live entertainment.</p> <p>Mr. Garcia replied that makes sense.</p> <p>Investigator Herman asked Vice Chair Crowell if that makes sense.</p> <p>Vice Chair Crowell responded he did not have an understanding that is why he asked, to which he replied to Investigator Herman yes.</p> <p>Chair Gibson thanked Investigator Herman.</p>	<p><u>Motion #2</u> Mr. Nishimura moved to approve Application No. 2021-011 for a New Restaurant General License with live entertainment and dancing with the condition as stipulated by the applicant and objecting neighbor that the serving of liquor and dancing be ceased at no later than 9 p.m. nightly. Mr. Kahawai seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
	<p>EXECUTIVE SESSION: 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 and the Liquor Clerical Assistant. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
	<p>DISCUSSION, DELIBERATION AND DECISION-MAKING BY THE COMMISSION ON THE RECOMMENDATIONS OF THE PERMITTED INTERACTION GROUP (PIG) ON THE INTERVIEW QUESTIONS AND A SCORING TOOL RELATED TO THE HIRING OF THE DIRECTOR OF LIQUOR CONTROL.</p>	
	<p>EXECUTIVE SESSION: 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> Returned to Open Session @ 11:31 a.m.</p>	
	<p><u>ROLL CALL FOR THE RETURN TO OPEN SESSION</u> Acting Director Cecil Baliaris Jr., called roll, noting 6 members were present constituting a quorum.</p>	

SUBJECT	DISCUSSION	ACTION
	<u>RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION</u>	Mr. Nishimura moved to ratify the actions taken in Executive Session. Mr. Pacheco 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. Pacheco seconded the motion. Motion Carried 6:0 At 11:33 a.m. the meeting was adjourned.

Submitted by: _____
 Malialani TM Kelekoma, Liquor Clerical Assistant

Reviewed and Approved by: _____
 William Gibson, Chair

(X) Approved as circulated.

() Approved with amendments. See minutes of _____ meeting.