



Alcoholic Beverage Control Board

Meeting Minutes

February 1, 2017

First Judicial District

State Office Building

333 Willoughby Avenue

Conference Room 9A

Juneau, Alaska

Board Members Present:

Bob Klein, Chair, Industry Member
Ellen Ganley, Vice Chair, Public Member
Marvin Yoder, Public Member
Bobby Evans, Rural Member
Thomas Manning, Industry Member

Staff Members Present:

Sara Chambers, Acting Director
Sarah Oates, Program Coordinator

Legal Counsel Present:

Harriet Milks, Assistant Attorney General

Call to Order

9:15am

Bob Klein announces that this is Marvin Yoder's last meeting, as he will be replaced by Rex Leath, who will be our new public safety member.

● DIRECTOR BRIEFING

A. Director's Report

9:18am

TAB 1

Sara Chambers informs the Board that the Commissioner expects to have a permanent Director appointed soon. She updates the Board on staff recruitments, briefs the Board about introduced legislation that will have an impact on the Board and staff, and informs the Board that our next legislative audit is beginning.

● **ADMINISTRATION**

- A. Selection of Board Chair **9:27am**

*Ellen Ganley nominates Bob Klein as Chair.
Marvin Yoder seconds the nomination.*

*Marvin Yoder nominates Ellen Ganley as Vice Chair.
Bobby Evans seconds the nomination.*

*Marvin Yoder motions for unanimous consent on both.
Bobby Evans seconds the motion.
No objections, motion carries.*

- B. Approve Minutes of the December 5, 2016 Board Meeting **9:28am** **TAB 2**

*Tom Manning motions to approve the minutes.
Ellen Ganley seconds the motion.
None opposed, motion carries unanimously.*

● **PUBLIC TESTIMONY**

- A. Period of time for public testimony on issues not on this agenda. **9:29am**
Please phone 1-800-315-6338 code 69173#.

Ethan Billings passes out a UCC filing statement from a transfer with a security interest agreement that he submitted with a transfer application in 2006. He provides public testimony about that transfer and requests for clarification on whether or not a license may be used as collateral.

Sarah Oates clarifies that AS 04.11.670 clearly prohibits a license from being used as collateral to secure a debt.

Discussion between the Board, Ethan Billings, and Sarah Oates continues regarding transfers with security interest agreements, under AS 04.11.670 and 3 AAC 304.107.

Harriet Milks states that this is something that should be discussed by staff and the individual off of the record, as it seems like the Board is getting close to giving legal advice.

● **BOARD GOVERNANCE** **9:46am** **TAB 3**

Sara Chambers states that the Board should consider disclosing any conflicts of interest on the record at the beginning of each Board meeting to comply with the Executive Branch Ethics Act, as declarations of conflict are required quarterly.

*Bobby Evans states that he might have signed a petition for a new license for Nome Husky.
Bob Klein states that he does consider this to be a conflict.*

Sara Chambers addresses some protocols and best practices for Board members regarding legislation and legislators.

● **LICENSING UPDATE**

A. Licensing Report

10:03am

TAB 4

Sarah Oates provides the Board with an update regarding licensing matters, including numbers of applications processed since the last meeting, reasons behind incomplete letters, new forms, understaffing and processing times, new resources for applicants and the public, and the need for a publicly released agenda close date. She states that staff is ensuring that received applications are complete before they are brought before the Board for consideration and action. She states that a hard deadline by which documents need to be submitted to staff in order to make it in a Board packet is necessary, as staff needs adequate time to prepare Board meeting documents, and the Board needs appropriate time to review documentation in order to make educated and informed decisions.

Sara Chambers recommends having the Board discuss agenda deadlines at the end of the day when it discusses the next Board meeting date.

Sarah Oates requests that the Board members agree on a set of guidelines for what is required to be a “bona fide restaurant”, so that the staff and applicants have guidance. These guidelines will be made available on the website and to applicants. Bob Klein requests that the staff bring draft language to the next meeting for the Board to consider opening a regulations project.

Sarah Oates states that the staff is still receiving a lot of pushback from large corporations that are applying for liquor licenses regarding fingerprint requirements. She reminds the Board that current regulation requires each officer and director of a corporation that is applying for a liquor license to provide written authorization for release of conviction and arrest records, which sometimes means that a corporation would have to submit dozens of sets of fingerprint cards. She asks if the Board would be interested in opening a regulations project to clarify which officers would need to consent to background checks.

Harriet Milks adds that AS 04.11.260(a) states that “the application shall be executed by the authorized officers of the corporation”.

Tom Manning asks if the fingerprinting requirement is the same for marijuana licensees. Sarah Oates states that because of statutory prohibitions from issuing licenses to any persons with certain disqualifying criminal history, 100% of the individuals involved in an entity that is applying for a marijuana establishment license must submit fingerprints.

Tom Manning, Marvin Yoder, and Bob Klein each voice interest in updating the regulation. Bob Klein states that what he’s interested in is not requiring the guy in Singapore who has no direct involvement in the license to be fingerprinted.

Bob Klein requests that licensing reports be provided at each Board meeting. The other Board members nod.

● **ENFORCEMENT UPDATE**

A. Enforcement Report **10:38am** **TAB 5**

*Bob Klein introduces Investigator Steve Johnson.
Chief Investigator, James Hoelscher, updates the Board on enforcement issues, including inspections, statistics, and violations.*

Bobby Evans requests that Investigator Hoelscher provide statistics in future reports for how many inspections were performed in rural locations.

James Hoelscher requests for Board clarification on whether or not a Tribal ID is an acceptable form of identification for determining age.

Bob Klein requests that Investigator Hoelscher bring a regulation draft to the next meeting so that the Board may consider opening a regulation project.

Harriet Milks states that it could be reasonable for the Board to consider identification issued by a federally recognized tribe as an acceptable form of identification, as contemplated by 3 AAC 304.425.

James Hoelscher informs the Board that the current definition of "alcoholic beverage" under AS 04.21.080(b)(1) does not include alcohol-infused food products, including ice cream, whipped cream, and candies, and that those products are becoming very common.

Bob Klein states that the Board trusts enforcement to use discretion in determining when someone is trying to circumvent the statute with alcohol-infused products.

B. Alcohol Server Education Access in Rural Communities **11:05am** **TAB 6**

Sara Chambers informs the Board that staff met with CHARR on two occasions, at the Board's request, and reminds the Board of the current definition of "rural" in 3 AAC 304.465. She presents the Board with options for future regulations changes. She cautions the Board that having separate sets of standards for courses for rural versus urban locations could be making the Board vulnerable to a future lawsuit. She recommends that the Board votes to establish a committee to work on this project.

Ellen Ganley motions to create a subcommittee to deal with the issue.

Marvin Yoder seconds the motion.

No objections, motion carries.

Ellen Ganley nominates Bobby Evans as Chair of the committee.

Tom Manning seconds the nomination.

None opposed.

Tom Manning volunteers to be in the group.

C. Notices of Violation Issued and Licensee Responses **11:21am** **TAB 7**

James Hoelscher informs the Board that the second NOV, AB 16-0464, should not have been issued, as the licensee did submit a satisfactory response to the first NOV to the former Director that ended up in her junk email and was not discovered until later.

● **REGULATIONS**

A. Potential New Regulations Projects 11:23am

Sarah Oates informs the Board that all proposed projects have been covered in the licensing and enforcement reports.

B. Common Carrier 11:24am

The Board members discuss the public comments received.

Sara Chambers asks for clarification on whether the Board was looking to require three or five staterooms.

Harriet Milks requests clarification on what it means by “Notwithstanding any other provision in AS 04.16.049” in 3 AAC 304.340(f), (g), and (h) of the draft. She states that her interpretation of that statute already excludes premises of common carriers, citing the definition of AS 04.21.080(b)(14).

Harriet Milks recommends deleting “Notwithstanding any other provision in AS 04.16.049” and “the licensed premises of” from 3 AAC 304.340(f), (g), and (h) of the draft, and deleting “unless it is licensed by a state or federal agency for passenger travel” in the second sentence in 3 AAC 304.340(e), as it is redundant of AS 04.11.180(a). She states that none of these would be substantive changes.

No Board members opposed to the suggested deletions.

The Board discusses and agrees to remove 3 AAC 304.340(e) in its entirety.

Harriet Milks clarifies for the record that subsections (f), (g), and (h) would then be renumbered to be (e), (f), and (g).

Ellen Ganley motions to adopt the regulation as amended.

Marvin Yoder seconds the motion.

None opposed, motion carries.

1. Draft TAB 8

2. Public Comments Received TAB 9

● **BOARD CONSIDERATION**

A. Title 04 Review 11:55am TAB 10

Anna Brawley identifies herself as a senior associate with Agnew::Beck and the author of the memo in this tab, and she provides some history of the project and her role. She informs the Board that the bill is in draft form and has not yet been introduced as pending legislation. Because of the bill being in draft form, it might not be appropriate to distribute it to the Board.

The Board requests that Sara Chambers contact Senator Micciche for approval to distribute the draft the Board members as a confidential document, not available to the public, for review and discussion in an executive session.

Ellen Ganley motions to support the Title 04 review stakeholder process.

Marvin Yoder seconds the motion.

Tom Manning states that he will abstain from voting, as licensees have not had an opportunity to review the draft bill.

None opposed, motion carries (4-0, Tom Manning abstains).

Sara Chambers clarifies for the record that the motion was to support Senator Micciche's effort to rewrite Title 04 and the stakeholder process.

- **LUNCH** **12:17pm**

- **MEETING RESUMES** **1:03pm**

- **BOARD CONSIDERATION**
 - B. **93 Barry's Baranof Lounge:** Barry's Baranof Lounge, Inc. **1:05pm** **TAB 11**
1166 Gambell Street; Anchorage
License: Beverage Dispensary

Request for time extension to submit a transfer application.

Ellen Ganley motions to grant the applicant's request for a 90-day extension.
Marvin Yoder seconds the motion.
None opposed, motion carries.

 - C. **5531 Beluga Billiards:** Michael Clancy **1:06pm** **TAB 12**
3841 W Dimond Blvd; Anchorage
License: Restaurant / Eating Place

Consideration of New License Application.

Sarah Oates informs the Board that this is an application for a restaurant / eating place license, and that the proposed establishment is a billiard hall. She states that Investigator Joe Hamilton has visited the establishment and spoken with the applicant, and that the applicant's menu includes mostly premade frozen food, along with a house-made French dip from scratch, and she listed the kitchen equipment at the establishment. She refers the Board members to AS 04.11.100(g)(2), which states that entertainment may only be provided on the licensed premises between the hours of 3:00 – 11:00pm. She states that staff is requesting that the Board consider whether the establishment qualifies as a bona fide restaurant for purposes of obtaining a restaurant / eating place license, and whether billiards and darts meet the definition of entertainment, for purposes of AS 04.11.100(g)(2).

The Board members all voice agreement that the proposed establishment would meet the definition of a bona fide restaurant or eating place, and that pool tables would meet the definition of entertainment in that section of statute.

Ellen Ganley motions to approve the application, provided that the licensee adhere to the limited hours in the statute for entertainment.

Marvin Yoder seconds the motion.

None opposed, motion carries.

- D. 5517 Devil's Club Brewing Company:** Devil's Club Brewing, LLC **1:13pm** **TAB 13**
100 N Franklin Street; Juneau
License: Brewery

Consideration of Criminal History Report.

Sara Chambers and Sarah Oates inform the Board that the criminal history report for one of the shareholders of the LLC revealed that there was a felony drug conviction in 2013. They inform the Board that the individual had provided uncertified documentation that indicated that the charge was later dropped to a misdemeanor.

Bob Klein states that if a certified document is submitted by the applicant that verifies the claim, then there would be no reason for the Board to consider this. He requests that the staff bring this back to the Board at a later meeting if that verification is not provided. The other Board members nod in agreement.

Jacob Ridle identifies himself for the record and states that he had **1:15pm**
submitted the documentation to Sarah Oates to forward to the Board.

Sarah Oates clarifies that the document that was submitted was not dated or notarized, and that the Board was requesting a certified copy of what Mr. Ridle had provided.

Jacob Ridle states that he will ensure that a certified copy is emailed to Sarah Oates as soon as possible.

- E. 5458 & 5459 Quake! Brewing Company:** **1:14pm** **TAB 14**
Quake! Brewing Company, LLC
12812 Old Glenn Highway #A12; Anchorage
License: Restaurant / Eating Place & Brewpub

Reconsideration of New License Applications.

Sara Chambers informs the Board that this application was approved with delegation at the July, 2016 meeting, and that former Director Cynthia Franklin had issued temporary approvals for these licenses in order to allow the applicant time to bring his restaurant up to standards as a bona fide restaurant. She additionally states that the licenses were never issued, and that recent communication with the applicant has revealed that the applicant no longer has right title or interest in the property, which means that he no longer has a complete application.

Marvin Yoder motions to rescind the delegation and deny the license.

*Tom Manning seconds the motion.
None opposed, motion carries.*

● **MATTERS TABLED AT PREVIOUS MEETINGS**

- A. **1034 907 Club:** Nine OH Seven Corporation **1:18pm** **TAB 15**
2541 S Rosalie Court (Big Lake); Mat-Su Borough
License: Beverage Dispensary
From: Zachary and Anjanette Steer DBA Sheep Mountain Lodge; No Premises

Transfer of ownership, location, and DBA change. All statutory requirements have been met.
Approvals: Department of Labor, Department of Revenue
Background investigations: Complete
**Matanuska-Susitna Borough Conditional Use Permit has been appealed by multiple parties.
Numerous public objections received.**

Dani Button provides testimony in favor of the transfer application. She states that this would create new jobs and revenue, and that the appeals are about the applicant personally.

John Rodda, Rocky Lake property owner, provides testimony in opposition of the transfer application. He states this is against the character, history, and integrity of Rocky Lake. He requests that the Board table all action on this application until all processes with the Borough, including the appeals, are completed. He reads 3 AAC 304.180(a)(2) regarding factors that the Board will consider in determining whether to deny an application (specifically, whether the applicant or transferee is untrustworthy, unfit to conduct a licensed business, or a potential source of harm to the public).

Tom Manning asks for clarification regarding the status of the Borough's conditional use permit.

John Rodda informs the Board that the conditional use permit was granted with seventeen conditions, but that there are currently two appeals.

Tim McGhan hands out an email from the applicant to the Board members and provides testimony in opposition to the transfer application. He states that the applicant was not truthful with the Board at the December meeting when Mr. Button claimed that the only condition of the conditional use permit that he was appealing was the restricted hours. He states that the applicant is untrustworthy, citing statements in the email provided.

John Rush shows the Board an aerial photograph of the proposed location and surrounding areas, and provides testimony in opposition to the transfer application, citing concerns about public safety and the applicant's trustworthiness. He informs the Board that he is the other appellate of the conditional use permit and requests that the Board not take action on this application until after the appeals are complete.

Claudia Henley, Rocky Lake property owner, provides testimony in opposition to the transfer application until the appeals process is completed. She states that the applicant is appealing conditions that he had agreed to, and she requests that the Board not allow outside sound or lighting. She states that this establishment does not fit with the community.

Clark Rush provides testimony in opposition to the transfer application, stating that it is not in the best interests of the public. He states that the proposed location is too close to a long-standing residential neighborhood, along with concerns about the applicant's trustworthiness.

Jim Renkert, Rocky Lake resident, provides testimony in opposition to the transfer application, citing traffic and other public safety concerns. He states that he has no opposition to a beer and wine license for a restaurant at that location.

Gail Cartwright, local resident, provides testimony in opposition to the transfer application, citing neighborhood impacts and concerns about the applicant.

Evelyn Rush, Rocky Lake resident, provides testimony in opposition to the transfer application. She informs the Board that a fire destroyed many residents in the area, and that individuals had to spend large amounts of money to rebuild houses. She states that residents would be held captive by the noise of the proposed establishment, and that the proposed establishment would significantly reduce property values. She informs the Board that the Borough does not have zoning.

David Ion, Big Lake resident, provides testimony in favor of the transfer application and tells the Board to consider the commerce of the State and not just interests of individuals.

Steve Nerland, Rocky Lake resident, provides testimony in opposition to the transfer application, voicing concerns about the applicant's trustworthiness and the public process. He informs the Board that the State Park has submitted a letter in opposition to the application.

Cindy Bettine, Rocky Lake resident, states that she has a resident within 50 feet of the proposed establishment. She provides testimony in opposition to the transfer application, stating that the proposed establishment is not in the best interests of the public, and that the application should be denied, pursuant to 3 AAC 304.180. A printed copy of an email from Cindy Bettine is distributed to the Board members.

Debra Rodda provides testimony in opposition to the transfer application, citing traffic and other public safety concerns, and concerns about the applicant's appeal to the conditions on the Borough's conditional use permit. She requests that the Board postpone action until after the appeal processes are complete.

Mike Butcher, local resident with property across the street from the proposed location, provides testimony in opposition to the transfer application. He voices concerns about traffic, the applicant's violation of conditions of a conditional use permit for another licensed establishment, noise, and other items that are currently addressed by the conditions of the conditional use permit.

Jenna Lundy-Conner, Big Lake resident, provides testimony as a resident in favor of the transfer application.

Lesley Button, brother of the applicant, provides testimony regarding the Big Lake Super Store and the applicant's character.

Heather Taylor, employee of the applicant, provides testimony in favor of Mr. Button's character.

Rick Nerland, manager of a family corporation that owns property at Rocky Lake, provides testimony on behalf of eight families in opposition to the transfer application.

Dani Button provides additional testimony in favor of Mr. Button's character.

John Rodda hands the Board a copy of the Borough's conditional use permit for this application.

Audrey Renschen, resident, provides testimony in opposition to the transfer application and requests that the Board delay consideration of the application until the Borough has made a final determination about the conditional use permit.

Mark Button, applicant, states that the Big Lake community wants this place to happen. He addresses concerns about restrictions to operating hours and states that he has bought a sound barrier. He states that he has been in business for twenty years and that he has never had a violation with the ABC Board in the nine years that he has held liquor licenses. He urges the Board to approve the application.

Tom Manning asks the applicant if the proposed location is in a commercial zone.

Mark Button reminds the Board that the Borough does not have zoning.

Tom Manning asks if the petition was signed by residents.

Mark Button states that the majority of the signatures are from full-time residents.

Bob Klein asks Mr. Button if the only condition on the conditional use permit that he is appealing is the limited operating hours.

Mark Button states that he is appealing the operating hours and the requirement that there be a security guard.

Audrey Renschen states that the applicant is also appealing the sound requirements. She requests that the Board look closely at the petition, as some individuals signed the same petition as many as six times, and some individuals who signed were not residents.

Jenna Lundy-Conner states that she completed the appeal paperwork and that the codes she identified were listed because they could be mentioned during the appeal, but that they are not appealing the sound restriction.

Cindy Bettine states that conditions 4, 5, and 16 are the ones that the applicant has appealed.

Lesley Button states that the Rocky Lake community is part of Big Lake.

Bob Klein states that public testimony on this matter is closed.

Ellen Ganley motions to table until the Mat-Su Borough CUP (conditional use permit) appeals are finished. She states that she likes to have the local governing body figure these things out.

*Marvin Yoder seconds the motion and agrees with Ellen Ganley's statement.
None opposed, motion carries.*

- B. 5460 Alaska Stillman:** Alaska Stillman, LLC **2:57pm** **TAB 16**
3 Liarsville Road; Skagway
License: Distillery

New license application. Exceeds population limits.
Background Investigations: Complete
Municipality & Borough of Skagway waived their right to protest, with condition.
State Fire Marshal and Department of Environmental Conservation object.

*Lucas Heger and Janilyn Heger, Skagway Spirits, submit documents and photos to the Board and provide testimony regarding the status of the operation of their distillery license. They state that they are hoping to open by May or June of this year.
Sarah Oates clarifies for the record that a waiver of operation for calendar year 2016 will need to be filed.*

Joel Probst, Alaska Stillman, states that he will rescind the application and sends his congratulations to the Hegers.

No action.

- C. 2787 Olsen's Liquor Store:** Kvichak Pacific, LLC **3:07pm** **TAB 17**
Ahklvn View Estates North Addition, Lot 1; Dillingham
License: Package Store
From: 1.25 Mile Willow Lane

Transfer of location & renewal application. All statutory requirements have been met.
Local governing body action: Pending City of Dillingham (renewal)
Numerous public objections received. Transfer application rescinded.

Sara Chambers informs the Board that the application for transfer of location was rescinded, but that the license is also up for renewal.

Bob Klein asks if there are any persons who wish to provide testimony regarding the renewal application.

Sarah Oates informs the Board that written public objections were received to the renewal application, but that they seem to be concerning the proposed location listed on the transfer application. She also states that Local Government Specialist, Jed Smith, has been corresponding with the City of Dillingham, and it sounds like the City is considering filing a protest to the renewal application.

*Ellen Ganley motions to approve the renewal application with delegation.
Marvin Yoder seconds the motion.*

Bobby Evans asks if this license is grandfathered in from population limits.

Sarah Oates states that the City of Dillingham is allowed one license by population limits, but this is one of two existing licenses that are grandfathered in.

*Bobby Evans mentions the public objections and states that he will be voting no.
Motion to approve the renewal application with delegation carries, 4-1 (Bobby Evans votes No).*

- D. 410 The Forks Reborn: The Forks Reborn, LLC** **3:13pm** **TAB 18**
No Premises; Mat-Su Borough
License Type: Beverage Dispensary

Request for waiver of fees for the third waiver of operation.

Dan Kerschbaum, licensee, provides clarifies that he has paid the fee for the third waiver application, and he is seeking waiver of those fees that would be refunded.

Bobby Evans asks what the cost of the waiver was.

Sarah Oates informs the Board that the third waiver fee was \$5000, and clarifies for the record that a different individual owned the license at the time that the facility burned down.

Bobby Evans asks if there are three waivers allowed for each licensee.

Sarah Oates states that that is correct: this licensee has filed waivers for calendar years 2014, 2015, and 2016.

Tom Manning motions to grant the waiver and refund the \$5000 fee.

Marvin Yoder seconds the motion.

None opposed, motion carries.

- **BREAK** **3:23pm**

- **RECREATIONAL SITE LICENSES** **3:30pm** **TAB 19**

Bob Klein reads off each recreational site renewal application, provides a description of the activities provided at the establishment, and states that certain ones are classic rec sites and others are not recognized under Title 04 as classic rec sites. He states that these will be grandfathered in by the Title 04 rewrite and that the ones that do not meet the definition will have eight years to come into compliance with the statute.

Ellen Ganley states that she thinks these are different, though, as they clearly do not meet the statutory definition of a rec site.

*Bob Klein states that grandfathering them in is what was agreed upon in the stakeholders group.
Ellen Ganley says alright.*

Tom Manning asks if the applicants are being notified that they are up for consideration.

Sarah Oates informs the Board that during this renewal period, all recreational site licensees were sent a copy of recreational site guidelines with their renewal applications that essentially stated what the statute says and required the applicants to provide written statements explaining how they met the statutory requirements, which are included in the Board packets for consideration.

Bob Klein states that he would recommend granting all licenses and letting the Title 04 rewrite play out.

Marvin Yoder moves the recommendation.

Bobby Evans states that he disagrees, and that the Board should decide now which ones shouldn't be issued, as the Board members clearly know the difference.

Bob Klein states that doing so would be giving a finger to the stakeholders' process and that the stakeholders' group has worked so hard on it.

Bobby Evans states that they would justify the Board's actions, and that they would say good job.

Marvin Yoder states that if the Board members start picking and choosing at this point, that people will be at the legislature trying to vote down the changes.

Harriet Milks states that regardless of what happens in the legislature – and the Board does not know what will happen – the Board does still have an obligation to administer these licenses according to the statute as it appears before the Board now. She states that it is the Board's policy and decision, but that the Board does not know what is going to happen with the legislature.

Bob Klein states that he agrees that they don't, which is why they will wait.

Bobby Evans states that when he first came on to the Board, a lot of these were already there, and so as he was learning the process, he just approved them. He states that at some point, he recalls asking how the establishments applied to the statute because he was reading them verbatim, and he believes that it may have been one of the ones they're looking at now. He recalls that the discussion had been that these had been issued more loosely over time. He states that denying them wouldn't be giving anyone the finger; that they would just be saying that their interpretation is the way it is. He states that he could not see himself approving certain applications for establishments the way they are now. He voices concerns about Alaska Travel Adventures, Alaska Zipline Adventures, Coming Attraction Theatres, Gold Creek Salmon Bake, and Taku Lanes, stating that those clearly don't fall within the statutory requirements.

Bob Klein states that there's another issue, and that is that these are businesses and that to just arbitrarily pull their licenses would not be within the public interest or within the way in which the Board operates. He states that the Board could schedule a work session, but to not just yank a license based on something that's come up.

Tom Manning states that that's why he asked if they were notifying people that it was unlikely that the Board would be renewing them.

Bob Klein states that the middle road would be to approve with the notice that this would be the last renewal.

Sara Chambers reminds the Board that the 2014 legislative audit had a finding against the Board that the Board at that time was issuing licenses that didn't fall within a particular characteristic in statute. She states that it's always okay for the Board to correct its decisions if it feels like it should have issued that license, and that it agrees with leg audit, which is the message that was sent in response to the legislative audit, but that she does have to back what counsel said – that the Board has to look at the facts in front of it right now. She states that the Board cannot look to potential future actions by the legislature to make decisions today.

Bob Klein states that they are working with business, with people who have huge investments, and unless they violated something, that it's always within the means of the Board, that the Board

would understand that and would not just be arbitrary and capricious in yanking a license. He states that he likes the idea in giving these folks notice that this is their last renewal.

Bobby Evans states that some of these people only provide alcohol for 30 minutes at the end of a tour, so their businesses are not based around the sale of alcohol.

Bob Klein states that we are coming up on the tourism season, and he does not agree with that kind of interruption to a business, as it is so arbitrary. He states that it's not like they're selling to kids, but that the Board, as a group, made a mistake in giving them the license.

Bobby Evans states that this would be allowing them to live the mistake for another year, and that doesn't make sense to him.

Bob Klein states that it makes sense to him.

Sara Chambers states that when the Board was considering regulations on rec sites, that ended up being closed, that there was discussion that publicly noticed this change. She states that it's not the first time that the licensees heard this interpretation, and that the Board has gone on the record with the policy that it's strictly interpreting this statute as a response to the 2014 audit.

Bobby Evans requests that the licenses be reviewed individually and not as a group because he's going to vote no on some and yes on others.

Ellen Ganley states that in order to save time, she's going to do it in two groups.

Ellen Ganley motions to approve licenses in subsections C, D, F, G, I, and J.

Bobby Evans seconds the motion.

Bob Klein states that these are classic rec site licenses.

Ellen Ganley states that these are ones that fit into the statute now, and that she would be very surprised if they get Title 04 (revisions) through this year – that she thinks it will take two years.

Marvin Yoder asks counsel if there are any grandfathering things that the Board has to be concerned about.

Harriet Milks states that there are no grandfathering for the Board to be concerned about, but that it is her recollection that the Board put on the record a statement that it was going to enforce the statute as written, and that it was put on the record months ago, more than ones. She states that that statement was referred to in the proposal for action and the proposed decision in a recent case which the Board has reviewed. She states that the states that the statement by the Board, that they are going to now apply the statute as it is written, is on the record.

Bob Klein states that the Board decided to do that with any applications that came before it for new licenses.

Harriet Milks states that she is not sure that it was limited to new licensed; that her recollection was that it was applicable to renewals, but that the record will speak for itself if the Board wants to defer to that.

Bob Klein states that the intent was for new license applications.

Tom Manning asks if that statement was sent to licensees.

Harriet Milks states that it was statement made at a Board meeting.

Tom Manning states that those licensees need to be specifically told that.

Bob Klein states that the Board is going to – that they are going to tell Alaska Travel, Alaska Zipline, Coming Attraction, Gold Creek, and Taku Lanes that this is their last renewal.

Sarah Oates asks for clarification that the motion is to approve with delegation, as she does not believe that staff has heard from the local governing body on all of these.

Ellen Ganley agrees.

Bob Klein clarifies for the record that the following licenses are being considered in the motion:

196 Capitol Speedway

2982 Carlson Community Center

4678 Fairbanks Junior Ice Dogs

1842 George Sullivan Arena

2931 Mat-Su Miners

846 Peninsula Oilers

None opposed, motion carries.

Ellen Ganley motions to approve the remaining licenses with the notice that because their business does not fit current statute, they will be denied recreational site licenses in two years.

Bob Klein states that he thinks the letter should state that the license has been approved, but that it's the last one.

Marvin Yoder seconds the motion.

Bob Klein clarifies that this is approval with delegation.

Bobby Evans states that he thinks they should look, as directors, at each individual case because some of these are so outside of the definition that he wants to not make the same mistake again. He states that he was part of the Board when they approved these the last time, and he cannot see them continuing to make the same mistake. He states that he has read some of these applications that say this does not apply to this statute or that they do not do what's listed in the statute, and that he understands the business aspect of it, but that each individual director should vote according to the statute. He additionally states that they are looking at these as a block, and the statute doesn't apply to these as a block, so they should not get voted in.

Ellen Ganley states that the Board is coming back to the point that these people have invested a lot of money into these businesses, and that because the Board gave them licenses, the Board needs to give them sufficient time to make changes. She states that one year is not sufficient time, especially before the summer.

Bobby Evans states that he is looking at Taku Lanes, which is a recreational bowling league with tournaments that is open all week, 365 days a year; there is no season or car racing, and it is pretty clear that these don't apply.

Bob Klein states that that's why the Board is closing them out, and that the question is how long the Board is giving them to close out.

Sara Chambers informs the Board that this will come up again because the legislative audit and legislature really doesn't like seeing multiple mistakes time and time again. She states that issuing licenses outside of statutory authority can be very difficult for the Board, based on her experience.

Licenses included in the motion:

4881 Alaska Travel Adventures

4700 Alaska Zipline Adventures

4730 Coming Attraction Theatres

4309 Gold Creek Salmon Bake

5095 Taku Lanes

Motion carries, 4-1 (Bobby Evans votes No).

- A. 4881 Alaska Travel Adventures:** Alaska Travel Adventures, Inc. **TAB 20**
9999 Glacier Highway; Juneau

Renewal license application.
- B. 4700 Alaska Zipline Adventures:** Alaska Zipline Adventures, LLC **TAB 21**
3000 Fish Creek Road; Juneau

Renewal license application.
- C. 196 Capitol Speedway:** Wesley Wallace **TAB 22**
Mile 75.5 Parks Highway; Mat-Su Borough

Renewal license application.
- D. 2982 Carlson Community Center:** SMG of Alaska, Inc. **TAB 23**
2010 Second Avenue; Fairbanks

Renewal license application.
- E. 4730 Coming Attraction Theatres:** Coming Attraction Theatres, Inc. **TAB 24**
3331 E Old Matanuska Road; Wasilla

Renewal license application.
- F. 4678 Fairbanks Junior Ice Dogs:** Fairbanks Junior Ice Dogs, Inc. **TAB 25**
1920 Lathrop Street; Fairbanks

Renewal license application.
- G. 1842 George Sullivan Arena:** SMG of Alaska, Inc. **TAB 26**
1600 Gambell Street; Anchorage

Renewal license application.
- H. 3409 Gold Creek Salmon Bake:** Alaska Travel Adventures, Inc. **TAB 27**
1061 Salmon Creek Lane; Juneau

Renewal license application.
- I. 2931 Mat-Su Miners:** Mat-Su Baseball, Inc. **TAB 28**
Hermon Brothers Field; Palmer

Renewal license application.
- J. 846 Peninsula Oilers:** Peninsula Oilers Baseball Club, Inc. **TAB 29**
103 S Tinker Lane; Kenai

Renewal license application.

- K. **5095 Taku Lanes:** Taku Lanes, LLC
608 W Willoughby Avenue; Juneau

TAB 30

Renewal license application.

● **EXECUTIVE SESSION**

- A. **1078 Fantasies on 5th:** Fantasies on 5th Avenue, LLC
1911 E 5th Avenue; Anchorage
License: Beverage Dispensary

TAB 43

Denial of renewal license application.

Ellen Ganley motions to enter into executive session.
Marvin Yoder seconds the motion.
None opposed, motion carries.

3:56pm

Bob Klein entertains the following motion:

4:14pm

“The Alcoholic Beverage Control Board adopts this decision as final under the authority of AS 44.64.060(e)(1). Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with AS 44.62.560 and Alaska R. App. P. 602(a)(2) within 30 days after the date of distribution of this decision.”

Ellen Ganley moves the motion.
Marvin Yoder seconds the motion.
None opposed, motion carries.

● **OBJECTIONS**

4:15pm

- A. **5087 Bahay Kubo Restaurant:** Maricel Medina
3020 Minnesota Drive, Suite 13; Anchorage
License: Restaurant / Eating Place
From: Erica Ciabu DBA Kubo Restaurant

TAB 31

Transfer of ownership and DBA change. All statutory requirements have been met.

Local governing body action: Pending Municipality of Anchorage

Pending: Department of Revenue

Background investigations: Pending

Department of Labor objects due to lack of proof of required workers' compensation coverage.

Marvin Yoder motions to approve the license with delegation.
Tom Manning seconds the motion.
None opposed, motion carries.

- B. 2568 Today's Pizza:** Y2HK, Inc. **4:16pm** **TAB 32**
4608 Spenard Road #D; Anchorage
License: Restaurant / Eating Place
From: C & H Corporation

Transfer of ownership. All statutory requirements have been met.
Local governing body action: Pending Municipality of Anchorage
Pending: Department of Revenue
Background investigations: Pending
Department of Labor objects due to non-compliance with Alaska Workers' Compensation Act.

Marvin Yoder motions to approve the license with delegation.
Tom Manning seconds the motion.
None opposed, motion carries.

● **SECURITY INTEREST TRANSFERS** **4:17pm**

Marvin Yoder motions to approve the license with delegation.
Tom Manning seconds the motion.
None opposed, motion carries.

- A. 4939 Meier's Lake Roadhouse:** Richard & Linda Fraley and Caleb & Melissa Raven **TAB 33**
Mile 170 Richardson Highway; Outside / Unorganized
License: Beverage Dispensary
From: Hunter's Retreat, LLC

Transfer of ownership with security interest agreement. All statutory requirements have been met.
Pending: Department of Labor, Department of Revenue
Background investigations: Pending

● **BEVERAGE DISPENSARY – TOURISM LICENSES**

- A. 5530 Chilkoot Trail Outpost:** Fred and Kathleen Hosford **4:18pm** **TAB 34**
7 Mile Dyer Road; Skagway
License: Beverage Dispensary – Tourism

New license application. All statutory requirements have been met.
Local governing body action: Pending Municipality of Skagway Borough
Pending: State Fire Marshal, Department of Environmental Conservation
Background investigations: Complete

Ellen Ganley motions to approve the license with delegation.
Marvin Yoder seconds the motion.
None opposed, motion carries.

● **RESTAURANT / EATING PLACE – PUBLIC CONVENIENCE LICENSES** **4:19pm**

*Marvin Yoder motions to approve all licenses with delegation.
Tom Manning seconds the motion.
None opposed, motion carries.*

- A. 5529 Basil Ginger: Smile, LLC** **TAB 35**
Lot 1 TD Business Park; Wasilla
License: Restaurant / Eating Place – Public Convenience

New license application. All statutory requirements have been met.
Local governing body action: Pending City of Wasilla
Pending: Department of Environmental Conservation
Background investigations: Pending

- B. 5528 Bluff Point Lighthouse Grill: Bluff Point Lighthouse Drive-Thru Grill, Inc.** **TAB 36**
725 Sterling Highway; Homer
License: Restaurant / Eating Place – Public Convenience

New license application. All statutory requirements have been met.
Local governing body action: Pending City of Homer
Pending: State Fire Marshal, Department of Environmental Conservation
Background investigations: Pending

- C. 5525 Husky Restaurant: Nome Husky, Inc.** **TAB 37**
235 Front Street; Nome
License: Restaurant / Eating Place – Public Convenience

New license application. All statutory requirements have been met.
Local governing body action: Pending City of Nome
Pending: State Fire Marshal, Department of Environmental Conservation
Background investigations: Pending

- D. 5527 Moose-AKa's: Michael and Maja Waring** **TAB 38**
238.9 Parks Highway; Denali Borough
License: Restaurant / Eating Place – Public Convenience

New license application. All statutory requirements have been met.
Local governing body action: Pending Denali Borough
Pending: State Fire Marshal, Department of Environmental Conservation
Background investigations: Pending

● **DELEGATED CONSENT AGENDA** **4:21pm** **TAB 39**

*Ellen Ganley motions to approve all licenses with delegation.
Marvin Yoder seconds the motion.
None opposed, motion carries.*

- A. 4580 907 Alehouse:** 907 Alehouse, LLC
8001 Old Seward Highway; Anchorage
License: Beverage Dispensary
From: Las Marg, LLC DBA Las Margaritas

Transfer of ownership and DBA change. All statutory requirements have been met.
Local governing body action: Pending Municipality of Anchorage
Approvals: Department of Labor, Department of Revenue
Background investigations: Pending

- B. 2159 Blues Central:** Fish or Cut Bait, LLC
609 F Street; Anchorage
License: Beverage Dispensary
From: Club 210 East, Inc. DBA Club 210 East; No Premises

Transfer of ownership, location, and DBA change. All statutory requirements have been met.
Local governing body action: Pending Municipality of Anchorage
Pending: Department of Labor, Department of Revenue
Background investigations: Complete

- C. 673 Pier 49 Seafood Station:** Juneau's Waterfront Restaurants, LLC
Suite Retail B & Adjoining Pier, 406 S Franklin Street; Juneau
License: Beverage Dispensary
From: James A. Holdings Company, LLC; No DBA; No Premises

Transfer of ownership, location, and DBA change. All statutory requirements have been met.
Local governing body action: Pending City and Borough of Juneau
Pending: Department of Environmental Conservation, Department of Labor, Department of Revenue
Background investigations: Complete

- D. 216 Reilly's:** Reilly's Alaska, Inc.
317 W Fireweed; Anchorage
License: Beverage Dispensary
From: Jeanne Reilly (100%) to Jeanne Reilly 2007 Family Trust (100%)

Transfer of controlling interest. All statutory requirements have been met.
Local governing body action: Pending Municipality of Anchorage
Pending: Department of Labor, Department of Revenue
Background investigations: Complete

- E. 5526 Taco Azteca Dos:** Taco Valley, Inc.
481 Chena Pump Road; Fairbanks North Star Borough
License: Restaurant / Eating Place

New license application. All statutory requirements have been met.
Local governing body action: Pending Fairbanks North Star Borough
Pending: State Fire Marshal, Department of Environmental Conservation
Background investigations: Complete

- F. **2812 Tracy's King Crab Shack:** Genuine Ventures, LLC
432 S Franklin Street; Juneau
License: Restaurant / Eating Place
From: 406 S Franklin Street

Transfer of location. All statutory requirements have been met.
Local governing body action: Pending City and Borough of Juneau
Pending: Department of Environmental Conservation
Background investigations: Complete

END OF DELEGATED CONSENT AGENDA

● **FIRST AND SECOND WAIVERS**

4:24pm

TAB 40

*Ellen Ganley motions to approve all waivers.
Marvin Yoder seconds the motion.
None opposed, motion carries.*

- A. **80 Alaska Fish House:** Slagle, LLC
3 Salmon Landing; Ketchikan
License Type: Package Store
- First waiver application.**
- B. **426 Frontier Club:** Boulder Investments, Inc.
No Premises; Fairbanks
License Type: Beverage Dispensary
- Second waiver application.**
- C. **4504 Gold Rush Deli:** Upriver, Inc.
33989 Peger Road #C; Fairbanks
License Type: Beverage Dispensary
- First waiver application.**
- D. **4835 Henri Hawaii:** Henri Hawaii, Inc.
201 E Northern Lights Blvd, Suite B; Anchorage
License Type: Beverage Dispensary
- Second waiver application.**
- E. **1563 Mat-Su Resort:** Mat-Su Resort, LLC
1850 Bogard Road; Mat-Su Borough
License Type: Beverage Dispensary – Tourism
- First waiver application.**

- F. 673 No DBA:** James A. Holdings Company, LLC
No Premises; Juneau
License Type: Beverage Dispensary
- First waiver application.**
- G. 4694 No DBA:** Moreland Properties, LLC
2550 Spenard Road; Anchorage
License Type: Beverage Dispensary
- First waiver application.**
- H. 4694 No DBA:** Moreland Properties, LLC
2550 Spenard Road; Anchorage
License Type: Beverage Dispensary
- Second waiver application.**
- I. 4547 No DBA:** North Star Dining, LLC
No Premises; Fairbanks
License Type: Beverage Dispensary
- Second waiver application.**
- J. 2985 Pagoda Restaurant:** First Security Investments, Inc.
No Premises; North Pole
License Type: Restaurant / Eating Place
- First waiver application.**
- K. 5397 Sushi on the Fly:** JSJ Group, LLC
5000 W International Airport Road C2781; Anchorage
License Type: Beverage Dispensary – Tourism
- First waiver application.**
- L. 3607 TennFlo:** TennFlo, LLC
No Premises; Anchorage
License Type: Beverage Dispensary
- First waiver application.**
- M. 5261 The Rack:** Paul & Mikki's, Inc.
3310 Nina Way; Dillingham
License Type: Restaurant / Eating Place
- Second waiver application.**

- N. **302 Three Bears:** Three Bears Alaska, Inc.
No Premises; Mat-Su Borough
License Type: Package Store

First waiver application.

● **THIRD WAIVERS**

- A. **4377 New Party Time Liquors:** New Party Time Liquors, Inc. **4:26pm** **TAB 41**
No Premises; Anchorage
License Type: Package Store

Ellen Ganley motions to approve the waiver with a warning that a fourth waiver will not be granted.

Marvin Yoder seconds the motion.

None opposed, motion carries.

- B. **5261 The Rack:** Paul & Mikki's, Inc. **4:27pm** **TAB 42**
3310 Nina Way; Dillingham
License Type: Restaurant / Eating Place

Ellen Ganley motions to approve the third waiver.

Bobby Evans seconds the motion.

None opposed, motion carries.

Ellen Ganley motions to reimburse the waiver fee.

Marvin Yoder seconds the motion.

Sara Chambers informs the board that the regulation states that the Board may waive the fees for the following reasons: death of a licensee, destruction of premises, or comparable circumstances showing extraordinary hardship.

The Board members agree that none of those apply in this situation.

No action.

● **NEXT ABC BOARD MEETING** **4:37pm**

Bob Klein requests that the proposed date of April 5, 2017 be switched with the proposed MCB meeting date of April 6, 2017.

The Board members discuss a meeting material deadline with Sarah Oates and agree to have the deadline for license application documents be 30 days (March 6th) in advance of the meeting, and then March 17th would be the deadline for letters of objection, along with general comments and correspondence.

Bobby Evans requests that the staff provide a list of recreational site licenses at the April meeting, including the name of the licensee, the date on which the license was issued, and a description of the business.

Sara Chambers states that staff can make it a goal and will see what it can do.

Bobby Evans asks how the Board would notify rec site license people that they may not be renewed based on the statutory definition.

Ellen Ganley states that the guidelines for statements were very helpful in enabling the Board to determine which ones met the statute.

Sarah Oates offers to send out a letter with a copy of the rec site guidelines to all rec site licensees who were not up for renewal this year, requesting that they provide the information to the Board. The Board members agree that this would be great.

Sara Chambers asks for clarification regarding which definition of "rural" the Board would like the enforcement team to use.

Bobby Evans states that he would request that the staff use the definition under the rural Board seat under AS 04.06.020.

The Board members agree.

Ellen Ganley states that she would like to see the number of violations that have been issued for underage drinking since SB 165 went into effect.

Marvin Yoder states that he has really enjoyed working with the Board and thanks everyone.

● **ADJOURN**

4:49pm

Minutes prepared by:



Sarah D. Oates
Program Coordinator