

COUNTY OF KAUAI  
Minutes of Meeting  
OPEN SESSION

Board/Commission:	<b>LIQUOR CONTROL COMMISSION</b>	Meeting Date	<b>December 09, 2021</b>
Location	Tele Conference via Microsoft Teams Audio +1 469-848-0234, Conference ID: 672 376 10# <a href="https://bit.ly/3p5Paf3">https://bit.ly/3p5Paf3</a>	Start of Meeting: 4:06 p.m.	End of Meeting: 6:10 p.m.
Tele Present	Chair William Gibson, Vice Chair Dee Crowell Members: Lorna Nishimitsu, Randy Nishimura, Gary Pacheco, Tess Shimabukuro Also: Liquor Control Staff: Director Leo Sandoval, Liquor Clerical Assistant Malialani TM Kelekoma; Ellen Ching Administrator Boards & Commission, Deputy County Attorney Charles Foster		
Excused	Leland Kahawai		
Absent			
<b>SUBJECT</b>			
	<b>DISCUSSION</b>	<b>ACTION</b>	
<b>A.</b>	<b><u>CALL TO ORDER</u></b>	Chair Gibson called meeting to order 4:06 p.m.	
<b>B.</b>	<b><u>ROLL CALL</u></b>  Director Leo Sandoval called roll, noting 6 members were present via Tele-Conference constituting a quorum. Commissioner Kahawai is excused.		
<b>C.</b>	<b><u>ANNOUNCEMENTS:</u></b>  Next Scheduled Meeting: Thursday, January 13, 2022 – 4:00 p.m. or shortly thereafter.		
<b>D.</b>	<b><u>APPROVAL OF AGENDA</u></b>  Director Leo Sandoval advised the Commission of the amendments:  1. J. <u>COLOROSKO LCC dba PACO'S TACOS CANTINA KAPAA</u> , should be CLOROSKO (LLC).	<b><u>Motion:</u></b> Mr. Pacheco moved to approve the agenda as amended. Ms. Nishimitsu seconded the motion. Motion carried 6:0.	

SUBJECT	DISCUSSION	ACTION
<p><b>E.</b></p>	<p><b><u>APPROVAL OF MINUTES:</u></b></p> <p>1. Open Session Minutes of November 12, 2021</p>	<p><b><u>Motion:</u></b>            Mr. Nishimura moved to accept the Open Session Minutes of November 12, 2021. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p><b>F.</b></p>	<p><b><u>PUBLIC HEARING:</u></b></p> <p>a. <u>BAMF LLC dba BATTERS UP</u>: Application No. 2022-008 was filed on August 5, 2021, for a New Restaurant Beer and Wine License (A) Standard Bar –No Live Entertainment and No Dancing located at 1639 Haleukana Street, Units 1 and 2, Lihue, Kauai, Hawaii. The Commission accepted Application No. 2022-008 on October 14, 2021, for publication and public hearing and ordered to print Notice of Public Hearing in The Garden Island on Wednesday, October 20<sup>th</sup> and 27<sup>th</sup>, 2021, scheduling the public hearing on December 9, 2021, at 4:00p.m. or shortly thereafter via Microsoft Teams conferencing.</p> <p>Chair Gibson opened the Public Hearing for BAMF LLC dba BATTERS UP Application No. 2022-008. Is there a Departments Report for this application?</p> <p>Director Leo Sandoval read the Departments Report.</p> <p>Chair Gibson asked who is representing the applicant. Mr. Trevor Christensen, Owner was present to represent BAMF LLC dba BATTERS UP.</p> <p>Chair Gibson asked Mr. Christensen if he received a copy of the Investigator’s Report and if he had any comments.</p>	

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	<p>Mr. Christensen replied yes, I did receive a copy of the Investigator's report and had no comments.</p> <p>Chair Gibson asked if anyone would like to speak on behalf of the applicant. Mr. Christensen do you want to speak on your behalf.</p> <p>Mr. Christensen replied yes, as far as questions or statements, I don't have any questions at this time.</p> <p>Chair Gibson thanked Mr. Christensen, Commissioners do you have any questions for Mr. Christensen.</p> <p>Commissioner Nishimitsu asked in the Investigator's Report it says you never held a liquor license in the State of Hawaii. Have you held a license anywhere else?</p> <p>Mr. Christensen responded no I have not.</p> <p>Chair Gibson asked are there any more questions.</p> <p>Vice Chair Crowell asked, have you ever seen operations like this.</p> <p>Mr. Christensen replied yes, I ran a bar in Salt Lake City, Utah for 10 years and I have operated ones like this a few times as well.</p> <p>Vice Chair Crowell asked did Salt Lake City have a Liquor License?</p> <p>Mr. Christensen responded yes.</p> <p>Vice Chair Crowell replied I don't want to mischaracterize people from Kauai, but liquor and</p>	

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	<p>bats are a dangerous combination.</p> <p>Mr. Christensen replied I agree and that's why we never wanted to do liquor. We just want to stick to beer and wine. We don't ever want to over serve by any means, its more for the adults to relax and hang out and enjoy the atmosphere.</p> <p>Chair Gibson asked are there any other questions.</p> <p>Vice Chair Crowell are you occupying the whole building or just a portion of it.</p> <p>Mr. Christensen replied there are two other units that aren't tied to my agenda of my LLC or anything. We do have two bays and it would be the whole unit.</p> <p>Chair Gibson asked are there any other questions.</p> <p>Commissioner Nishimura noticed in the Departments report that the entire premises is being permitted is that correct.</p> <p>Mr. Christensen replied I believe so.</p> <p>Commissioner Nishimura replied would you accept limitations on the areas that you can drink, and I'm specifically concerned about beer and wine within the actual batting cages. I see that as potentially troubling. If it's possible to have an area designated for drinking. As far as you know just allowing anybody to walk around with beer and wine, especially with kids around there, it's a little bit concerning.</p> <p>Mr. Christensen commented I understand that, and I agree I mean, safety is my number one priority over there as well and we have it set up right now to where we don't even want beverages in the batting cages that area anyway because we have Astro turf. I would not be</p>	

SUBJECT	DISCUSSION	ACTION
	<p>opposed to that as well. We are building out a loft, which will have gaming area and that's why I originally, I did it for the whole area because it's kind of above the batting cages, but it's above the bathroom area. That we haven't done the build out for as well because we know we need to deal with the gaming as well with having a liquor license. I'm not opposed to just having the front section off for beer and wine only, but I do want you to know that the Astroturf is very expensive, and I don't plan on having people in there with drinks anyway.</p> <p>Commissioner Nishimitsu asked Director Leo Sandoval since the application covers the entire leased premises can the Commission approve only a portion of the premises for which the application was made by excluding the batting cages?</p> <p>Director Leo Sandoval responded that is correct the Commission and can put a condition on the license as well and that can be printed on the license as well. Whenever you make that decision to do so.</p> <p>Investigator Kenneth Herman called for a point of order, you didn't ask if anyone opposed the license.</p> <p>Chair Gibson replied, is there anyone in opposition, hearing none. With the knowledge that no letters were submitted. Are there any other questions, hearing none the Public Hearing for Application No. 2022-008 is closed. Is the Commission ready to make a decision?</p> <p>Commissioner Nishimura commented to Chair Gibson the reason for structuring the amendment that way was to enable the Department to impose additional, restrictions on the license fee. In the event there are problems well beyond the immediate batting cage area and to give them the flexibility to provide that.</p>	<p><u>Motion:</u>          Mr. Nishimura moved to approve Application No. 2022-008 for BAMK LLC dba Batters Up for a New Restaurant Beer and Wine License (A) Standard Bar –No Live Entertainment and No Dancing. Subject to restriction that no alcohol will be allowed, served or consumed within the immediate batting cage area and that additional restrictions maybe imposed should there be problems between the Public and the liquor license. Mr. Pacheco seconded the motion. Motion carried 6:0.</p> <p><u>Roll Call Vote:</u>          Shimabukuro – Aye          Pacheco – Aye          Nishimura -Aye          Nishimitsu – Aye          Vice Chair Crowell – Aye          Chair Gibson - Aye</p>

SUBJECT	DISCUSSION	ACTION
	<p>b. <u>PROPOSED AMENDMENTS TO THE RULES AND REGULATIONS OF THE LIQUOR CONTROL COMMISSION OF THE COUNTY OF KAUAI, STATE OF HAWAII</u>: The Notice of Public Hearing was ordered and to print in The Garden Island on Thursday, November 4, 2021, scheduling the public hearing on December 9<sup>th</sup>, 2021, at 4:00p.m. or shortly thereafter via Microsoft Teams conferencing.</p> <p>Chair Gibson opened the Public Hearing for the Proposed Amendments to the Rules and Regulations of the Liquor Control Commission.</p> <p>Summary: Updating several aspects of the Rules and Regulations to include manager cards, additional stipulations rules pertaining to procedures as well for the licensees. Chair Gibson also for the record just wanted to make sure that everybody knew that this amendment has been announced twice in the Garden Island newspaper and has been received on part of the Small Business Regulatory Review Board. It has been published in the Garden Island under public press release and it has been made available through all aspects of the social media as well as for announcement. There was no one that wants to speak on behalf of this proposed amendment changes. There were no testimony's submitted for or in opposition of the proposed amendments. Concerns from Commissioners:</p> <ol style="list-style-type: none"> <li>1. Were the licensees notified of these changes or potential changes? Yes, through various resources.</li> <li>2. Was there any actions from the Regulatory Board? They didn't determine if that was going to be affecting them in anyway, so they moved to the public hearing, on October 25th it was presented to the Commission. They just make sure there's no impact on the small businesses. A motion that's done by the Commissioners to adopt. Once it's adopted then the Department passes the Amendments to the County clerk's office for certification. once it's certified then it's adopted by the County and made into rule. After the fact and I do have to set up with Small Business Regulatory Review Board to do a post hearing, which is the determination of what we just did today and all activities that led to the post hearing.</li> </ol>	<p><u>Motion:</u>          Ms. Nishimitsu moved to approve the Amendments to the Liquor Commission Rules and Regulations that previously been vetted by the Small Business Regulatory Review Commission. Mr. Crowell seconded the motion. Motion carried 5:1.</p> <p><u>Roll Call Vote:</u>          Shimabukuro – Aye          Pacheco – Aye          Nishimura -Abstain          Nishimitsu – Aye          Vice Chair Crowell – Aye          Chair Gibson - Aye</p>

SUBJECT	DISCUSSION	ACTION
<p><b>G.</b></p>	<p><b>G. <u>DIRECTOR'S REPORTS:</u></b></p> <ol style="list-style-type: none"> <li>1. <u>DIRECTOR REPORT:</u> <ol style="list-style-type: none"> <li>a. November 11, 2021 – December 8, 2021</li> </ol> </li> <li>2. <u>INVESTIGATORS ACTIVITY REPORTS:</u></li> <li>3. <u>EMPLOYEES IN LICENSED PREMISES:</u> <ol style="list-style-type: none"> <li>a. Managers and Assistant Managers Red/Blue Card exam list - See Attachment "A"</li> </ol> </li> </ol>	<p><u>Motion:</u>          Mr. Pacheco moved to accept the Director's Report G. 1.a. 2, and 3. a. Ms. Nishimitsu seconded the motion. Motion carried 6:0.</p>
<p><b>H.</b></p>	<p><b><u>ACTIONS OF THE DIRECTOR</u></b></p> <ol style="list-style-type: none"> <li>1. <u>TEMPORARY INCREASE/EXTENSION TO PREMISES</u> <ol style="list-style-type: none"> <li>a. <u>GINGER AND THAI BASIL dba JO2:</u> Approval of Temporary Increase of Premise to include the Front Exterior of the leased space in the Waipouli Complex per diagram submitted from November 3, 2021, through February 1, 2022. Applicant has met all requirements and clearances obtained with Department of Health, The County of Kauai Building Division and Planning Department.</li> <li>b. <u>BANGKOK HAPPY BOWL KAUAI INC. dba BANGKOK HAPPY BOWL THAI BISTRO AND SUSHI BAR:</u> Approval of Temporary Increase of Premises to include the lanai expansion for increased customer safety during the pandemic from December 10, 2021, through March 10, 2022. Applicant has met all requirements and clearances obtained with Department of Health, The County of Kauai Building Division and Planning Department.</li> <li>c. <u>SUSHI BUSHIDO, LLC. dba SUSHI BUSHIDO:</u> Approval of Temporary Increase of Premises to include the outside patio expansion for increased customer safety during the pandemic from December 1, 2021, through February 28, 2022. Applicant has met all requirements and</li> </ol> </li> </ol>	<p><u>Motion #1:</u>          Mr. Nishimura moved to receive Temporary Increase/Extension to Premises for Ginger and Thai Basil dba JO2, Bangkok Happy Bowl Kauai Inc. dba Bangkok Happy Bowl Thai Bistro and Sushi Bar and Sushi Bushido, LL dba Sushi Bushido. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

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	<p>clearances obtained with Department of Health, The County of Kauai Building Division and Planning Department.</p> <p>2. <u>SPECIAL FREE ONE DAY LICENSE:</u></p> <p>a. <u>HISTORIC WAIMEA THEATER AND CULTURAL CENTER:</u> Approval of Application No. Free 2022-12 filed on November 10, 2021, for a Pulama Kauai fundraiser by Historic Waimea Theater and Cultural Center. Date of event of the Free One-Day Special Dispenser License will be on December 10, 2021, at the Historic Waimea Theater located at 9691 Kaumuali'i Highway, Waimea Kauai, Hawaii.</p>	<p><u>Motion #2:</u>          Mr. Nishimura moved to receive Special Free One Day License for Historic Waimea Theater and Cultural Center. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p><b>I.</b></p>	<p><b><u>VIOLATION REPORT:</u></b></p> <p>1. <u>BARREL AND BBW, LLC. dba CHICKEN IN A BARREL PLANTATION HIDEAWAYS:</u> Violation of Rule 7.13 Fight and Disturbance Reports.</p>	<p><u>Motion #1:</u>          Mr. Nishimura moved to schedule a Violation Hearing for Barrel and BBW, LLC dba Chicken in a Barrell Plantation Hideaways for Violation of Rule 7.13 Fight and Disturbance Reports. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p><b>J.</b></p>	<p><b><u>NEW LICENSE:</u></b></p> <p>1. <u>COLOROSHKO LLC dba PACO'S TACOS CANTINA KAPAA:</u> Application 2022-035 was filed on July 20, 2021, by Cloroshko dba Paco's Tacos Cantina Kapaa for a New Restaurant General A (No Live Entertainment and No Dancing) License located at 4-1292 Kuhio Hwy, Kapaa, Hawaii. Deposited \$450.00.</p>	<p><u>Motion #1:</u>          Ms. Nishimitsu moved to accept Application 2022-035 Cloroshko LLC dba Paco's Tacos Cantina Kapaa and to schedule for Publication and Public Hearing. Mr. Pacheco</p>



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	<p>2. <u>KCY RESTAURANT, LLC. dba PUAKEA GRILL</u>: Application 2022-037 was filed on September 2, 2021, by KCY Restaurant, LLC. dba Puakea Grill for New Restaurant General B (Live Entertainment and Dancing) License located at 4150 Nuhu Street, Lihue, Kauai, Hawaii. Deposited \$450.00.</p> <p>3. <u>TRUE BLUE INC. dba TRUE BLUE CHARTERS</u>: Application 2022-036 was filed on August 26, 2021, by True Blue Inc. dba True Blue Charters for New General Tour or Cruise Vessel License moored at berth 100 at the Nawiliwili Small Board Harbor located at 2494 Niunalu Road, Lihue, Hawaii. Deposited \$100.00. - <b>NO PUBLIC HEARING REQUIRED</b>. Tour Vessel Exception, Rule 2.5(j) permits license approval by Commission.</p> <p>Summary: Department to follow up on Investigator’s Report and separate premises for warehousing.</p>	<p>seconded the motion.          Motion carried 6:0.</p> <p><u>Motion #2:</u>          Mr. Nishimura move to accept the Application for KCY Restaurant, LLC dba Puakea Grill Application 2022-037 and schedule for Publication and Public Hearing. Mr. Pacheco seconded the motion.          Motion carried 6:0.</p> <p><u>Motion #3:</u>          Mr. Nishimura moved to approve Application 2022-036 based on an amended Investigator’s Report for True Blue Inc. dba True Blue Charters. Ms. Nishimitsu seconded the motion.          Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
<p>K.</p>	<p><b><u>CHANGE IN AUTHORIZED AGENT/OFFICERS</u></b></p> <ol style="list-style-type: none"> <li>1. <u>TRU PROTECTION INC.:</u> Addition of Tamar Rejman as an Authorized Agent for Tru Protection Inc., dba Japanese Grandma’s Café License No. 2G-036 located at 3871 Hanapepe Road, Hanapepe, Kauai, Hawaii.</li>   <li>2. <u>HOLO HOLO CHARTERS, INC:</u> Addition of Adrian Bertsch as Director and Treasurer, Chandra Bertsch as Director, Vice President, and Secretary, and update Kevin Millett as Director and President for Holo Holo Charters, Inc. License No. 9G-003 located at Port Allen Harbor, 4353 Waialo Road Suite 5A, Eleele, Kauai, Hawaii.</li>   <li>3. <u>ALOHA PETROLEUM, LTD.:</u> Aloha Petroleum, Ltd. In connection with Aloha Island Mart’s on Kauai. Retail General License No. 4G-029, 4G-031, 4G-032, 4G-067, and 4G-068 reports conversion of Aloha Petroleum, LTD a Hawaii Corporation to Aloha Petroleum Retail, LLC., to take effect on January 1, 2022.</li> </ol>	<p><u>Motion #1:</u>          Mr. Nishimura moved to approve addition of Tamar Rejman as authorized agent for True Protection Inc. dba Japanese Grandma’s Café License No. 2G-036. Ms. Nishimitsu seconded the motion. Motion carried 6:0.</p> <p><u>Motion #2:</u>          Ms. Nishimitsu moved to approve the addition of three individuals named in the documents submitted by Holo Holo Charters, INC License No. 9G-003. Mr. Nishimura seconded the motion. Motion carried 6:0.</p> <p><u>Motion #3:</u>          Mr. Nishimura moved to approve Aloha Petroleum, LTD General License No. 4G-029,4G-031, 4G-032, 4G-067, and 4G-068 reports</p>

SUBJECT	DISCUSSION	ACTION
		conversion of Aloha Petroleum, LTS a Hawaii Corporation to Aloha Petroleum, LLC to take effect on January 1, 2022. Mr. Pacheco seconded the motion. Motion carried 6:0.
L.	<p><b><u>REQUEST FOR WAREHOUSING AWAY FROM LICENSED PREMISES</u></b></p> <p>1. <u>NAPALI SEA TOURS, INC.:</u> Napali Sea Tours, Inc. a tour vessel, License No. 9G-004, Requests Commission approval to warehouse liquor off the licensed premises at 4350 A Waialo Rd, Eleele, Kauai, Hawaii in an appropriately zoned facility. All required documentation has been received by the Department.</p>	<p><u>Motion:</u>          Mr. Nishimura moved to approve the request for Warehousing on Napali Sea Tours, Inc. License No. 9G-004. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
M.	<p><b><u>PRESENTATION, DISCUSSION, AND POSSIBLE ACTION ON THE DIRECTOR OF LIQUOR CONTROL (6) MONTH DEPARTMENT STATUS REPORT, DEPARTMENT BUDGET UPDATE AND DEPARTMENT (5) YEAR STRATEGIC PLAN.</u></b></p>	<p><u>Motion:</u>          Mr. Nishimura moved to receive the Director of Liquor Control 6-month Department Status Report, Budget update and 5-year strategic plan and schedule for discussion at the January meeting. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>

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<p><b>N.</b></p>	<p><b><u>UPDATE, DISCUSSION, AND POSSIBLE ACTION REGARDING THE SIX (6) MONTH EVALUATION OF THE DIRECTOR OF LIQUOR CONTROL</u></b></p> <p>Summary: Ms. Ching reminded the Commission that they adopted the recommendation of the PIG (Permitted Interaction Group). Conduct a 6-month evaluation in conjunction with the evaluation. The Director should complete a status report on his progress related to his goals and objectives. Staff will input report and the Director will complete a self-evaluation and she will send to each of the Commissioners. You will need to indicate either meets expectations. The consolidated report will be available at the 2<sup>nd</sup> meeting in January 2022.</p>	<p><u>Motion:</u></p>
<p><b>O.</b></p>	<p><b><u>DISCUSSION AND POSSIBLE ACTION REGARDING THE SALARY OF THE DIRECTOR OF LIQUOR CONTROL</u></b></p> <p>Summary: From the last meeting, the Commissioners wanted to look at the Director’s progress on his goals and objectives, which is one of the reports you got on your agenda item M. It is in your authority to set the effective date and you are able to retroactive back to December 1<sup>st</sup> to be effective January 1<sup>st</sup> 2022. Due to the numerous information that was provided and only one week to review it is not enough time to go through all the information.</p>	<p><u>Motion:</u>          Mr. Nishimura moved to defer action on Discussion and Possible Action regarding the Salary of the Director of Liquor Control to the first meeting in January. Mr. Pacheco seconded the motion. Motion carried 6:0.</p>
<p><b>P.</b></p>	<p><b><u>ELECTION OF CHAIR AND VICE CHAIR FOR 2022</u></b></p> <p>Commissioner Pacheco nominated Vice Chair Crowell as Chair for 2022, seconded by Commissioner Nishimura. Nomination closed by Commissioner Pacheco.</p>	<p><u>Motion #1:</u>          Mr. Pacheco nominated Vice Chair Crowell as Chair. Mr. Nishimura seconded the motion. Motion carried 6:0.</p>

SUBJECT	DISCUSSION	ACTION
	Commissioner Nishimura nominated Commissioner Leland Kahawai as Vice Chair for 2022, seconded by Commissioner Nishimitsu. Nomination closed by Commissioner Pacheco.	<u>Motion #2</u> Mr. Nishimitsu nominated Mr. Kahawai as Vice Chair. Ms. Nishimitsu seconded the motion. Motion carried 6:0.
	<i>Ms. Ellen Ching exited the meeting @ 5:58 p.m.</i>	
Q.	<p><b><u>EXECUTIVE SESSION:</u></b></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 of November 12, 2021, 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>1. <u>APPROVAL OF MINUTES:</u></p> <p>a. November 12, 2021</p>	<p><u>Motion:</u></p> <p>Mr. Nishimura moved to go into Executive Session. Ms. Nishimitsu seconded the motion. Motion carried 6:0.</p>
R.	<b><u>RETURN TO OPEN SESSION</u></b>	Commissioners returned to Open Session at 6:04 p.m.
S.	<p><b><u>ROLL CALL FOR THE RETURN TO OPEN SESSION</u></b></p> <p>Director Leo Sandoval called roll, noting 6 members were present via Tele-Conference constituting a quorum.</p>	

SUBJECT	DISCUSSION	ACTION
T.	<b><u>RATIFY THE ACTIONS TAKEN IN EXECUTIVE SESSION</u></b>	<u>Motion:</u> Mr. Nishimura moved to ratify the actions taken in Executive Session. Ms. Shimabukuro seconded the motion. Motion carried 6:0.
U.	<b><u>EXECUTIVE SESSION:</u></b>  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)	
V.	<b><u>ADJOURNMENT</u></b>	<u>Motion:</u> Mr. Pacheco moved to adjourn the meeting. Ms. Nishimitsu seconded the motion. Motion carried 6:0.  Meeting ended @ 6:06 p.m.

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.