



**Alcoholic Beverage Control Board
Meeting Minutes
December 5, 2016
Third Judicial District
Snowden Training Center
820 W 4th Avenue
Anchorage, Alaska**

*Meeting minutes are 45 minutes fast (actual start time is 9:18am)

Board Members Present:

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

Staff Members Present:

Cynthia Franklin, Director
Sarah Oates, Program Coordinator

Legal Counsel Present:

Harriet Milks, Assistant Attorney General

Call to Order

10:03:45 AM

● **DIRECTOR BRIEFING**

A. Director's Report

10:05:13 AM **TAB 1**

Cynthia Franklin updates the board regarding renewal applications, staff updates, the Title 04 rewrite, and other matters.

● **ADMINISTRATION**

A. Approve Minutes of the October 26, 2016 Board Meeting

10:11:35 AM **TAB 2**

Ellen Ganley motions to approve the minutes.
Bobby Evans seconds the motion.
None opposed.

● **PUBLIC TESTIMONY**

- A. Period of time for public testimony on issues not on this agenda. [10:11:56 AM](#)
Please phone 1-800-315-6338 code 69173#.

Cindy Bettine recommends to the board that they look at past criminal histories of liquor license applicants.
Cynthia Franklin informs the public that nothing has changed on the alcohol side about reviewing criminal histories of applicants.

● **BOARD CONSIDERATION**

- A. **410 The Forks Reborn:** The Forks Reborn, LLC [10:15:47 AM](#) TAB 3
No Premises; Mat-Su Borough
License Type: Beverage Dispensary

Third waiver application; requesting waiver of fees.

Ellen Ganley motions to approve the third waiver with the stipulation that a fourth waiver will not be approved.
Bobby Evans seconds the motion.
None opposed.

Marvin Yoder states that he is on the teleconference. [10:21:29 AM](#)

The board decides to table discuss of the fees until the February, [10:22:03 AM](#)
2017 meeting and requests that the licensee provide a timeline of events regarding destruction of the premises.

● **MATTERS TABLED AT PREVIOUS MEETINGS**

- A. **1034 907 Club:** Nine OH Seven Corporation [10:25:39 AM](#) TAB 4
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 protests because the Conditional Use Permit has not been approved.
Department of Environmental Conservation objects because the facility does not have a food service permit.

Cynthia Franklin informs the board that many public objections were received last week, and that AS 04.11.470 requires that the board hold a hearing under AS 04.11.510(b)(2), which requires a 20-day public notice, which was not done. She states that the Mat-Su Borough has lifted its protest to the application but has said that it has received a public appeal and an appeal from the applicant. She states that the matter needs to be tabled in order to meet the legal requirements for a public hearing.

Jenna Lundy-Conner identifies herself for the record as an employee of Mr. Button and provides testimony regarding the protest. She provides copies of the lifted protest from the Borough, the lifted objection from DEC, and a petition that she created. She states that Mr. Button is appealing the hours of operation that were put in the conditional use permit.

Robert Button identifies himself for the record and reiterates that the only condition he is appealing is the hours of operation, and he requests that the board make a decision today regarding the license.

Cynthia Franklin reminds the board and public that the testimony going on right now cannot be considered the public hearing, and she reminds everyone the difference between a protest and an objection. She additionally reads the language from AS 04.11.470 for the record and clarifies for the board that the statute does not require that there be a legal reason for any objection.

Bobby Evans motions to table the application until the next meeting.
Ellen Ganley seconds the motion.
Motion carries unanimously.

Audrey Renschen identifies herself for the record and tells the board that there are about fifteen people in the room who are objecting to the application and asks if she could submit a petition.

Cindy Bettine informs the board that she has a copy of Mr. Button's appeal to the Borough's conditions and states that his testimony today is inconsistent with his written appeal.

John Rush, an appellant, identifies himself for the record and states that he can testify during the February meeting.

Evelyn Rush and Millie Renkert, long-time residents of Rocky Lake and objectors to the application, identify themselves for the record and state that they've driven in to provide testimony.

- B. 5460 Alaska Stillman:** Alaska Stillman, LLC
3 Liarsville Road; Skagway
License: Distillery

[10:56:02 AM](#) **TAB 5**

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.

Cynthia Franklin informs the board that Investigator Steven Johnson visited Skagway, at the request of the board, and that he has submitted a report and photos regarding Skagway Spirits. He was unable to get a hold of anybody.

Bob Klein states that there's a reason why the waiver system exists and that the board does not usually put pressure on a licensee to get going. Skagway Spirits will need to file a waiver for 2016 when it files its renewal application in 2017.

Ellen Ganley states that it seems different to her because this is a very small community that only allows for one license, but that the community has a very large tourism population in the summer.

Cynthia Franklin states that there could be some value in sending a certified letter to the licensee requesting that he be present at a meeting to provide an update.

Joel Probst with Alaska Stillman identifies himself for the record and states that the owner of Skagway Spirits owns a construction company, and that the equipment in the pictures is from that company.

No action.

- C. 4910 Azucar Fina:** Creative Latin Businesses, Inc. [11:07:39 AM](#) **TAB 6**
3677 College Road #9; Fairbanks North Star Borough
License Type: Restaurant / Eating Place

Expired license; lien on license.

Cynthia Franklin informs the board that from the staff's perspective, this license expired by operation of law on February 28, 2015.

Sarah Oates explains what the documents within the board's packet are.

Frederico Anthony's, licensee, identifies himself for the record and provides testimony.

Sarah Oates provides additional clarification regarding the documents and Mr. Anthony's testimony.

Ellen Ganley states that if there is not a valid corporation, then there is no legal basis for a corporation to apply for a license.

Bobby Evans motions to find that the license was not renewed but expired by operation of law, and orders staff to refund the license fee.

Ellen Ganley seconds the motion.

Motion carries unanimously.

- D. 5407 Denali River Cabins:** [11:37:00 AM](#) **TAB 7**
ARAMARK Sports and Entertainment Services, LLC
Mile 231.1 George Parks Highway; Denali Borough
License Type: Restaurant/Eating Place – Public Convenience

Reconsideration of denial of new license application.

Cynthia Franklin reminds the board that this application was denied at the July 20, 2016 meeting, the applicant's attorney had an informal conference with the director, the application was brought back before the board at the October 26, 2016 meeting, and the application was tabled at the request of the applicant's attorney.

Sherman Ernouf, attorney for Aramark, identifies himself for the record and provides testimony regarding the October 26, 2016 board meeting and states that he wants to withdraw the application without a rejection of it.

The application has been withdrawn.

- E. **4170 Tapas:** Tapas, Inc. [11:40:13 AM](#) **TAB 8**
603 Lacey Street; Fairbanks
License: Beverage Dispensary
From: Café de Paris Catering Company DBA Lavelle's Bistro; 575 1st Avenue

Transfer of ownership, location, and DBA change. All statutory requirements have been met.
Local governing body action: City of Fairbanks does not protest
Approvals: Department of Labor, Department of Revenue
Background investigations: Complete
Board meeting delegated: November 19, 2015; tabled February 10, 2016
Department of Environmental Conservation objects pending plan review.

Ellen Ganley motions to deny the application based on DEC's objection.
Bobby Evans seconds the motion.
Motion carries unanimously.

● **RECREATIONAL SITE LICENSES** [11:42:19 AM](#) **TAB 9**

- A. **39 Alaska State Fair:** Alaska State Fair, Inc.
1 Mile South of Palmer; Palmer

Renewal license application.

Cynthia Franklin informs the board that all complete recreational site license renewal applications were brought to this meeting and will be brought to future meetings. She additionally states that for this renewal period, staff has required that recreational site licensees submit a statement with renewals that explains how the license meets the statutory definition of a recreational site license.

Sheri Musgrave, beverage manager for the Alaska State Fair, identifies herself for the record and provides testimony regarding the license, operation of the license, events at the location, and seasons.

Tom Manning motions to approve the recreational site license for the Fair.
Ellen Ganley seconds the motion.
Motion carries unanimously.

● **PROTESTS**

- A. **5410 Open Wine Distributors:** 49th State Imports & Distrib., LLC [11:47:53 AM](#) TAB 10
1153 E 74th Avenue, Unit A; Anchorage
License: Wholesale – Malt Beverage & Wine

New license application. All statutory requirements have been met.

Background investigations: Complete

Municipality of Anchorage protests pending certification from the Department of Health & Human Services.

Ellen Ganley motions to continue delegation of the application.

Bobby Evans seconds the motion.

Motion carries unanimously.

● **SECURITY INTEREST TRANSFERS**

[11:49:58 AM](#)

Ellen Ganley motions to approve the transfers.

Bobby Evans seconds the motion.

Motion carries unanimously.

- A. **596 Knik Bar & Liquor Store:** KKSK, LLC TAB 11
10204 S Knik Goose Bay Road; Mat-Su Borough
License: Package Store
From: Donnelly, Inc. DBA Knik Liquor Store

Transfer of ownership with security interest agreement. All statutory requirements have been met.

Local governing body action: Pending Matanuska-Susitna Borough

Approvals: Department of Labor, Department of Revenue

Background investigations: Pending

- B. **597 Knik Bar & Liquor Store:** KKSK, LLC TAB 12
10204 S Knik Goose Bay Road; Mat-Su Borough
License: Beverage Dispensary
From: Donnelly, Inc. DBA Knik Bar & Grill

Transfer of ownership with security interest agreement. All statutory requirements have been met.

Local governing body action: Pending Matanuska-Susitna Borough

Approvals: Department of Labor, Department of Revenue

Background investigations: Pending

● **BREAK**

[11:51:59 AM](#)

● **DELEGATED CONSENT AGENDA**

[12:05:20 PM](#) TAB 13

Ellen Ganley clarifies that 4941 is in the City of Fairbanks.

Marvin Yoder motions to approve all licenses with delegation.

Tom Manning seconds the motion.
Motion carries unanimously.

5524 Barnaby Brewing Company: Barnaby Brewing Company, LLC
206-1 N. Franklin Street; Juneau
License: Brewery

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

4344 Chiang Mai Restaurant: Chiang Mai Restaurant, LLC
338 Old Steese Highway; Fairbanks
License: Restaurant / Eating Place
From: Air Choummittaphanh & Southsakone Pheunmany DBA Siam Dishes

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

4377 Growlers, Whiskey, and Wine: New Party Time Liquors, Inc.
610-B W 6th Avenue; Anchorage
License: Package Store
From: New Party Time Liquors, Inc. DBA New Party Time Liquors; 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

3767 Humdinger's Gourmet Pizza Co.: Humdinger's Gourmet Pizza Co., LLC
173 S Valley Way; Palmer
License: Restaurant / Eating Place
From: Lih & Tracy Tzou DBA Peking Garden; 775 W Evergreen

Transfer of ownership, location, and DBA change. All statutory requirements have been met.
Local governing body action: Pending City of Palmer
Approvals: State Fire Marshal
Pending: Department of Environmental Conservation, Department of Labor, Department of Revenue
Background investigations: Pending

4695 Klondike Brewing Co.: Gold Rush Brewery, LLC

365 2nd Avenue; Skagway

License: Brewery

From: Mile 1.7 Klondike Highway; Judy Beauchemin-Hall (50%) and Floyd Thomas Hall (50%)

To: Alaska Stillman, LLC (51%), Judy Beauchemin-Hall (25%), and Floyd Thomas Hall (24%)

Transfer of controlling interest, location, and DBA change. All statutory requirements have been met.

Local governing body action: Pending Municipality of Skagway Borough

Approvals: Department of Labor, Department of Revenue

Pending: State Fire Marshal, Department of Environmental Conservation

Background investigations: Pending

752 Sak Town: Jared Wallace

11770 Seward Highway, Suite 1; Kenai Peninsula Borough

License: Package Store

From: SAKTown Liquor, LLC DBA SAKTown Liquor

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

Local governing body action: Pending Kenai Peninsula Borough

Pending: Department of Labor, Department of Revenue

Background investigations: Pending

4941 Seoul Gate Restaurant: Seoul Gate, Inc.

958 Cowles Street, Suite 164

License: Restaurant / Eating Place

From: Chong Pak

Transfer of ownership. All statutory requirements have been met.

Local governing body action: Pending City of Fairbanks

Pending: Department of Labor, Department of Revenue

Background investigations: Pending

3909 Seward Marketplace: AK, Inc.

1711 Old Seward Highway; Seward

License: Package Store

From: Three Bears Alaska, Inc. DBA Three Bears

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

Local governing body action: Pending City of Seward

Approvals: Department of Revenue

Pending: Department of Labor

Background investigations: Complete

1263 The Yakutat Lodge: Yakutat Adventures, LLC

989 Airport Road; Yakutat

License: Beverage Dispensary

From: Alaskan Airport Properties, Inc. DBA Yakutat Lodge

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

Local governing body action: Pending City & Borough of Yakutat

Approvals: Department of Labor, Department of Revenue

Background investigations: Pending

1264 The Yakutat Lodge: Yakutat Adventures, LLC

989 Airport Road; Yakutat

License: Package Store

From: Alaskan Airport Properties, Inc. DBA Yakutat Lodge

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

Local governing body action: Pending City & Borough of Yakutat

Approvals: Department of Labor

Pending: Department of Revenue

Background investigations: Pending

534 Three Bears: Three Bears Alaska, Inc.

No Premises; Houston

License: Package Store

From: Burkeshore Marina Enterprises, LLC DBA Houston Lodge

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

Local governing body action: Pending City of Houston

Approvals: Department of Revenue

Pending: Department of Labor

Background investigations: Complete

2805 Turnagain Arm Pit BBQ: Turnagain Arm BBQ Pit, LLC

27959 Seward Highway (Indian); Anchorage

License: Beverage Dispensary

From: Turnagain House, LLC DBA Pepe's Turnagain House

Transfer of ownership 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

5520 Valdez Brewing Company: Valdez Brewing Company, LLC
101 Hazelet Avenue; Valdez
License: Brewery

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

END OF DELEGATED CONSENT AGENDA

● **FIRST AND SECOND WAIVERS**

[12:10:33 PM](#) [TAB 14](#)

Ellen Ganley motions to approve the first and second waivers.
Bobby Evans seconds the motion.
Motion carries unanimously.

1992 Brown Jug: Liquor Stores USA North, Inc.
No Premises; Anchorage
License: Package Store

Second waiver application.

2159 Club 210 East: Club 210 East, Inc.
No Premises; Anchorage
License: Beverage Dispensary

Second waiver application.

4580 Las Margaritas: Las Marg, LLC
8001 Old Seward Highway; Anchorage
License: Beverage Dispensary

First waiver application.

4170 Lavelle's Bistro: Café de Paris Catering Co.
575 1st Avenue; Fairbanks
License: Beverage Dispensary

First waiver application.

3767 Peking Garden: Lih & Tracy Tzou
775 W Evergreen; Palmer
License: Restaurant / Eating Place

First waiver application.

5357 Sourdough Mining Company: Sourdough Mining Co., an AK Restaurant, Inc.
5200 Juneau Street; Anchorage
License: Restaurant / Eating Place

First waiver application.

1566 Steve's Sports Bar & Grill: SLF International, Inc.
No Premises; Anchorage
License: Beverage Dispensary

Second waiver application.

● **THIRD WAIVERS**

A. 1198 Brown Jug: Liquor Stores USA North, Inc. [12:11:59 PM](#) [TAB 15](#)
No Premises; Anchorage
License Type: Package Store

Dick Rosston, attorney for Liquor Stores USA North, identifies himself for the record and provides testimony that the licensee has been trying very hard to find a site for the license over the past three years.

Ellen Ganley motions to approve the third waiver with the understanding that a fourth waiver will not be available.
Bobby Evans seconds the motion.
Motion carries unanimously.

B. 534 Houston Lodge: Burkeshore Marina Enterprises, LLC [12:17:35 PM](#) [TAB 16](#)
No Premises; Houston
License Type: Package Store

Nick Gittlein, Burkeshore Marina, identifies himself for the record.
Sarah Oates reminds the board that the transfer of this license to Three Bears was approved with delegation a few minutes ago.

Bobby Evans motions to approve the third waiver.
Ellen Ganley seconds the motion.
Motion carries unanimously.

C. 612 King Mountain Lodge: King Mountain Lodge, LLC [12:19:22 PM](#) [TAB 17](#)
34097 N Glenn Highway; Mat-Su Borough
License Type: Beverage Dispensary

Ellen Ganley motions to approve the waiver with the stipulation that a fourth waiver will not be granted.
Bobby Evans seconds the motion.
Motion carries unanimously.

● **NOTICES OF VIOLATION**

A. Notices of Violation Issued and Licensee Responses

[12:20:17 PM](#) [TAB 18](#)

Cynthia Franklin informs the board that the Petersburg Moose Lodge was issued an accusation, and that they and their attorney had an informal conference with her. By the time they got to this meeting, there had been numerous trainings by the licensee, and a problem member has been removed from the lodge. Director Franklin has made the decision to remove the accusation because of the trainings and the fact that the Petersburg police department has complete access to the lodge at all hours.

James Hoelscher informs the board that Little Italy has been issued two NOVs, the second is because the licensee has not responded to the first.

● **ALCOHOL SERVER EDUCATION COURSE PROVIDERS**

A. Access in Rural Communities

[12:24:05 PM](#) [TAB 19](#)

James Hoelscher provides the board background as to why this has come up. The most common NOV issued is for expired alcohol server education, and a common reason given by licensees in rural areas is because the classes are not provided online. Investigator Hoelscher states that his interpretation of the regulation is that if a person is unable to attend the in-person course that's provided once a month, that he/she should be able to take the course online, as the intent is to have people educated.

Cynthia Franklin adds that a common complaint from people who have expired server education cards is that they sign up for a class that's offered in-person by CHARR, but that nobody from CHARR comes to give the class. When the individuals call CHARR, they are told that because there are in-person courses provided in the community, they are not allowed to take the course online.

Dale Fox, Alaska CHARR, states that he is looking for clarification about providing online courses. He states that people who say they are unable to take the course are fibbing. He states that he has provided the class records, including sign-in sheets, to the investigators.

James Hoelscher clarifies that he does not want to replace an in-person course; he wants people to have alcohol server education available if they are unable to attend an in-person course so that they aren't working without any education.

Harriet Milks states that the "or" in the regulation requires that the applicant provide for the scenarios being described.

Bob Klein states that interface is crucial, and that the middle ground would be to provide an online course during specific hours with an instructor available immediately.

Dale Fox requests a definition of "rural" from the board.

Bob Klein requests that Mr. Fox determine which areas he wants to hold classes, and all other communities are considered “rural”.

Bobby Evans states, as the rural member, that he agrees that they should have online classes available.

Harriet Milks states that she is concerned that the board is making policy decisions that will have an impact on communities without public notice given. She states that this decision is something that needs to be changed through a regulation.

James Hoelscher requests that the board require course providers to make the online courses available to communities that meet the current definition of “rural” in our laws.

Sarah Oates informs the board and the public that course providers will be contacted this year for review as required under AS 04.21.205(d).

Bob Klein instructs Investigator Hoelscher and Mr. Fox to meet before the February meeting and try to come up with a recommendation.

● REGULATIONS

A. Update on Status of Open Projects

[2:27:43 PM](#)

[TAB 20](#)

Cynthia Franklin updates the board on the status of open regulations projects.

Sarah Oates informs the board that AS 04.11.130(e) for consumption at breweries has been essentially copied to clarify the rules around consumption at wineries, with a minor change that would differentiate between wine and cider, the latter of which typically has an alcohol content more like that of beers.

Harriet Milks requests that subsection (a)(1) add cider, so that cider with an alcohol content of 8.5 percent or more is clearly covered under the regulation.

Tom Manning motions to accept the winery license draft to be put out for public notice, as amended.

Ellen Ganley seconds the motion.

None opposed.

Cynthia Franklin informs the board that this amendment would require that all employees of licensees and permittees who sell or serve alcohol to the public or check ID receive alcohol server education.

Bobby Evans motions to approve the draft to be put out for public comment.

Ellen Ganley seconds the motion.

Motion carries unanimously.

● EXECUTIVE SESSION

A. **5004 The Summit:** The Alaska Club, Inc. 11001 O’Malley Centre Drive; Anchorage

[1:11:02 PM](#)

[TAB 21](#)

License: Recreational Site

Denial of renewal license application.

Bobby Evans motions to enter into executive session.
Tom Manning seconded the motion.
None opposed.

Bob Klein clarifies for the record that all staff and attorneys will be absent; the session will just include only the board and the administrative law judge.

Meeting Resumes

[2:22:30 PM](#)

Ellen Ganley motions to renew license #5004 The Summit, for the years 2017 – 2018.
Tom Manning seconds the motion.
Judge Mandala states for the record that the authority for this action would be under AS 44.64.060(e)(3) – the board adopts the proposed decision, as revised.
Motion carries unanimously.

Bob Klein clarifies for the record that the licensee would be able to resume operation beginning on January 1, 2017.

● **NEXT ABC BOARD MEETING**

[2:39:52 PM](#)

Cynthia Franklin hands a sheet out to the board with potential future board meeting dates for 2017 and 2018.

Next ABC Board meeting is February 1, 2017 in Juneau.

● **NEXT ABC BOARD MEETING**

[2:45:05 PM](#)

Bobby Evans motions to adjourn.
None opposed.

Minutes reviewed and approved by:



Cynthia A. Franklin
Director



Sarah D. Oates
Program Coordinator