



**Alcoholic Beverage Control Board
Meeting Minutes
September 13, 2017
Second Judicial District
Aurora Inn Conference Room
302 Front Street
Nome, Alaska**

● **ADMINISTRATION**

9:03 am

A. Call to Order

B. Roll Call

*Rex Leath, Tom Manning, Robert Klein, Ellen Ganley, and Bobby Evans;
Harriet Milks, counsel; Erika McConnell, AMCO director; Sarah Oates, Program Coordinator (telephonic);
Jedediah Smith, Local Government Specialist; James Hoelscher, Enforcement Supervisor (telephonic)*

C. Approval of Agenda

No objection to the agenda.

D. Approval of the April 6, 2017 Meeting Minutes

E. Approval of the April 13, 2017 Meeting Minutes

F. Approval of the July 11, 2017 Meeting Minutes

Bobby Evans moves to approve all minutes. Tom Manning second. Motion carries, 5-0.

● **DIRECTOR BRIEFING**

A. Director's Report

Erika McConnell: Working on filling vacant positions. Office lost one license examiner, which is why agenda is short. New admin staff starts next week. Auditors should deliver preliminary report in the next two months. The legislative website has a sponsor substitute for SB76. There will be a Title 4 steering committee meeting on Sept. 21. Hopeful for legislative action in the next session. Have attached a schedule of regulations projects. Three projects just closed for public comment two days ago. New regulations projects: proposing adding a fee to changes of licensed premises. These reports require considerable review and work by staff and additional inspection. There is a \$250 fee in the marijuana program. Can bring a draft to the next meeting prior to releasing for public comment. Can also bring a draft related to seasonal premises changes

that would roll over year after year. Third issue is public convenience licenses. Title 4 gives the board wide latitude to determine what is in the public convenience. We use a petition process, but are struggling. An application without a petition is incomplete. But once the petition is turned in, they may not add more signatures. Staff needs clarification if the number of valid signatures is not sufficient. Applicant still has a complete application. Board might want to standardize the petition requirements.

Bob Klein: It is true SB76 we spent a lot of time discussing public convenience. The conversation didn't address how difficult it is to process these applications. We believe municipalities should have a lot of say in these. I would not be opposed to getting rid of signatures. Keep that for unorganized areas.

Ganley: I've never found the petition process particularly helpful. If we can get a good definition what public convenience means.

McConnell: If a community has reached the population limit on a license, they can move forward with the public convenience process.

Manning: Participated in this process a few years ago. The petition did help clarify things for our community. We saw a similar thing in Bethel.

Klein: Nothing in the suggestions here would preclude the municipality from requiring this.

Manning: So it could still happen if the applicant wanted it? (nodding)

Klein: The recommendation I'm hearing is the municipality could approve or object. But we're removing the state requirement for signatures.

Evans: We're moving this to the local governing body.

Leath: I do think the signatures does not seem to be a necessary factor. There still is a backstop through the municipality.

Klein: The recommendation is please draw up the draft language for this change. When it goes out to public comment, we'll hear plenty about this.

McConnell: Asking for support regarding the license expiration date. AS 04.11.270(b) states licenses expire on Dec. 31. But AS 04.11.540 states licenses expire on Feb. 28. I would propose using that date as the date the license expires. Some licensees submit late. The licensees who renew after January 1, and pay late penalty, continue to operate even though the licenses says expires on Dec. 31. It would be clear to others in the venue and would be easier on staff to print the expiration date as Feb. 28.

Klein: This makes sense. There should be some cautions to licensees though.

Ganley: When is the marijuana license expiration date?

McConnell: July 1-June 30. They have a one year license. Regulation says must renew by June 30. But if late, and don't renew by Aug. 30, license expires. They are staggered for staff.

McConnell: Board had a discussion about marijuana prior to my arrival. My understanding is they want no marijuana on a licensed premises.

Ganley: We had one case in Mat-Su.

Klein: We've never taken action

Manning: I don't believe we've had that conversation.

Ganley: You couldn't have it in one building. We never discussed having it on the same premises.

McConnell: My understanding is the board hadn't wanted to have the substance in the actual premises. We do have requests to have conventions and trade shows in premises that are licensed for alcohol. We require certain locations to de-designate their licensed premises during the convention. The other issue is a large piece of property where one structure is a licensed premises, but they want to locate, say a cultivation. So the premises do not overlap, but do share same property.

McConnell: Marijuana board does not regulate trade shows. Where we're getting involved is when licensees want to bring samples of their product to show. There are very specific restrictions on where to transport product.

Klein: We currently have no law about someone bringing their own marijuana onto a licensed premises. If they did it as personal product, why are we concerned? We never said anything to that effect about keeping marijuana out of a licensed premises.

McConnell: So basically the board has no issues?

Klein: That's correct.

McConnell: We also have situations with strip malls, where there could be a liquor store in one unit and a marijuana store in another.

Ganley: Especially in a strip mall, it doesn't seem to be problematic.

Leath: Something to think about, you have a supported liquor license at 321, and a supported marijuana at 323. Overall if there is a bigger issue with a specific license or address, that might be something we could address. But maybe that is a hair we don't need to split.

Milks: You can always make that best interest determination at a later time.

Sarah Oates: Clarify for the record, on July 1, 2015, the board said that no marijuana should be on a licensed premises, referring to LED lounge. There was also discussion in April 2016 about that.

Leath: We should clarify if it is for personal possession, sale or display.

Evans: A bar was having an event, but in the same location upstairs, they wanted to have a different event, like sampling. We did say they couldn't do that. I recall we said that, without thinking of display, or for sale, or for personal use. We didn't want them to consume where they are consuming alcohol at the same time.

McConnell: Proposing to have one meeting in Kenai, one in Denali.

Evans: Would like to say thank you to the director and staff. This is the first time we've looked at process.

Anytime we can help staff, I think that is important.

B. Beverage Dispensary – Tourism License Report

McConnell: In mid-2016, the board began discussing issues with tourism projects. Voted to open a regulations project. Not all licenses met the statutory requirements regarding number of hotel rooms, which vary based on population. Board directed staff to do research. The goal was to have the research done by end of 2016. Abigail Enghurst, special assistant to the commissioner, found of the 165 BDL tourism licenses, 75 percent are in compliance. 20 percent (34 licenses) do not have required number of hotel rooms. 5 percent require further investigation. Any license issued prior to 1985 and has not been transferred would be grandfathered in. Need direction how to proceed.

Klein: What about the time the license was issued. The state has grown substantially since then.

Manning: The room requirement has not changed, but perhaps population has.

Klein: We do have some operators that are using this license inappropriately. But we do have some where we've just grown.

Evans: The goal moving forward is that we're 100 percent in compliance with the statute. Those that fall under the statute, we should say, 'hey the board's looking at this.'

McConnell: We'll look at this further and try to bring you more information in November.

● **PUBLIC TESTIMONY**

A. Period of time for public testimony on issues not on this agenda.

9:45am

Please phone 1-800-315-6338 code 69173#.

LeeAnn Thomas, from the Triangle Club in Juneau, (teleconference): manufacturing licenses. This topic is for brewery and distillery manufacturers. In Juneau, we have what I would refer to as pre-manufacturing licenses. They are a block and a half from BDLs. One of them has stated they have no intention of expanding beyond their tap room. They are creating an unfair business practice. BDLs have a market value for the right to retail based on population. Juneau has lost population limits. We already have more BDLs that would be allowed under

population limits already. Many of us in the industry have been playing by the rules. The ABC board should consider yes to manufacturing, but the board needs to consider these tap rooms that have no intention of expanding manufacturing. The tap rooms are great, but they're not necessarily creating jobs that the manufacturing licenses intend.

Paul Thomas, comments are based on lack of communication between licensee. Comments needed to be included by Aug. 25, but the agenda didn't come out until last week. It is difficult to submit a comment when you don't know what the board is going to be taking up. If you leave a message on the office phone, there could be between 4-7 days before someone gets back to you. Email, it took a week to get a response back. On the advisory issue, when an advisory goes out, it should go out to all licensees. An example of this is the distillery advisory that went out only to the distillers. I hope the new regulatory process we are talking about will be available on the website.

Klein: We have comment cutoff dates on licenses being considered. We'll work with staff on whether policy issues can be posted further in advance or on the website.

Dale Fox, CEO CHARR: You guys have a staff that is killing themselves to do what they need to do. I see that as a problem. I don't want to see them run screaming from the room. Members of the industry and CHARR are really interested in making sure there is a well-regulated industry. I hear about a lot of things getting lost in the shuffle. We're told repeatedly we're short on staff, no time to do everything, can't send notices out on everything. We see that it is it a priority to chase every issue though. Some of the issues that are not hair on fire are: tribal IDs, restaurant definition, but the board and the staff are saying we've got to get these all taken care of at once. These issues need to receive the proper public comment and public notice. I applaud the board for streamlining the temporary license process. What is being dropped through the cracks? I spend a lot of time beating down the vast conspiracy. The Tribal IDs and Definition of Restaurants regulations never got posted on the AMCO website. That's where licensees go to look for these things. I suggest if the office is short staffed, we slow down. Another issue is the advisory notice. The decisions you make as a board and the staff makes are critically important to licensees. The distillery notice was only sent to distillers. But staff says "we don't have the time to send out to everyone." A request from CHARR and advice from CHARR is set priorities. Not all issues need to be immediately dealt with. Communication is not a nicety. It is a necessity. We need to get back to posting all regulations on the AMCO site. Our advice is to take some of these issues slower. Don't skimp on communications, because that is causing some hard feelings.

Klein: When there are issues, there is nothing wrong with you calling the chair or director and asking to be placed on the agenda.

● BOARD GOVERNANCE

10:09am

Klein: This is the point where the board must declare any conflicts. Later, when we discuss distillery licenses, I see it as a two pronged issue. It is my intention, as a licensee to discuss policy. If we get to discussing decisions, I will recuse myself.

Milks: The requirement is for a board member to recuse themselves from discussion and action as well.

Klein: The first part is the way the staff is handling the matter. I have some concerns and want to get that straightened out. When we talk about the actual distillery portion, I will recuse myself.

Shirley Marquardt, director of boards and commissions: The Governor is grateful for the service you put into your work. As a former mayor, I needed to make sure we were not shooting from the hip. When you are doing the work of the state as appointed by the governor, you are kind of in a fish bowl. You have to make the best decisions you can as a team while everyone is staring at you. I'm hopeful these short rules on parliamentary procedure are helpful.

Klein: You list Roberts Rules of Order. Does statute require this? Or can we just use parliamentary procedure.

Marquardt: Some boards have a quasi-judiciary function. Parliamentary procedure is the best way to operate. Robert's Rules are a little more formal. This board may use both, depending on the context. Hot button issues may require a more formal approach.

● **CONFERENCE WITH THE METLAKATLA INDIAN COMMUNITY**

10:22am

Mr. Gavin Hudson, new council member; Bill Wilson, council member; Chris Lumberg, general counsel. Hudson: Metlakatla Indian Community is the only territory in Alaska that is a federally recognized reserve.

Wilson: Been on the council for 17 years. When this started, at the beginning of my political career, Metlakatla was a dry community. We pushed to be progressive and for education and to handle substances in a more open fashion. We moved to a damp model and crime (including domestic abuse) dropped by 50 percent. I believe this was because education equalized. No longer were our people binge drinking. It became a social function. The next logical step is to exercise our authority. Sales. We would like to capture that revenue and circulate that money in our own community. We are unique. This is the first time in 130 years, we've considered sales on our island.

Lumberg: Referencing materials submitted. Community recognizes under state law, they need to operate consistent with rules the board operates. They wish to reconcile their sovereignty with that of the Board. We're not suggesting to adopt Washington model part and parcel. But I want the board to understand, with Metlakatla being the only land based reservation, they are unique. Half of the federally recognized tribes are in Alaska, but only one with a land reserve. The basic concept this community would like to operate under is that they decide how to operate, compliance efforts would be unhindered. The ability of this board to review would be concurrent and unlimited by their authority. The nuance is recognizing this community knows best how to manage its affairs. But at the same time, this community would recognize the authority of this board.

Klein: Title 4 gives a tremendous amount of responsibility and control to a local governing body. We respect that and help them enforce that. With respect to this group, what are we trying to fix?

Lumberg: For example, there is an application process to operate. This board could evaluate whether the applicant is in the best interest of the community. The community should make that decision. I don't think a specific provision in the law needs to be fixed. There needs to be a recognition and a mutual respect. In Washington, the board will not accept a license unless the community has approved it. Part of what we're talking about under an MOA, you would tell us this is what is expected.

Milks: I think this discussion is valuable to hear Metlakatla's perspective. Alcohol is different from everything else that is regulated. Indian community regulation has to be in conformity with state law. They need to follow state law. The nuance is the issue of who determines the best interest of the public. Title 4 gives that power to the board. Washington has a statute that gives the Governor the power to enter into a government to government relationship. Alaska does not have that. This board has always been receptive to the community's perspective. The Department of Law, I can predict, will not allow this board to enter into an agreement with another government. It would require a legislative change. This community can form a corporation.

Wilson: The root of this meeting, and why we traveled 1300 miles, we are a sovereign nation. Saying that, no one decides our fate but us. That's not to say we're not wanting to build a relationship with the board. Us working together, maybe we can come up with a fix, with the board's help. Not as opponents, but as partners. This is new to us, and new to you.

Evans: Welcome to Nome. I'm not familiar with Metlakatla. In 2007, you went damp? Is Metlakatla wet? Is your reserve within the city of Metlakatla? Is that were you are hoping to pursue sales?

Wilson: starting with geography of Metlakatla. Annette Islands were created by congress in 1891 to serve the Tsimshian people. 87,000 acres, including maritime boundaries. Municipality and reserve are one in the same. We would comply with state laws as long as our sovereignty is respected. We would decide who decides who can apply for licenses.

Lumberg: There is an ordinance approved by the council regarding liquor sales. That becomes effective when it is published in the federal register. Maybe in 60 days. There is a sunset provision in this of three years. There is no applicant, or business plan yet for selling alcohol.

Evans: It sounds similar to what the City of Kotzebue did a few years ago. Went from damp to wet to damp to wet again. They formed a city ABC board. That board helps govern the city sales. Also, the city of Kiana mirrored what the City of Kotzebue did. Usually we don't get to a point where we approve or disapprove an application until there's been a lot of work by the local governing body. I think this is a great opportunity to have a discussion and this is a great beginning. I'm excited to learn more about this.

Manning: Are there other Alaska state agencies where this relationship has been developed?

Lumberg: Not state agency, but federal. Have entered into an MOA with the Coast Guard. Does not cede authority. It establishes an understanding of how they would implement their authority. The examples you give are the sort of provisions an MOA would describe. It simply says we recognize the statutory authority and recognizes a mutual respect.

Ganley: The government to government relationship, we don't have any direct power to grant one way or another. It is something we can work with a community on. If it requires legislation, we can assist you. But we as a group cannot provide that authority.

Klein: We have an awful lot of latitude. That you have come to explain your situation gives us a lot of understanding.

Hudson: The MOA with the Coast Guard, it started out very adversarial. Over time, we built a mutual respect. Going from a dry status to a damp status, it totally transformed the community. It is the next reasonable and logical step to consider sales.

● ENFORCEMENT UPDATE

10:57am

A. Enforcement Report

Hoelscher: Area of concern and need for a board opinion, are hotels. In Anchorage, they include areas with open floor plans.

Klein: I and board member Manning will work on a committee to address this.

10 minute break

B. Notices of Violation Issued and Licensee Responses

McConnell: Beginning a practice of summarizing NOV's and highlighting problems for the board. There have been a number of issues on a particular licensed premises. One particular licensee has four NOV's. I find the response troubling. There seems to be a vast gulf between the NOV process and my bringing an accusation requesting suspension or revocation. I would defer to the board's accumulated knowledge about options when discussing with a licensee when they have violated a statute or regulation.

Klein: There are two things open to you (director), you can bring it to the board, and there is the threat of it. If they don't specify in their response you can bring it to the board. You can put the discussion of this license on the agenda with no action. Then the licensee can explain to the board. I would encourage you to use all your options.

Ganley: I would recommend we get a more appropriate response. I like the format. It would be helpful to include the location of the license.

Hoelscher: Regarding Playhouse NOV, started investigation based on complaints by Anchorage Police Department. Investigators were denied entry and told it was a private club. Investigators smelled burnt and unburnt marijuana. Employees not covered by workers compensation. We were informed they were shut down because the building owner did not have the proper insurance.

● **LICENSING UPDATE**

11:22am

TAB 9

Oates: Troubles we've had due to staff issues. 6 vacant staff positions, including four licensing positions. In response to board member requests to have written communication to public and licensees, I've been working with department staff to have specific email up and running by November board meeting. Proposal for a regulations project. License fees have not been changed for decades. Application fee for new or transfer is \$100, \$200 for renewal. In communities where there is a local law enforcement, we forward all of the license fees to the local government, and we only keep application fees. Would board consider increasing application fees?

McConnell: We could bring a draft of this to the November meeting.

Klein: How many examiners do we currently have?

Oates: For a few months this summer, we had four examiners. We had one examiner who was out of the office for a significant amount of time. One has been fully dedicated to processing marijuana applications, one fully dedicated to alcohol licenses, and one bouncing between the two, but has been focusing more on alcohol licenses. Once we are fully staffed we will have five occupational license examiners, and one vacant business registration examiner.

Manning: The \$200 fee doesn't seem to be enough? Is that something new since we added marijuana?

Oates: Something that has been on my radar since I started six years ago.

McConnell: For the month of July, we had three examiners. Of those three, two were new (one started in March, one started in April). The lack of experience has added to the length of time it takes for an application to be processed.

● **MATTERS FROM PREVIOUS MEETINGS**

11:47am

A. 1377 No DBA: Papa Sugar Daddy's, LLC

No premises; Fairbanks

License: Beverage Dispensary

From: Wildeberry, LLC DBA Grizzli's; at 44 College Road, Suite B

Transfer of ownership and location, and DBA change.

Local governing body action: City of Fairbanks does not protest

Approvals: Department of Revenue

Background investigations: complete

Objections received from the Department of Labor and multiple creditors.

McConnell: Licensee requests tabling.

Ganley moves to table. Evans second. Motion carries, 5-0.

B. MUTUALLY EXCLUSIVE AND COMPETING APPLICATIONS

1. 5533 Kusko Liquor: Cezary J Maczynski

801 Front Street; Bethel

License: Package Store

New license application.

Local governing body action: **City of Bethel lifted protest**

Approvals: State Fire Marshal

Background investigations: complete

2. 5542 Tundra Liquor Cache: Steve Chung

105 Hoffman; Bethel

License: Package Store

New license application.

Local governing body action: **City of Bethel protests**
Approvals: State Fire Marshal
Background investigations: complete

3. **5544 ACC Liquor Store:** The North West Company (International), Inc.
1110 Bridge Avenue, Unit 1; Bethel
License: Package Store

TAB 14

New license application.

Local governing body action: **City of Bethel protests**
Pending: State Fire Marshal
Background investigations: complete

McConnell: Because there is still local government process on license 5544, my recommendation is to table this to allow the local government process to work itself out.

Cezary: I have followed all of the rules and regulations. People continue to protest. I applied for this license not only for the money. I see people being affected by bootlegging. I am creating a trust fund and would like to support a sleep off center, support a women's coalition, more education.

Bootlegging is causing all kinds of problems in the community. I would like to give something back. AC had plenty of time to comply, but they never did. I chose to make a commitment and follow the rules and regulations. I hope this can be resolved soon.

Arvin Dull: I asked people at ABC several times when can the application be submitted. I was told the application must be complete to be considered. Kusko Liquor is the only one that is complete. We recommend this to be considered today.

McConnell: Competing applications are those where the application comes in within a 30 day period. They are determined to be competing at the beginning of the process. For this application, the local government responded first. The spirit of the application is to allow the local government to tell the board these applications are acceptable to them, and these are not.

Manning: what are the other two licenses in the community?

Mayor Robb: Tundra Liquor Cache did apply. City protested in major part due to their lack of CUP. They were not granted the permit. They appealed. The council failed to uphold the appeal. That license is still under protest. There is not intent to lift that protest. Kusko Liquor and Mr. Cezary was protested due to lack of CUP and some issues over site control. The protest was recently lifted. Today the city is not protesting Kusko Liquor. AC Company applied. That license was protested by the city because of no CUP. Also protested because area was high crime and a lot of police calls. There was also was the fact that AC already holds a license. The city council does not think they should have two licenses. They still do not have a CUP, and even if they get one, there is not guarantee the city will lift the protest.

Aaron Spurbeck, represents AC: This is the third time before the board. ACC has gone through the process of getting the CUP, and the fire marshal approval. This particular facility requires Dept. of Transportation approval for the driveway entrance. That is in process with the Bethel City Planner. The next meeting with the Bethel Planning Committee is in October. If not then, then Nov. 9th. Who is going to be the best steward for the community for managing alcohol consumption in the community? The AC store does have an existing license with a long and proven track record. Our request is to have this matter tabled until Nov. 15th. We have investigated that a number of the crime calls would not be considered alcohol violations. The city has information that has not been provided to the AC store. We dispute that those are alcohol related issues or attributed to that

location. If the allegations are true and accurate, then they should be addressed by responsible sale. The only way to address is through proper compliance and enforcement.

McConnell: The regulation determines what applications are competing. Three applications were determined to be competing applications. They are the three listed under this tab. There is no timeline that ACC has not met. They are still a valid competing application.

Robb: Part of our process under the Bethel Municipal Code, administration reviews applications, police department reviews applications. Council may protest based on the reports. By code, it can be considered as a reason to protest. Council considered and believes the police report is a reason to protest. This information was given to the applicant in March. The applicant has a right to defend the application before the governing body. As of today, the AC is under protest.

Art: Even if ACC gets approval for their CUP, the council made clear they want competition in Bethel. They don't want ACC to have two licenses. ACC has ample opportunity to get all their ducks in order.

Klein: We need to determine whether ACC still has equal standing even though the city has issued a protest. If that's the case should we table this?

Ganley moves to table application (until November meeting). Leath second.

Evans: This is the first time in 10 months, the city council has tried to get to our table. They have an applicant before us that has done what he needed to do in Bethel. I would rather we move forward and approve and not table.

Manning: I agree.

Leath: We've spoken many times about community input. Our goal should be to give one more element of community involvement.

Klein: The compelling issue raised is whether there may be some solutions to this area to Bethel. That is something we can't evaluate.

Motion to table carries, 3-2. Evans and Manning vote no.

- C. 5584 Swanson's Liquor Store:** Swanson's Liquor Store, LLC
230 Tundra Street; Bethel
License: Package Store

New license application.

Local governing body action: **City of Bethel protests**

Pending: State Fire Marshal

Background investigations: complete

McConnell informs the board that application has been rescinded.
No action.

Lunch break.

● **INFORMAL CONFERENCE WITH THE BOARD**

1:17pm

- A. 5569 The Porterhouse Grill:** The Porterhouse Grill, LLC
44619 Sterling Highway, Suite 6; Soldotna
License: Restaurant or Eating Place – Public Convenience

TAB 16

McConnell: Applicant had to move his premises to Soldotna, which was over its population allowance. The Soldotna clerk determined 702 signatures were required. The applicant began collecting signatures in December 2016 and submitted pages over time. License examiner told the applicant he needed 78 more signatures. Office didn't receive more signatures. The examiner

working on this application went on leave in June and I looked at the petition. A significant number of signatures were outside the one mile radius. We do not verify the name of the person or their age or their location. All we do is verify whether the address is within one mile of the licensed premises. I informed the applicant he did not have the 600+ signatures he said, because of the number outside the radius. Therefore the application was not complete. He appealed this decision, and the board voted 2-1 in favor of accepting the application, which meant it failed since this was not a majority of the board as a whole. I did a thorough search between him and the AMCO office. I found some information that was concerning. The examiner had thrown away some petition pages. The signatures needed to be collected within a 90 day period. Before she threw away the signature pages, she'd scanned them and sent them back to Mr. Drolet. In a 149 day period, 1,095 signatures collected. I used google maps to map every address. Only 138 had a listed address within one mile, as required by the regulations. There were five petition pages submitted once, and then again with the dates changed (five pages date stamped in March, then submitted again with dates changed). The Governor's office advised Mr. Drolet to continue the collect signatures. He has submitted 580, but I have not reviewed since it is less than the number required by the city of Soldotna. Mr. Drolet did submit a notice of defense from the July denial. According to statute, if an application is denied, the applicant is entitled to an informal conference with the board. If unsatisfied by this process he may proceed with an administrative hearing. Signature requirement is half of the adults in a one mile radius. AMCO does not have land use data. Our office relies on local government to determine how many adults live within the radius. Different local governments use different methodology.

Manning: Were there any other objections from the community?

Drolet: They come in a lot and always request something then leave.

McConnell: The City of Soldotna has not protested and we've received no public objections.

Ganley: What was your process for gathering signatures?

Drolet: We left them at our desk, we went to fairs, went out in the snow. I went out personally door to door. I did it again. I paid people to go door to door to get those signatures. There is a lot of no-soliciting, a lot of vacant homes, a lot of people out of town. All this just to be able to serve wine with a steak.

Oates: For the record, the local governing body has not had their 60 day protest period because this is not a completed application.

Leath: I need some clarity on these signatures. Can you explain the date change?

Drolet: I did see that. The manager that was tasked with collecting those signatures did corrupt the pages. He's not working for me anymore. I didn't do it.

Leath: Some of these petition forms were laying on your desk?

Drolet: They had the chance to fill this out. I wish we'd said that more closely. These weren't left somewhere unmonitored. The last 580 signatures, I made sure we blanketed the whole area. I didn't go fishing or hunting. I gathered the signatures.

McConnell: At such time as a completed petition, I would review. So I have not reviewed this petition. The office is taking the responsibility of tracking how many signatures have been submitted. I feel like we ought not to review the application until all of the required number of signatures have been submitted.

Drolet: Basically I was given a license for the wrong address.

Milks: I can't see how you can determine whether the application is complete. With only a fraction of the signatures required, granting the license would be very problematic.

Ganley: Will the AMCO office be going through the new batch of signatures.

McConnell: There is a 90 day window to gather the signatures. The previous signatures brought in July can't be considered. As stated those 580 new signatures have not been evaluated. The board should be evaluating to review the decision you made in July. It isn't really related to the

580 signatures he has submitted. The informal conference is related to the July denial of the license.

Milks: The board's motion in July had two parts, which complicated things.

Klein: This is not a dead issue. If the old issue of signatures gets complete, we'll see this again.

McConnell: Should Mr. Drolet submit the signatures I will bring this back to the board.

Klein: If Mr. Drolet goes back to the City of Soldotna and convinces them to reduce the number of required signatures, would that be acceptable?

McConnell: Yes.

Klein: We will only accept those numbers from Soldotna. If that number differs, you need to take that up with the City of Soldotna.

Stephanie, director of planning, City of Soldotna: We came up with this a few years ago. We completely support the ability to attract more restaurants. On one hand we support more licenses. On the other, because of the state regulations, in an area like Soldotna, it becomes a difficult burden. Other applicants in the state were able to get public convenience licenses pretty easily. I stand by the original assessment. I think Mr. Drolet makes a valid argument. We can't think of another valid way to come up with changes to this process.

Drolet: We brought up the Wasilla model, which is one person per home.

Milks: The local government can say whatever it feels comfortable saying. But the regulation is what it is. They can't think of a legitimate way to bring it (the number) down. I can't see a way to make it work without a change to the regulation.

Drolet: I can't survive. Basically I've come here to plead one last time. I can't afford to stay open. We missed all of the high season, we're missing fishing season. People aren't going to show up just for a glass of water. I would appreciate if you would somehow some way look at the Wasilla method.

Stephanie: Is the state saying the city can establish a number we think is appropriate?

Klein: Go to the city, get them to adjust the number. Right now our hands are tied.

McConnell: The chair says if Soldotna has a number and you collect those signatures, we can issue a temporary.

Milks: We're talking about a regulation. Where the source of that number comes from. The board can't make that determination. The city does.

Drolet: My request is, there is no way I can wait that 60 days. Is it possible to make that decision? I'm finished at the end of the month.

McConnell: Again, your issue is with the City of Soldotna.

Milks: You can delegate the issue of completeness. You still have the municipal notice issue.

McConnell: The board doesn't need to take any action at all. If we get new information from the city, I can review this and deem it complete. It sounds like the board is okay with issuing a temporary license.

Oates: There are five duplicate pages with falsified dates. AS 04.11.320(a)(8) states that an application requesting issuance of a new license shall be denied if the application contains false statements of material fact. Falsifying dates on a petition that has a notarized signature from the licensee is providing false statements of material fact on an application.

Klein: We already addressed this, and he said that an employee changed the dates.

● BOARD CONSIDERATION

1:30pm

A. Discussion and Public Comment on Distillery Sample Statute AS 04.11.170(d) and (e)

Klein: This is the second or third time the enforcement has brought forward an issue that is common practice. My feeling is the reason Title 4 succeeded from 1985 until now is this board is able to look at the statute and interpret it within the framework of our state.

Ganley: I had the same reaction. This type of action has a significant impact on licensees and revenues.

Klein: My comments should not be interpreted as staff taking action on issues of public safety. I'm talking about a general practice.

McConnell: AS 04.06.075 gives the director the authority to enforce the statute, as well as to the board. The board meets five times per year. In AS 04.11.560(a), enforcement action can be appealed. If the board doesn't have confidence in me to enforce the statute, that is a problem and we need to have that conversation. Being told enforcement actions can't be taken by me hamstrings me from doing my job.

Klein: The issue I'm referring to is a situation that is generally accepted industry practice. The two cases I mentioned are things that have been going on for years, which are entertainment and the issue with distilleries. We should look at whether they should be treated as a violation or something that needs immediate response.

Milks: I would say that if we are beginning the discussion of distilleries, the chair should recuse himself.

Klein: I am going to recuse myself at this point. Turning the chair to Ellen. I reserve the right to testify.

Ganley (now chair): Limit comment to 3 minutes.

Manning: This might have been an industry standard. I have not made my mind up yet.

Heather Shade in Haines: I participated in the passage of HB309. It was the intent of the law to bring us in line with other manufacturers, not to restrict the way it was served and presented. For three years I've been operating in this way. We serve samples. Nothing in the statute that restricts us from mixing. I would argue this includes fresh squeezed juices or sodas made onsite. Mixing distilled spirits is an industry standard. I would argue that we're being treated differently than wineries and breweries. Since we opened, we've received support from legislators. I would urge the ABC to limit the amount of alcohol and not restrict how we present it to the public.

Tucker Lewis from Fairbanks: The statutes for distilleries are different from breweries and wineries. A very small portion of those that come to our tasting room want a shot of straight vodka. The statute doesn't mention mixers. But that doesn't mean they are excluded. We don't make 7-Up. That's not our product. Are we allowed to serve it? I don't see how the non-alcohol product has anything to do with the statute. Many legislators, and you've received letters from them, who discussed and intended cocktails to be allowed. If we change the interpretation now, it would cause harm to my business.

A representative of Ursa Major Distilling: Echoing the sentiment of legislators in letters submitted to the board. We work really hard every day to comply with the law. This issue comes from a small number of bar owners who see this as a threat to their license. The bar industry hasn't changed in the last 50 years.

Lori Neufeld, Fairbanks: This is a letter written by the owner of the Fairbanks Distilling Company, speaking in support of being able to serve product with mixers.

Jared Rose, Juneau: I am pro-manufacturing. Distilleries generally buy grains out of state. These facilities have an unfair competitive advantage.

Tamara, Skagway Spirits: We're all members of the distillery guild. We're not bars. We don't want to be bars. People come to the tasting room. I'd like to count up all of the expenses we've incurred in setting up a distillery. The bar has many advantages over a tasting room. We are not allowed to impersonate a bar. Our hours are reduced from a bar. Multiple rules we adhere to. We are a manufacturing industry that is growing in this state. We're creating jobs.

Brandon Howard with Amalga Distillery in Juneau: I understand a BDL is expensive. But the expenses with a manufacturing facility are staggering. We invested a huge amount in our equipment and our business.

James Hoelscher, AMCO enforcement: On August 2, our Juneau investigator reported one manufacturer was importing other distilled spirits not manufactured on the premises (vermouth) and mixing it with their product.

Dale Fox, CHARR: CHARR vocally supported the bill. The wording of the bill was and is clear. I can assure you CHARR would not have supported this bill if we thought distilleries would become defacto bars. First, we discussed whether other alcoholic beverages should be added to drinks. That is not what the bill said. If we went down this road, allowing manufacturers to add more than their products, there's a slippery slope. Would breweries be allowed to add distilled spirits to make boilermakers? A majority of our General Advisory Committee agreed to not allow mixers. The group decided this would compete with a BDL. We urge you to follow the advice of staff and attorney and follow the reading of the law.

Milks: Reading from the statute, the language is clear and not ambiguous. The problem is many of the distillers would like the board to insert new words. At the Department of Law we are loathe to insert words. If it is ambiguous, the board may interpret. In this case, the words are not there and are not ambiguous. The plainer the language of the statute, the less you have to interpret. The bill is the product of a public process. Even though letters from legislators say different, the courts have ruled again and again that is not legislative history. If the letter counted as legislative intent, there would be no need for the public process. In the sectional analysis of HB309, Rep. Tuck says, "distilleries cannot act as defacto bars. The changes bring distillers on par with manufacturers." Some manufacturers called in to say people don't drink shots. That was nowhere in the legislative history. The travel industry made no mention of mixed drinks. The Alaska Distillery and other manufacturers and interest groups submitted a letters in 2014 noting they distilleries could engage in commerce, nothing about mixed drinks. There is nothing in the legislative history that suggested anyone knew these manufacturers would be serving mixed drinks.

McConnell: There was no formal appeal of this advisory. The board needs to determine whether to support the advisory or to withdraw it and come up with a different interpretation.

Paul Thomas: I do believe in the advisory and you should take the advice of your attorney. When you cover up your product with another alcohol product or even fruit juice, you are no longer tasting your product. It's been totally distorted. The other thing I want to talk about is value. They're talking about the value of the license, not the value of what it took to set up their business.

Ray Keiser, Juneau: We need to make sure the licenses remain separate.

LeeAnn Thomas, Triangle Club in Juneau: I believe the advisory notice is accurate. Distilleries should not be serving other companies' alcohol.

Heather Shade: Reiterate AMCO is to protect public safety. This action doesn't really do that. It manages competition among businesses.

Bob Klein, CEO of Anchorage Distillery: Title 4 is for the regulation of alcohol. If a distillery, or a restaurant wants to serve alcohol with Coca Cola, we don't have the right to control the amount of soda or tonic served within their premises. I would suggest this group start working on that regulation. This conversation defies logic. The bar owners versus the breweries. Who owns the customers? This issue was vetted through the Title 4 process. I don't see where cocktails vs shots is the issue. When people come to my distillery, people taste the spirit, then we serve them (sell them) a cocktail with that product. We want folks to taste the product and see how much better it is than an outside product. Bartenders are my customers. We want them serving our product in their establishments. I encourage us to interpret the statute the way it was intended.

Milks: You are correct the board does not have jurisdiction over juice or tonic. I do understand this board is tasked with regulating alcohol, not tonic. I think this issue needs to be looked at by the legislature. There was nothing in the legislative history that presaged any of this discussion. Maybe that was an oversight on the part of the manufactures who submitted comment, but I find that significant.

Manning: I want to support the director's advisory. It has gone beyond intent.

Leath: I think every group we've heard from has a different opinion. I think with this board there should be a stopgap. Like other laws, we're bound by what the language says. I support the advisory notice. I think because of what the intent was, this warrants further review.

Evans: The director early on said if the board had trouble supporting staff we should let her know. I want her to know I support the advisory, I support the director and staff on this. I think that is what we need to do today.

Ganley: I can't really imagine the tasting rooms relying on the tasting of the pure product. I totally get the idea of needing to spend more time how we're going to deal with other licensed products. However, I don't understand why we would limit the use of non-licensed products (orange juice or tomato juice). I guess my recommendation is to spend more time on this issue, but not to limit the use of the non-licensed products. I absolutely believe no one thought we were going to be doing shots.

Milks: Point of clarification, this board's job is not to support or build up any particular part of the industry. I don't believe the board has the authority to regulate orange juice or soda. It is a matter of fact, the resurgence in the interest of craft whiskey would challenge your assumption people don't do shots of pure product. When we get to other distilled spirits, you could easily go over three ounces.

Leath: Are we concerned with the amount of alcohol or with what they're putting in it.

McConnell: The statute doesn't address non-licensed additions to the drink.

Milks: There is an area where the board has a legitimate avenue of interpretation when it comes to non-alcoholic additions. I can't guarantee it would go unchallenged.

Evans: I would be in support of holding true to the advisory. I would say let's support staff, support the director and support the advisory. Manning second.

Motion passes, 3-1. Ganley votes no.

Bob Klein: The advisory basically says that we are going to close tasting rooms and if I was to advise the industry, I would recommend that they do it, and allow for a notice of violation and bring suit against this group. Because of the economic impacts based on as much uncertainty as we've heard today it doesn't follow what this board usually does. I am very disappointed in this vote today.

Evans: The way I read the advisory, is it is a directive to cease selling drinks mixed with other products not made on the licensed premises. It doesn't says close your (tasting room).

McConnell: My interpretation is the same. The directive is to cease mixing the distiller's product with other ingredients.

Klein: My comment meant, by not allowing folks to try the product in samplings in the way they are used to it, they will turn around and leave the tasting room. People don't want shots. It is unfortunate. I'm really sorry you guys came to this conclusion.

Break

B. 845 Breseman's, LLC: Breseman's, LLC

1010 Salmon Way; Pelican

License: Package Store

From: Bonnie Breseman (100%) to Clint Bean (51%) and Cheyenne Bean (49%)

Request for reinstatement and renewal; transfer of controlling interest.

Local governing body action: City of Pelican does not protest
Approvals: Department of Revenue, Department of Labor
Background investigations: complete
Temporary issued.

Reconvene at 3:40

*McConnell: The city does not protest, not labor or revenue issues. AMCO issued a temporary. Up to the board to evaluate reinstatement or renewal, and the transfer.
Ganley moves to approve the renewal and the transfer. Manning seconds. Motion carries, 5-0.*

- C. **979 Rosie's Bar & Grill:** Charine Rae Johnson **TAB 19**
112 Salmon Way (Block 11 Lots 2 and 2a); Pelican
License: Beverage Dispensary
From: Rose's Bar & Grill, LLC DBA Rose's Bar & Grill

Transfer of ownership approved with delegation on July 11, 2017; City of Pelican requests conditions; objection received.

Still pending Department of Labor Worker's Compensation

Ganley: Can we approve with delegation?

Klein: Usually if approved with conditions, it will be up to the city to enforce. I would prefer we suggest to the city they put the conditions on the conditional use approval. If they see the licensee not complying they can come to us for suspension or revocation.

McConnell: I'm not sure the city has a conditional use permit on which to place conditions. The board needs to decide whether to place these conditions on the license. The monitoring will fall to the local government.

*Ganley moves to approve transfer with delegation and conditions. Manning seconds.
Motion carries, 5-0.*

- D. **4117 The Longliner Lodge and Suites:** The Longliner Lodge and Suites, LLC **TAB 20**
485 Katlian Street; Sitka
License: Beverage Dispensary
From: Pilot House, Inc. DBA Pilot House

Transfer of ownership and DBA change.

Local governing body action: City and Borough of Sitka does not protest
Approvals: Department of Labor, Department of Revenue
Background investigations: complete

Objection received.

McConnell: Objection was lifted by creditor.

Ganley moves to approve. Evans seconds. Motion carries, 5-0.

- E. **5364 Serrano's Mexican Grill:** Serrano's, LLC **TAB 21**
201 E Northern Lights Blvd, Suite A; Anchorage
License: Restaurant or Eating Place
From: Jorge Perez Garcia (66.67%) to Josue Picasso (76%)

To: Josue Picasso (76%) and Alberto Perez Garcia (15%)

Request for reinstatement and renewal; transfer of controlling interest.

Local governing body action: pending Municipality of Anchorage

Pending: Department of Labor, Department of Revenue

Background investigations: pending

McConnell: If approved this is for a REPL. Didn't finalize application until Sept. 1. Short staffing did contribute, but three incomplete notices sent to applicant. They are seeking renewal. Staff has expressed some concern. Majority owner has issues for not filing transfers when ownership changes. That is a problem we see when renewal time comes around. This has been an issue with this majority owner more than once. Staff is requesting the condition that lack of compliance with transfer or ownership statutes shall result in immediate initiation of revocation proceedings.

Josue Picasso, majority owner: My partners did not file all the paperwork on time. Now the partners are not existing. I'm in charge of everything.

Klein: So you are now in charge, and won't have any issues with the filings.

Picasso: This will be the last time it happens.

Ganley moves to approve reinstatement and transfer with delegation and the staff's proposed condition.

Manning seconds. Motion carries, 5-0.

F. 5592 Serrano's Mexican Grill: Serrano's, LLC

TAB 22

2514 East Tudor Road; Anchorage

License: Restaurant or Eating Place

New license application.

Local governing body action: pending Municipality of Anchorage

Background investigations: pending

McConnell: same location had a license, Tequila Kitchen Express. Multiple violations and issues with transfer. From the previous license, it appears the board wants to give the licensee another opportunity with a tighter leash.

Ganley moves to approve with delegation and same condition as previous license. Leath seconds.

Motion carries, 5-0.

● CONSENT AGENDA

TAB 23

A. 426 Composite Holdings: Composite Holdings, LLC

No premises; Fairbanks

License: Beverage Dispensary

From: Boulder Investments, Inc. DBA Frontier Club

Transfer of ownership and DBA change.

Local governing body action: City of Fairbanks does not protest

Approvals: Department of Labor, Department of Revenue

Background investigations: complete

B. 1144 Three Bears Minimart: Three Bears Alaska, Inc.

Mile 124 Glenn Highway, Tok Cutoff; Outside/Unorganized

License: Package Store

From: Tok Investments, Inc., DBA Tok Liquor & Mini Mart

Transfer of ownership and DBA change.

Approvals: Department of Labor, Department of Revenue

Background investigations: complete

- C. 1269 Bear's Den Lounge:** Three Bears Alaska, Inc.
Mile 1312 Alaska Highway; Outside/Unorganized
License: Beverage Dispensary
From: Tok Investments, Inc., DBA Husky Lounge

Transfer of ownership and DBA change.

Approvals: Department of Labor, Department of Revenue

Background investigations: complete

- D. 1270 Bear's Den Liquor:** Three Bears Alaska, Inc.
Mile 1312 Alaska Highway; Outside/Unorganized
License: Package Store
From: Tok Investments, Inc., DBA Husky Liquor

Transfer of ownership and DBA change.

Approvals: Department of Labor, Department of Revenue

Background investigations: complete

- E. 3381 Beijing Hot Pot Asian Cuisine:** CJ Hot Pot & Asian Cuisine, Inc.
1694 Airport Way; Fairbanks
License: Restaurant or Eating Place
From: CNR Enterprise, LLC DBA Food Factory; at 275 Bentley Trust Road

Transfer of ownership and location, and DBA change.

Local governing body action: City of Fairbanks does not protest

Approvals: Department of Environmental Conservation, Department of Labor, Department of Revenue

Background investigations: complete

- F. 5585 Jazz Bistro on 4th:** Bluenote Create Inc.
527 4th Avenue, Suite B, Fairbanks
License: Restaurant or Eating Place

New license application.

Local governing body action: City of Fairbanks does not protest

Approvals: Department of Environmental Conservation

Background investigations: complete

- G. 5587 QUAKE! Brewing Company:** QUAKE! Brewing Company, LLC
1540 N Shoreline Drive; Mat-Su Borough
License: Brewery

New license application.

Local governing body action: Matanuska-Susitna Borough does not protest

Approvals: Department of Environmental Conservation, State Fire Marshal

Background investigations: complete
Temporary issued.

- H. 5591 Carnival Miracle:** Carnival License Holdings Limited
Alaskan Waters
License: Common Carrier

New license application.
Background investigations: complete
Temporary issued.

Ganley moves to approve the consent agenda. Evans second. Motion carries 5-0.

END OF CONSENT AGENDA

● DELEGATED CONSENT AGENDA

TAB 24

- A. 176 Breeze-In Liquor:** Breeze-In Corporation
8 Mile Old Glacier Highway; Juneau
License: Package Store
From: Allan Ahlgren (100%) to Allan Ahlgren Living Trust, dated October 21, 2014 (100%)

Transfer of controlling interest.
Local governing body action: pending City and Borough of Juneau
Pending: Department of Labor, Department of Revenue
Background investigations: pending

- B. 662 Douglas Island Breeze-In:** Breeze-In Corporation
3370 Douglas Highway; Juneau
License: Package Store
From: Allan Ahlgren (100%) to Allan Ahlgren Living Trust, dated October 21, 2014 (100%)

Transfer of controlling interest.
Local governing body action: pending City and Borough of Juneau
Pending: Department of Labor, Department of Revenue
Background investigations: pending

- C. 4543 Breeze-In:** Breeze-In Corporation
5711 Concrete Way; Juneau
License: Package Store
From: Allan Ahlgren (100%) to Allan Ahlgren Living Trust, dated October 21, 2014 (100%)

Transfer of controlling interest.
Local governing body action: pending City and Borough of Juneau
Pending: Department of Labor, Department of Revenue
Background investigations: pending

- D. 4820 Crush Bottle Shop:** Cellar, LLC
314 G Street; Anchorage

License: Package Store

From: 343 W 6th Avenue, DBA Cellar

Transfer of location and DBA change.

Local governing body action: pending Municipality of Anchorage

Background investigations: complete

E. 4831 Irashai Japanese Restaurant: 2GIRO, Inc.

419 Merhar Avenue, Suite B; Fairbanks

License: Restaurant or Eating Place

From: Soon Teack Park DBA Wasabi Bay Restaurant; at 1448 S Cushman Street

Transfer of ownership and location, and DBA change.

Local governing body action: pending City of Fairbanks

Approvals: Department of Revenue

Pending: Department of Environmental Conservation, Department of Labor

Background investigations: pending

F. 5583 Quest, M/V: Lindblad Expeditions, Inc.

Alaskan Waters

License: Common Carrier

New license application.

Background investigations: pending

G. 5588 East Ramp Wood-fired Pizza: East Ramp Pizza, LLC

3788 South University Avenue; Fairbanks North Star Borough

License: Restaurant or Eating Place

New license application.

Local governing body action: pending Fairbanks North Star Borough

Pending: Department of Environmental Conservation

Background investigations: complete

H. 5590 Hawaii Sushi: H&H Hawaii Sushi, LLC

3826 Spenard Road; Anchorage

License: Restaurant or Eating Place

New license application.

Local governing body action: pending Municipality of Anchorage

Background investigations: pending

I. 5595 King Street Brewing Company: King Street Brewing, LLC

9050 King Street; Anchorage

License: Brewery

New license application.

Local governing body action: pending Municipality of Anchorage

Background investigations: complete

- J. **5596 Chicken Shack:** My Brigade, LLC
1443 W Northern Lights Blvd, Suite P; Anchorage
License: Restaurant or Eating Place

New license application.

Local governing body action: pending Municipality of Anchorage
Background investigations: pending

- K. **5598 Out of the Box:** Make or Break, LLC
3807 Spenard Road; Anchorage
License: Restaurant or Eating Place

New license application.

Local governing body action: pending Municipality of Anchorage
Background investigations: pending

*Ganley moves to approve with delegation all items in the delegated consent agenda. Evans seconds.
Motion carries, 5-0.*

● **FIRST AND SECOND WAIVERS**

- A. **1034 Sheep Mountain Lodge:** Zachary & Anjanette Steer
No premises; Matanuska-Susitna Borough
License: Beverage Dispensary

First waiver application (2015)

- B. **1034 Sheep Mountain Lodge:** Zachary & Anjanette Steer
No premises; Matanuska-Susitna Borough
License: Beverage Dispensary

Second waiver application (2016)

Ganley moves to approve waivers. Evans second.

Ganley: I can't remember voting on first or second waivers. Is there a reason we can't delegate this to staff?

Milks: In general, the board may delegate anything besides regulations to staff.

Motion carries, 5-0.

● **REGULATIONS**

- A. **Proposed Regulations Projects**

- 1. **Wineries**

TAB 26

Klein: Appears to be an oversight. Basically what do we need, director?

McConnell: The board recently adopted a regulation project to bring cideries into line with brewery tasting rooms. The board approved a regulation that made the rules for wineries in line with the rules for distilleries and breweries. The letter from Mr. Jones is unhappy with that regulations project and is

asking the board to open a new project to remove that regulation. He used to have seats at his bar. Now he just has three tables.

Klein: We would have to open another regulation?

Oates: The reason for this project in the first place was there were no parameters for a winery or a cidery. It didn't say what they couldn't or could do.

Ganley: I don't see a problem with bringing up all manufacturers under the same rules.

Leath: According to these guidelines, are they allowed to sell other alcoholic beverages?

McConnell: My interpretation is they are limited to selling the product they manufacture.

Evans: Are we considering this because of one licensee?

Manning: Are they asking us to continue to be able to serve at a bar?

Klein: We designed our tasting room to be more like breweries, but with seats at a bar.

McConnell: They are concerned about having to remove seats at their bar.

Klein: The other alternative is to let this play out with SB76

Dale Fox: I think we should let this play out with SB76. The deal we made was do they want to be treated like breweries or like wineries? They wanted to have more product they could sell. Didn't want to be limited to winery quantities. It should be the same rules for everyone anyhow.

No action.

● NEXT ABC BOARD MEETING

Board Comments:

Leath: Under Tab 17 the way the advisory was written, I support the alcohol related portion of that advisory. Maybe it is a question of my knowledge. I would like to amend my vote. I would like to make a motion to reconsider. Ganley second.

Leath: I'm privileged with the honor the citizens have given us. I want to be cautious about diving into something non-alcohol related. The wine issue brought this up to me. I'm trying to be cautious. I don't know what we should or should not regulate if a non-alcoholic beverage comes into play.

Ganley: The one fix that was suggested is to have soft drinks that could be purchased separately. It seems like the distillery should be able to do that.

Milks: I've already said the board doesn't have the authority to regulate orange juice. If you are going to change the plain meaning of the statute, then the board's obligation is to interpret the statute in a way that makes sense in what the legislature was trying to achieve. If you are going to expand the meaning of the plain language, that needs to be a consideration.

Leath: I'm clear with the other alcohol issues. I'm not in support of that. The statute speaks to alcohol. I don't see where it speaks to non-alcohol issues. I think it was appropriate to issue the advisory for alcohol. I'm not clear that we have the authority for non-alcohol.

Motion to reconsider passes, 3-1. Bobby Evans votes no. Bob Klein abstains.

Manning: I still support the advisory. I think we should go to some project to add to or further define what is in the statute.

Milks: One way to do that is initiate a regulations project. It is one way to get a whole lot of input on how distillery products are being used today.

Evans: We have 9 or 10 distilleries. We have x amount of bars. I don't want to stretch the rules for nine. If we want to start stretching the rules for 9, we better get some public comment, and some industry comment. I'm not inclined to change my mind because of the testimony earlier.

Ganley: We shouldn't get in the business of regulating soft drinks or fruit juices. I'm going to continue to support that approach.

Vote to support the advisory: Evans and Manning vote yes. Leath and Ganley vote no. Motion fails.

Leath: If there are non-alcoholic beverages added, we don't have the authority.

Milks: Once you start mixing non-alcoholic beverages that becomes a cocktail. Then it becomes close to distilleries serving as defacto bars. Be prepared for pushback and be prepared for regulation writing. A big part of the board's job is to communicate with the public. The public has a right to know what to expect when they walk into a distillery.

Leath: My real focus of concern is we can amend language from this advisory notice so that if an enforcement officer saw that, we need to know whether what is condonable. I just want to make the language clear. Either way we're going to get kickback. I don't want to condone mixed drinks being made in tasting rooms.

Milks: I don't think you can tell a distillery they can't sell orange juice. You can tell a distillery they cannot mix a drink.

Leath: This generation of alcohol development in this state, I think this is a topic specific for me, where the institutional development is key to how we move forward. I do think we should get clarity on what this definition is.

Evans: Our concern is not the non-alcoholic availability. If they want to serve a screwdriver, they should get a BDL. The distillery license says you can give three ounces of your product. If you want to add other things, then get a bar license and you can serve whatever you want. That's why we're in the situation with rec site licenses. That's why I was so stern with following staff regulation. If they want to have soda pop in the corner, then so be it.

Milks: Alcoholic beverage in definition is in AS 04.21.080.

Manning: I don't know where you draw that line. If we don't have this advisory, we are saying it is okay for all distilleries to operate as BDLs. Let's ask for a regulation project to set this definition of what is allowed. Someone has turned a distillery into a bar. If you don't support this now, you are saying yes, you essentially have a BDL license.

Ganley: We all pretty much agree on the addition of alcoholic beverages. That is not allowed. My concern is regulations projects take forever. In the meantime, distilleries are suffering economically. People do not want to come in and drink straight alcohol. Sometimes it is mixed with water or tonic. Should they be able to sell beer and wine? Why should a distillery not be able to serve mixed drinks because it is under the domain of bars?

Leath: Regulations project is appropriate. We owe it to the public and businesses down the road.

McConnell: Comments related to tasting, nobody I know drinks olive oil straight, or balsamic vinegar straight.

Manning: The purpose of a distiller is to sell to other licensees. I move to support the advisory as written with the addition of a regulation project to determine what would be appropriate in a distillery tasting room. Evans seconds. Motion carries, 4-0.

Ganley: I would appreciate it as part of the regulations project to look at other states and how they handle samples.

Agenda deadline for November 13 meeting: October 27, 2017

Evans moves to adjourn. Ganley seconds. Meeting adjourned at 4:47.

● **ADJOURN**