

## October 26, 2016 ABC BOARD RAW MEETING MINUTES

**\*Meeting minutes are 43 minutes fast (actual start time is 9:21am)**

### Call to Order

[10:04:12 AM](#)

#### Present:

Bob Klein (telephonic)

Bobby Evans

Ellen Ganley (telephonic)

Marvin Yoder (telephonic)

Tom Manning (telephonic)

Cynthia Franklin (telephonic)

Sarah Oates (telephonic)

Harriet Milks (telephonic)

### Director's Report

[10:05:29 AM](#)

Cynthia Franklin gives the board licensing, enforcement, and administrative updates.

James Hoelscher, Investigator IV, provides the board enforcement updates and statistics.

### July 20, 2016 Meeting Minutes

[10:21:30 AM](#)

Tom Manning motions to accept the minutes.

Marvin Yoder seconds the motion.

Motion carries unanimously.

### Public Testimony

[10:22:26 AM](#)

Robin Truvallo, Big Lake resident, provides testimony regarding children, alcohol, and community councils.

### Azucar Fina

[10:31:30 AM](#)

Marvin Yoder motions to instruct the staff to refund the license fee to the licensee, since the license was never renewed.

Frederico Anthony's, licensee, provides testimony.

Bob Klein instructs Mr. Anthony's to provide documentation for the December meeting to support his claim that he submitted a renewal application on time.

Ellen Ganley motions to table until the December, 2016 meeting.

Marvin Yoder seconds the motion.

Motion carries unanimously.

**Hoarfrost Distilling**

[10:51:46 AM](#)

Ellen Ganley motions to reconsider and approve the license.

Tom Manning seconds the motion.

Motion carries unanimously.

**Alaska Stillman**

[10:55:50 AM](#)

Joel Probst, applicant, identifies himself for the record and provides testimony regarding Skagway Spirits.

Ellen Ganley motions to table until the December, 2016 meeting.

Tom Manning seconds the motion.

Motion carries unanimously.

**KBI Spirits**

[11:06:26 AM](#)

Kyle Crow, Kodiak resident and borough assembly member, provides testimony as a public member and answers board questions.

Bobby Evans motions to deny the transfer.

Marvin Yoder seconds the motion.

Motion carries unanimously.

**907 Club**

[11:21:23 AM](#)

Robert Button, applicant, provides inaudible testimony.

A female also provides inaudible testimony.

Ellen Ganley motions to table until the December, 2016 meeting so that they can hear the results of the Mat-Su Borough's November 7, 2016 hearing.

Tom Manning seconds the motion.

Motion carries, 4-0 (Marvin Yoder absent).

**Break**

[11:33:05 AM](#)

**BABA PIZZA & SUB**

[11:43:29 AM](#)

No action.

Richard Robb, City of Bethel Mayor, provides testimony and informs

[11:52:38 AM](#)

the board that the City of Bethel has since denied the Conditional Use Permit.

Ellen Ganley motions to deny the license based on the City's protest.  
Tom Manning seconds the motion.  
Motion carries unanimously.

**China Garden**

[11:45:29 AM](#)

No action, delegation continues.

**Dimitri's Restaurant**

[11:47:11 AM](#)

Richard Robb, City of Bethel Mayor, provides testimony about the applicant's lack of communication with the City and lack of compliance.

Marvin Yoder motions to uphold the protest and deny the license.  
Ellen Ganley seconds the motion.  
Motion carries unanimously.

**Hyatt House Anchorage**

[11:56:32 AM](#)

No action, delegation continues.

**Noodle World Alaska**

[11:57:23 AM](#)

No action.

Sarah Oates informs the board that this application has not gone in front of the board at a previous meeting, so the board needs to take action. [12:02:06 PM](#)  
Ellen Ganley motions to approve with delegation.  
Tom Manning seconds the motion.

**Christo's Palace**

[11:58:25 AM](#)

Cynthia Franklin informs the board that certain documents are required on the front end for a transfer with a security interest agreement, and that the staff will be bringing these applications to the board separately.

Tom Manning motions to approve the license with delegation.  
Ellen Ganley seconds the motion.  
Motion carries unanimously.

**No DBA (Alaska Productions, LLC)**

[12:02:41 PM](#)

Cynthia Franklin informs the board that at the time that the applicant submitted the application to transfer the license with a security interest agreement, he received indication from staff that the application was complete, even though the required security interest documents were not submitted. The AAG has informed the director that the applicant could claim reliance.

Ellen Ganley motions to approve the license with delegation.  
Tom Manning seconds the motion.

Ethan Billings, applicant, identifies himself for the record.

Motion to approve with delegation carries unanimously.

### **Consent Agenda**

[12:07:27 PM](#)

Ellen Ganley motions to approve all licenses.  
Tom Manning seconds the motion.  
Motion carries unanimously.

### **Delegated Consent Agenda**

[12:11:32 PM](#)

Bob Klein informs the board that these applications are pending something like a criminal history report or approval from the local governing body or another agency.

Marvin Yoder motions to approve all licenses with delegation.  
Tom Manning seconds the motion.  
Motion carries unanimously.

### **First and Second Waivers**

Ellen Ganley motions to approve the first waivers.  
Tom Manning seconds the motion.  
Motion carries unanimously.

[12:16:43 PM](#)

Tom Manning motions to approve the second waiver.  
Ellen Ganley seconds the motion.  
Motion carries unanimously.

[12:17:34 PM](#)

### **NOVs**

Cynthia Franklin informs the board that Spenard Paradise Inn & Lounge will be receiving an accusation for leasing the license.  
No action.

[12:18:33 PM](#)

### **Regulations Update**

[12:19:59 PM](#)

Cynthia Franklin updates the board on the status of open regulations projects, and she asks for guidance from the board regarding what they're looking for for tourism license parameters.

Cynthia Franklin informs the board that the statute says that a tourism license has to meet the tourism requirements in order to transfer ownership.

Bob Klein requests that the staff provide data at the December, 2016 meeting regarding the number of tourism licenses that do not meet the current room requirements set forth in AS 04.11.400(d)(1).

Cynthia Franklin informs the board that drafts for the other three regulations projects will be provided at the December, 2016 meeting.

### **Lunch Break**

[12:30:42 PM](#)

### **Dave & Buster's**

[1:46:40 PM](#)

Sherman Ernouf and Dan Coffey, legal counsel for Dave & Buster's, provide testimony and answer board questions regarding the application and their proposal for an alternating premises.

The board discusses the concept of allowing a beverage dispensary license to have an alternating licensed premises and allowing alcohol in the video arcade areas.

Ellen Ganley motions to approve the transfer and alternating premises plan with delegation.

Tom Manning seconds the motion.

Motion carries unanimously.

Bob Klein states that any other applications with a similar request must come independently before the board for consideration.

### **Denali River Cabins**

[2:42:50 PM](#)

Sherman Ernouf, legal counsel for ARAMARK Sports and Entertainment Services, provides testimony regarding the proposal for how the applicant will meet the requirements of a restaurant.

Tom Manning motions to reconsider and approve the application.

Marvin Yoder seconds the motion.

Multiple board members state that this proposal does not meet the definition of a restaurant / eating place. Bob Klein states that he wouldn't have an issue with the application if it was for a beverage dispensary – tourism duplicate.

Bobby Evans motions to table the application.  
Ellen Ganley seconds the motion.

Tom Manning withdraws his motion to reconsider and approve the application.  
Marvin Yoder agrees.

Motion to table the application carries unanimously.

### **Olsen's Liquor Store**

[3:05:55 PM](#)

Cynthia Franklin informs the board that there is an open investigation regarding when this license was last operated.

Dan Coffey, legal counsel for Kvichak Pacific, provides testimony and requests that the board table this application until after the first of 2017.

Cynthia Franklin informs the board that adequate public notice was given in order to hear public testimony during a hearing under AS 04.11.510(b)(2).

Alice Ruby, City of Dillingham Mayor, provides testimony regarding the protests of the application. She states that the applicant used a legal description in the notice, rather than the physical address, and that the applicant provided in the Alaska Journal of Commerce instead of using a local publication like the Bristol Bay Times or KDLG radio station. She additionally states that it was the City's protest, and not the applicant's public notice, that informed the community about the transfer.

Representative Bryce Edgmon provides testimony regarding the lack of adequate public notice and voices support regarding the City's protest.

Sarah Oates hands out a letter from Representative Bryce Edgmon dated October 17, 2016.

Lance Nunn, homeowner in the area of the proposed location, provides testimony regarding the lack of public notice.

Alannah Hurley, resident who lives less than a mile from the proposed location, provides testimony in opposition to the transfer, citing public health and public safety reasons.

Donivan Andregg, resident who lives in a four-plex in the same neighborhood as the proposed location, provides testimony in opposition to the transfer.

Sergeant with the Troopers informs the board that he's available for questions regarding public safety.

Gary Hale, resident in the neighborhood, provides testimony in opposition to the transfer, citing bootlegging, public health, and public safety reasons.

Charles Cacciola, attorney for City of Dillingham, provides testimony regarding the City's protests.

John Montooth, resident and real estate agent in the area, provides testimony in opposition to the transfer, citing property values and concerns regarding diversion to surrounding dry villages.

Ayla Budrow, resident in the area, provides testimony in opposition to the transfer.

Juliana Montooth, resident and physician in the area, provides testimony in opposition to the transfer, citing public health and public safety reasons.

Ed Budrow, resident in the area, provides testimony in opposition to the transfer, stating that the public posting at the US Post Office did not happen.

Jessica Denslinger, resident in the area, provides testimony in opposition to the transfer, citing public health and public safety reasons.

Ellen Ganley has to leave the meeting to catch a flight.

Lecia Scotford, resident and physician in the area, provides testimony in opposition to the transfer, citing public health and public safety reasons.

Tom Manning motions to table the application until the first meeting in 2017.

Marvin Yoder seconds the motion.

Motion carries unanimously, 4-0.

### **Executive Session: The Summit**

**[4:27:11 PM](#)**

Judge Mandala identifies herself for the record.

Bob Klein asks Judge Mandala if it would be alright with her if the board tabled this matter until the December 5, 2016 meeting, as one of the board members had to leave to make a flight, and he feels like it's important that all five members are present for this topic.

Judge Mandala states that it is.

Harriet Milks informs the board that legal counsel for The Alaska Club was notified that this matter could end up being moved to the December 5, 2016 meeting, as the agenda is very full.

Fred Odsen, legal counsel for The Alaska Club, identifies himself for the record and states that discussing this matter at the December 5, 2016 meeting would not cause irreparable harm to his client.

Bob Klein states that if no one objects, that he will move this to the December 5, 2016 agenda.  
No objection.

**Mat-Su Resort**

[4:34:19 PM](#)

Bob Klein reiterates that the board has requested that staff provide data at the next meeting regarding tourism licenses.

Tom Manning motions to approve the license.  
Marvin Yoder seconds the motion.  
Motion carries unanimously, 4-0.

**Westmark Inn Skagway – Glacier Lounge**

[4:36:53 PM](#)

Tom Manning motions to approve the license.  
Marvin Yoder seconds the motion.  
Motion carries unanimously, 4-0.

**Next ABC Board Meeting**

[4:38:25 PM](#)

December 5, 2016 in Anchorage.

**Papa Rod's**

[4:39:06 PM](#)

Cynthia Franklin informs the board that she was informed by Investigator Steve Johnson that an item that was approved on the Consent Agenda is actually a food truck, just like Deckhand Dave's, and is at the same location.

Bob Klein states that the approval is with the understanding that staff and enforcement should be comfortable that it's a bona fide location.

**Adjourn**

[4:42:51 PM](#)