

State of Alaska
Alcoholic Beverage Control Board
April 18, 2007
Agenda Minutes

Board members present: Mike Gordon; Shirley Gifford; Billy Andrews; Gail Niemi; William Tull (via teleconference) - (Mr. Tull was not present for 1A, 1B, 1C or 2G-4); all votes were via roll call

1. ADMINISTRATION

A. Approve minutes of February 19, 2007 Board meeting.

Mr. Andrews motions to approve; Ms. Niemi seconds the motion; approved 4-0

B. Approve minutes of March 15, 2007 Special Board meeting.

Mr. Andrews motions to approve; Ms. Niemi seconds the motion; approved 4-0

C. Delegate tie-breaking vote to the Director.

Mr. Andrews motions to approve; Ms. Gifford seconds the motion; approved 4-0

2. ADMINISTRATIVE MATTERS

A. INFORMAL CONFERENCES

1. 06/07-410 Forks Roadhouse, The; Go TNT Inc.; located at Mile 18.7 Petersville Rd in MatSu Borough; transfer of ownership of a beverage dispensary license; backgrounds not complete.

All statutory requirements have *not* been met (Dept. of Labor has not responded). MatSu Borough does not protest. **Attachment 2A-1**

Applicant was denied transfer based on shareholder background information at the February 2007 meeting.

Mr. Andrews motions to go into Executive Session; Ms. Gifford seconds the motion;

Roll Call – 5-0 approved

Mr. Andrews motions to go out of Executive Session; Ms. Niemi seconds the motion;

Roll call – 5-0 approved

No action taken

B. HEARING OFFICER DECISIONS

C. SETTLEMENT AGREEMENT

D. VOLUNTARY RELINQUISHMENT OF LICENSE

1. 05/06-2933 ERA Aviation N881EA; Era Aviation Inc.; located in Alaskan Skies; common carrier license.

AND

05/06-3037 ERA Aviation N882EA; Era Aviation Inc.; located in Alaskan Skies; common carrier license.

AND

06/07-4055 **ERA Aviation N883EA**; Era Aviation Inc.; located in Alaskan Skies; common carrier license.

AND

05/06-4500 **ERA Aviation N735AG**; Era Aviation Inc.; located in Alaskan Skies; common carrier license.

Voluntary relinquishment of licenses.

Attachment 2D-1

Mr. Andrews motions to accept relinquishment as read into the record; Ms. Gifford seconds the motion;

Roll call – 5-0 approved

E. REQUEST FORMAL HEARING

F. SUSPENSION

1. 06/07-2457 **Mr. D's**; King's Inn Property Management LLC; located at 10352 Kenai Spur Hwy in Kenai; beverage dispensary – tourism license.

Board consideration of suspension.

Attachment 2F-1

Ms. Gifford motions to suspend the license for 45 days with 38 suspended and levy a \$500 fine; Mr. Andrews seconds the motion;

Discussion follows: Mr. Tull suggests that the motion is weak and should be more; no further discussion.

Roll call – 5-0 approved

2. 07/08-1805 **Jewel Lake Pizza & Tea Garden**; Jade Dynasty Inc.; located at 9150 Jewel Lake Rd in Anchorage; restaurant/eating place license.

Board consideration of suspension.

Attachment 2F-2

Ms. Gifford motions to postpone until the July 11, 2007 meeting due to the fact that the licensee was not available to appear; Ms. Niemi seconds the motion;

Roll call – 5-0 approved

3. 06/07-3239 **New Peking Chinese Restaurant**; Jennifer Lee; located at 145 S Willow St in Kenai; restaurant/eating place license.

Board consideration of suspension.

Attachment 2F-3

Ms. Gifford motions to suspend the license for 45 days with 38 suspended and levy a \$500 fine – the restaurant may remain open, but all alcohol sales will be prohibited; Mr. Andrews seconds the motion;

Roll call – 5-0 approved

G. BOARD CONSIDERATION

1. 07/08-2724 **Cyrano's Crepes & Books**; Jerry Harper; located at 413 D St in Anchorage; restaurant/eating place license.

Licensee is deceased (April 2005) Executor was unclear as to ownership of business, per letter.

Attachment 2G-1

**Executor verbally requests 90-day extension to file a transfer application
Ms. Gifford motions to grant 90-day extension; Ms. Niemi seconds the motion;
Roll call – 5-0 approved**

2. 05/06-4274 **Mountain High Pizza Pie**; Todd Basilone; located at Main Street – Talkeetna in MatSu Borough; restaurant/eating place license.

License expiration for failure to complete renewal on or before February 28, 2007.

Attachment 2G-2

**Mr. Andrews motions to resurrect and renew the license; Ms. Gifford seconds the motion;
Roll call – 5-0 approved**

3. 05/06-3487 **Salcha River Lodge**; Salcha River Lodge, Inc; located at 9162 Richardson Hwy in Fairbanks North Star Borough; beverage dispensary license.

Licensee expiration for failure to complete renewal on or before February 28, 2007.

Attachment 2G-3

**Ms. Gifford motions to resurrect and renew the license (with delegation, when previously levied \$500 fine has been received); Ms. Niemi seconds the motion;
Roll call – 5-0 approved**

4. 05/06-3369 **Nero's Pizza**; Emmanuel Xenikakis; located at Mile 26 Kenai Spur Hwy in Kenai Peninsula Borough; restaurant/eating place license.

Licensee expiration for failure to complete renewal on or before February 28, 2007.

Attachment 2G-4

**Ms. Gifford motions to postpone until July 11, 2007 meeting; Ms. Niemi seconds the motion;
Roll call – 5-0 approved**

5. 05/06-2433 **OK Restaurant**; Dae J. Chung; located at 616 1st St in Cordova; restaurant/eating place license.

Licensee expiration for failure to complete renewal on or before February 28, 2007.

Attachment 2G-5

**Mr. Tull motions to resurrect & renew license (with delegation – 15 days to receive complete application) or the license will expire; Ms. Gifford seconds the motion;
Roll call – 5-0 approved**

6. 05/06-279 **Cordova Hotel & Bar**; Delbert A. & Dorene K. Wickham; located at in Cordova; package store license.

License renewal fees NSF.

Attachment 2G-6

**Ms. Gifford motions to resurrect and renew the license; Mr. Andrews seconds the motion;
Roll call – 5-0 approved**

7. 05/06-2795 **Clam Shell Lodge**; Rose K. Morefield; located at 16895 Sterling Hwy in Kenai Peninsula Borough; package store license.

AND

05/06-239 **Clam Shell Lodge**; Rose K. Morefield; located at 16895 Sterling Hwy in Kenai Peninsula Borough; beverage dispensary – tourism license.

License renewal fees NSF.

Attachment 2G-7

Mr. Andrews motions to resurrect & renew both licenses; Ms. Niemi seconds the motion;

Roll call – 5-0 approved

8. 07/08-4691 **Solstice Bar**; Fervid Enterprises, LLC; located at 429 W Willoughby Ave 2nd Floor in Juneau; **transfer of location** of a beverage dispensary license from No Premises; backgrounds complete.

All statutory requirements have *not been* met (Dept. of Environmental Conservation has not responded). City & Borough of Juneau has not responded (notice sent January 19, 2007.)

As required by the Board at its Special Meeting on March 15, 2007, a letter of approval from the Salvation Army must be provided prior to final Board approval. Letter of non-objection with conditions attached.

Attachment 2G-8

Mr. Tull motions to approve the license with delegation, with all conditions as set by the Salvation Army, with an amendment to the closing time changing from 12am to 1am; Ms. Niemi seconds the motion;

Roll call – 5-0 approved

9. 05/06-1915 **Thane Ore House**; George Jefferson (deceased); located at 4400 Thane Rd in Juneau; restaurant/eating place license; renewal.

At Special Meeting, March 15, 2007, the Board requested proof of transfer progress, ei. Newspaper ad. This was furnished by Virginia Jefferson, same day, via fax.

Attachment 2G-9

Ms. Gifford motions to postpone until the July 11, 2007 meeting, requiring documentation providing proof of executorship; Mr. Andrews seconds the motion;

Roll call – 5-0 approved

10. 07/08-4291 **Clair d’Loon**; Karen & Stephen Lesko; located at 3210 Denali St #8 in Anchorage; restaurant/eating place license.

Application not complete as of 12/31/06 – assessed \$500 penalty fee – request refund.

Attachment 2G-10

Mr. Tull motions to refund \$500 penalty fee; Mr. Andrews seconds the motion;

Roll call – 5-0 approved

11. 07/08-2931 **Mat-Su Miners**; Mat-Su Baseball Inc; located at Herman Brothers Field in Palmer; recreational site – seasonal license.

Application not complete as of 12/31/06 – assessed \$500 penalty fee – request refund.

Attachment 2G-11

Mr. Tull motions to refund \$500 penalty fee; Ms. Niemi seconds the motion;

Roll call – Mr. Tull – YES; Ms. Niemi – YES; Mr. Andrews – NO; Ms. Gifford – NO; Mr. Gordon – NO; Motion DENIED

3. CONSENT AGENDA

Ms. Niemi motions to approve; Mr. Andrews seconds the motion;

Roll call – 5-0 approved (includes item 3-C)

A. 07/08-4543 Breeze-In; Breeze-In Corporation; located at 5711 Concrete Way in Juneau; package store license.

1st Waiver Fees Paid 2007

B. 06/07-4686 Alpine Garden Grill; AGG Investments Inc.; located at 259 McCallister Dr in MatSu Borough; **transfer of ownership, location & name change** of a beverage dispensary license; from Wild Call Inc., dba Call of the Wild, located at Big Lake; backgrounds complete.

All statutory requirements have been met. MatSu Borough does not protest. Temporary approval issued.

4. DELEGATION CONSENT AGENDA

Ms. Gifford motions to approve; Mr. Tull seconds the motion;

Roll call – 5-0 approved

A. 07/08-4687 Airport Pizza; Tomter Enterprises LLC; located at 406 Bering St in Nome; **transfer of ownership, location & name change** of a restaurant/eating place license from Mark Sackett, dba Que Onda, located 235 Front St; backgrounds not complete.

All statutory requirements have been met. City of Nome does not protest. Temporary approval issued.

B. 07/08-2925 Ginger; Ginger LLC; located at 425 W 5th Ave in Anchorage; **transfer of ownership & name change** of a restaurant/eating place license; from H & Y Inc., dba China Express/Hyon; backgrounds not complete.

All statutory requirements have been met. Municipality of Anchorage does not protest. Temporary approval issued.

C. 07/08--4679 Piccolino's; Tara Pitricca; located at 12801 Old Glenn Hwy in Anchorage; **new** restaurant/eating place license; backgrounds not complete.

All statutory requirements have been met. Municipality of Anchorage does not protest. Temporary approval issued.

D. 07/08-1443 Sheraton Hotel Anchorage; Ashford TRS Nickel LLC; located at 401 E 6th Ave in Anchorage; **transfer of ownership** of a beverage dispensary – tourism license from MIP Lese, LP, backgrounds not complete.

All statutory requirements have been met. Municipality of Anchorage does not protest. Temporary approval issued.

E. 07/08-4677 Tap Root Café; Rebecca Mohlman; located at 1330 Huffman Rd Unit C in Anchorage; **new** restaurant/eating place license; backgrounds not complete.

All statutory requirements have been met. Municipality of Anchorage does not protest. Temporary approval issued.

F. 06/07-324 **Wheelhouse, The**; Seward Wheelhouse, Inc.; located at 215 4th Ave in Seward; **transfer of ownership** of a beverage dispensary license from Doris Jean Corcoran; backgrounds not complete.

All statutory requirements have been met. Seward does not protest. Temporary approval issued.

END DELEGATION CONSENT AGENDA

5. **PROTESTS**

6. **OTHER FILINGS**

A. 06/07-1946 **Red Robin**; Regency Management, Inc.; located at No Premises in MatSu Borough; beverage dispensary license.

Waiver 4th request 2006 Fees Paid **Attachment 6A**

At the February 2007 meeting, this was postponed until today's meeting.

Mr. Tull motions to approve waiver, giving licensee until 12/31/07 to file a transfer application to a viable location; must show ownership or lease documents to property; must have full "development plans" in place; or, a transfer to another owner; if all of the above are not met, the license will expire; Licensee agrees to give up all appeal rights by the granting of this waiver; Ms. Gifford seconds the motion;

Roll call – 5-0

B. 07/08-4673 **Mosey's**; Thad S. Stewart; located at 31 Tower St in Haines Borough; **new** restaurant/eating place – public convenience license; backgrounds not complete.

All statutory requirements have been met. Haines Borough approves. *Objection* received from public.

Attachment 6B

Mr. Tull motions to approve with delegation; Mr. Andrews seconds the motion;

Roll call – 5-0 approved

7. **BACKGROUND INFORMATION**

8. **MUTUALLY EXCLUSIVE AND COMPETING APPLICATIONS**

Date of next meeting: **July 11, 2007**

Location of next meeting: **Fairbanks**

ADDENDUM

2.

G. Board Consideration (Cont.)

12. 05/06-2326 **Fu Kung Restaurant**; Hoon M. Cho; located at 207 Kobuk St in Valdez; restaurant/eating place license.

Licensee expiration for failure to complete renewal on or before February 28, 2007. Attachment 2G-12
Ms. Niemi motions to resurrect and renew; Ms. Gifford seconds the motion;
Roll call – 5-0 approved

13. 05/06-4233 **Inn at Whittier, The**; The Inn at Whittier LLC; located at Lot 5 Block 1 Harbor Lp Rd.; beverage dispensary – tourism license.

Licensee expiration for failure to complete renewal on or before February 28, 2007. Attachment 13

Board re-consideration: This license resurrection & renewal was approved March 15, 2007, on condition that renewal application and all fees be received by March 30, 2007. Condition has not been met.

Ms. Gifford motions to resurrect & renew on the condition that the \$500 late fee be received in the ABC Board office by 4/20/07, and that a transfer application be received in the ABC Board office by 5/30/07; Mr. Andrews seconds the motion;
Roll call – 5-0 approved

14. 06/07-4586 **Jewell Gardens**; Garden City Enterprises LLC; located at 1.8 Mile Klondike Hwy in Skagway; restaurant/eating place – public convenience license.

Premise extension request. Attachment 14
Ms. Gifford motions to approve on the condition that alcoholic beverages be served at tables ONLY when food is served, or “incidental” to the service of food; Ms. Niemi seconds the motion;
Roll call – 5-0 approved

3. Consent Agenda (Cont.) (approved – see Consent Agenda)

C. Expired Licenses – December 2006 Attachment 3C

2.

F. SUSPENSION (Cont.)

4. 06/07-790 **Nugget Restaurant**; JD & PR Colton and JP & TE Colton; located at 600 Airport Rd in Sitka; beverage dispensary license.

Board consideration of suspension. Attachment 2F-4
(Mr. Tull is not present during this item)
Ms. Gifford motions to suspend 45 days with 30 suspended and levy \$1000 fine; Mr. Andrews seconds the motion;

Discussion: Ms. Gifford/Mr. Andrews agree that more steps should have been taken to prove age of bartender, as well as legal status in US. Mr. Gordon would support a shorter suspension time (one week);

Ms. Gifford amends her motion to suspend the license 45 days with 38 suspended and allow the restaurant to remain open with all alcohol sales prohibited and levy \$1000 fine; Mr. Andrews seconds the motion;

Approved 4-0 (roll call was not necessary as all four Board members were physically present)

5. 06/07-1098 Sunset Strip; TKKO Inc.; located at 345 Old Richardson Hwy in Fairbanks; beverage dispensary license.

Board consideration of suspension.

Attachment 2F-5

Licensee is represented by Attorney Bill Satterberg

Ms. Gifford motions to levy \$500 fine; Ms. Niemi seconds the motion; staff reminds Board of statutory requirement to suspend the license; Ms. Gifford amends the motion to suspend the license for seven (7) days with \$500 fine;

Discussion prior to second: this license is not currently operating;

Ms. Gifford further amends the motion to suspend the license for seven (7) days with seven (7) suspended and a \$500 fine; Ms. Niemi seconds the motion;

Roll call – 5-0 approved