

## **APRIL 26, 2016 ABC BOARD RAW MEETING MINUTES**

**\*Meeting minutes are 33 minutes fast**

**Director's Report** [9:50:36 AM](#)

**Call to Order** [9:49:13 AM](#)

**Bob Klein, Tom Manning, Ellen Ganley (telephonic)  
Marvin Yoder (in-person)  
Cindy Franklin, Harriet Milks, Sarah Oates, Jane Sawyer, Naomi Johnston, John Calder,  
James Hoelscher, Kendrick Whiteman (in-person)  
Rich Finney (telephonic)**

**Bobby Evans joins the meeting (telephonic)** [9:55:36 AM](#)

**Discussion regarding when Marvin Yoder's seat will be vacated due  
to the passing of SB 165 requiring a public safety member** [9:56:14 AM](#)

**Bob Klein discloses that he has a license application coming before the  
board at this meeting** [9:58:05 AM](#)

**February 10, 2016 Meeting Minutes** [9:58:47 AM](#)

**Marvin Yoder motions to approve the minutes  
Ellen Ganley seconds the motion  
Motion carries unanimously**

**PUBLIC TESTIMONY** [9:59:30 AM](#)

Dave Coleman asks Director Franklin if the handouts that he mailed were provided to the board.

Director Franklin informs the board that a transfer application was filed, but the board had received a court injunction prohibiting transfer of the license. A court order for the transfer of the license was later received. Director Franklin did not bring the application to the board because a stock transfer occurred, prior to the ownership transfer being approved, without a transfer application being filed with the ABC Board.

Dave Coleman provides additional testimony regarding his application and the court orders.

Harriet Milks informs the board that the grocery store can still operate without the liquor license, and discusses the court order with the board.

Bob Groseclose, Attorney for Dave Coleman, provides testimony regarding the settlement agreement, court orders, and application.

Harriet Milks informs the board that Mr. Coleman does not have the authority to receive this license at this time. The settlement agreement needs to be completed and proper documentation needs to be provided to staff before the license can be transferred to him.

Cynthia Franklin informs the board that the representation that the board has received the necessary documentation to transfer the license is incorrect.

Bob Klein states that the board cannot decide on this today, but that the attorneys and the director need to sit down and decide what documentation is needed to proceed.

Robert Ferguson requests that #493 DBA Ninilchik Trading be pulled from the [10:43:40 AM](#) consent agenda and be reviewed independently, as a member of the public wishes to provide testimony regarding the application.

Bob Klein agrees to review the application independently.

## **REGULATIONS**

[10:30:05 AM](#)

**Alcohol Server Education for Permittees**

**Common Carrier**

**Distillery**

**Management Agreements**

**Alternating Premises**

**Restaurant Designation Permit**

**Marvin Yoder motions to send all six draft regulations out for public comment**

**Tom Manning seconds the motion**

**Motion carries unanimously**

**Recommend Investigator Kendrick Whiteman to carry firearm**

[10:53:52 AM](#)

**Ellen Ganley motions to approve with delegation, pending written concurrence from the Commissioner of the Department of Public Safety**

**Tom Manning seconds the motion**

**Motion carries unanimously**

**Recommend Investigator Amanda Bean to carry firearm**

[10:56:16 AM](#)

**Marvin Yoder motions to approve with delegation, pending written concurrence from the Commissioner of the Department of Public Safety**

**Tom Manning seconds the motion**

**James Hoelscher informs the board that Investigator Bean has received police training.**

**Motion carries unanimously**

## **DISCUSSION OF POLICIES**

[10:58:11 AM](#)

### **Permits Directive**

No objection from the board.

### **Premises Certification for Dedesignation**

No objection from the board.

### **Permits at Manufacturing Licensed Premises**

Cynthia Franklin states for the record that each application will continue to be considered on a case-by-case basis, but that when more than one per month is applied for, there will be additional inquiry and possible denial if the permits are being used to operate a manufacturing facility like a bar.

Marvin Yoder, Bob Klein, and Bobby Evans voice support.

### **Wholesale Licenses in Storage Units**

James Hoelscher provides additional testimony regarding difficulty of inspections.

Bob Klein and Marvin Yoder voice support.

### **Cross-Marketing of Alcohol and Marijuana**

No objection from the board.

### **Determining Population Criteria**

### **Delegation Drawer Update**

**Bob Klein leaves the meeting and passes the gavel to Marvin Yoder.**

[11:38:59 AM](#)

**BREAK**

[11:39:10 AM](#)

### **AK Alchemist (MOA Waives Protest, with Conditions)**

[11:47:55 AM](#)

Dan Coffey, Attorney for AK Alchemist, LLC, submits a memo with an exhibit and provides testimony. Adam Blomfield, shareholder of AK Alchemist, LLC, is present.

Harriet Milks states that the board needs to determine if the conditions are arbitrary, capricious, and unreasonable, and if they aren't, then the board needs to issue the license with the conditions.

Dan Coffey requests that the board to approve this license with delegation until the construction is complete and allow the applicant to go back to the Municipal Assembly to resolve the issues.

Todd Sherwood, Municipal Attorney, provides testimony stating that the letter from the Municipal Clerk's Office that stated that the protest was lifted was sent in error, as the Assembly Resolution did not give the staff the authority to do so.

Harriet Milks states that she believes that approval with delegation is the way to go.

**Tom Manning motions to approve with delegation**

**Ellen Ganley seconds the motion**

**Motion carries unanimously (4-0, Bob Klein absent)**

**Blue Loon (Consideration of RDP)**

[12:15:22 PM](#)

James Hoelscher provides testimony, recommending that the RDP for license #3195 be approved with the following restrictions: item 4 be approved in the kitchen area only, and items 2 and 3 be denied, and that an RDP for duplicate license #4834 be denied.

Richard Finney provides testimony, agreeing to Mr. Hoelscher's testimony and adding that across the street from the Blue Loon parking lot is a halfway house. He states that the establishment is known as a bar, and that it is likely that persons under the age of 21 would come to and remain on the premises for purposes other than dining, in violation of 3 AAC 304.725(a)(3).

Adam Wool provides testimony, mentioning types of events that he holds on his premises and access to the balcony, reading written letters of support from former Fairbanks North Star Borough (FNSB) Mayor, Luke Hopkins, and current FNSB Mayor, Karl Kassel (submitted at the meeting), and reading 3 AAC 304.725(d).

Ellen Ganley states that as a resident of Fairbanks, she knows the Blue Loon as both a bar and as a place to go watch movies, and she's intrigued by the FNSB mayors' letters of support.

Bobby Evans states that this is another example of the board trying to stretch the rules to accommodate one person, and that he is not in favor of it.

**Tom Manning motions to grant designation with the delegation that both the physical and staffing of this premises during events be designed and approved by staff.**

**Ellen Ganley seconds the motion**

**Motion carries, 3-1 (Bobby Evans votes No)**

**Sarah Oates clarifies that the only application submitted was for license #3195.**

**Cynthia Franklin and James Hoelscher clarify that the balcony is included in the licensed premises for #4834.**

**Tom Manning amends his motion to exclude item #2**

**Ellen Ganley seconds the motion**

**Harriet Milks suggests that this be broken down into the different licensed premises.**

**Cynthia Franklin requests that the board start with the RDP for license #3195.**

**Marvin Yoder rules the amendment out of order.**

**Tom Manning motions to reconsider the original motion.**

**Bobby Evans seconds the motion**

**Ellen Ganley motions to designate license #3195 as a bona fide restaurant.**

**Tom Manning seconds the motion**

**Motion carries, 3-1 (Bobby Evans votes No)**

**Marvin Yoder asks if anyone wishes to entertain a motion to designate #4384 as a bona fide restaurant.**

**No motion**

**Marvin Yoder asks if anyone wishes to entertain a motion to add any other items to the RDP for license #3195.**

**Bobby Evans motions to include the staff recommendation to add item #4.**

**No second**

**BRIEF RECESS**

**Bobby Evans motions to include item #4 as recommended by staff**  
**Tom Manning seconds the motion**  
**Motion carries unanimously**

[1:25:02 PM](#)

**Marvin Yoder asks if anyone wishes to entertain a motion to add item #2**  
**No motion**

**Ellen Ganley motions to approve item #3**  
**Tom Manning seconds the motion**  
**Motion carries, 3-1 (Bobby Evans votes No)**

**BREAK**

[1:28:24 PM](#)

**Pangea Restaurant and Lounge (Fraudulent Renewal)**  
Rob Corbisier, Attorney for Eureka Services, Inc., provides testimony.  
Abraham Gallo testifies that his restaurant has only been open for a few months.

[1:49:57 PM](#)

**Tom Manning motions to deny the renewal because it was not properly filed**  
**Ellen Ganley seconds the motion**  
**Motion carries unanimously**  
**Marvin Yoder confirms the board decision means that operation of the license must cease immediately.**

**Skagway Spirits**

[2:14:58 PM](#)

Cynthia Franklin provides an update on the status of this license: the license is ready to be issued once proof of an approved TTB permit has been received.

**Tom Manning motions to continue delegation to the director for this license**  
**Ellen Ganley seconds the motion**  
**Motion carries unanimously**

**Alaska Stillman (New License Application)**

[2:18:59 PM](#)

Cynthia Franklin informs the board that this is not considered a competing application, and she has informed the applicant for this license of the procedures under AS 04.11.400(a).  
Joel Probst, applicant, provides testimony, and asks the board to table this decision until the next meeting.

**Tom Manning motions to table the decision of this license until the July meeting**

**Bobby Evans seconds the motion**  
**Motion carries unanimously (3-0, Ellen Ganley not present)**

**The Broiler (CBJ Waives Protest, with Condition)** [2:27:45 PM](#)  
Cynthia Franklin requests that the board table discussion until the July meeting in order for the staff to meet the notice requirements of AS 04.11.480(c).

**Tom Manning motions to table the decision of this license until the July meeting**  
**Bobby Evans seconds the motion**  
**Motion carries unanimously**

#### **EXTENSION REQUESTS**

**Alaska Wine Guy** [2:31:22 PM](#)

**Tom Manning motions to approve the extension until December, 2016**  
**Ellen Ganley seconds the motion**  
**Motion carries unanimously**

**Yukon Inn** [2:33:06 PM](#)  
Danielle Gardner, Attorney for Josephine Malemute, informs the board that the transfer paperwork has been mailed to the office.

**Tom Manning motions to approve the extension until the July meeting**  
**Ellen Ganley seconds the motion**  
**Motion carries unanimously**

#### **REINSTATEMENT AND RENEWAL REQUESTS**

**Isanotski Liquors** [2:35:13 PM](#)  
Kim Smith, President of Isanotski Liquors tells the board that they've provided everything in writing.

**Tom Manning motions to reinstate due to good cause for being late**  
**Ellen Ganley seconds the motion**  
**Motion carries unanimously**

**Sportsmen's Paradise** [2:37:54 PM](#)  
Doug Frederick, licensee, provides testimony that he thought it was mailed out and it was oversight.

**Tom Manning motions to reinstate  
Ellen Ganley seconds the motion for discussion  
Motion carries, 3-1 (Ellen Ganley votes No)**

## **COMPETING APPLICATIONS**

[2:41:24 PM](#)

### **Crush**

Chad Culley and Robert Delucia, shareholders of Grape Brothers, LLC, provide testimony about their current businesses and their business plans at the new proposed location. They additionally state that planning and zoning has already approved their conditional use permit, and that it's scheduled to be approved by the Assembly at the May 24<sup>th</sup> meeting.

### **Firetap**

Dan Coffey, Attorney for O'Malley Alehouse & Pizza, LLC, submits a memo and provides testimony.

Diane Thompson, shareholder of O'Malley Alehouse & Pizza, LLC, states that the premises is not built out or ready for operation as a package store, as she is waiting for the board decision before investing the money to do so.

**Cynthia Franklin requests that the board discuss and make a good record of the factors they consider.**

Marvin Yoder asks how this would affect seating in Firetap.

Diane Thompson says that the number of seats would remain the same.

Tom Manning asks how far the closest existing package store license is to the proposed premises for Firetap.

Cynthia Franklin states that WineStyles is in the next strip mall over.

Ellen Ganley states that both licensees are good long-time operators, and that she can't find a compelling reason to pick one over the other.

**Ellen Ganley motions to find that both applicants are qualified and that a distinction or preference cannot be made between the two of them by considering the factors listed in 3 AAC 304.112(e).**

**Bobby Evans seconds the motion**

**Motion carries unanimously**

Cynthia Franklin brings out a can and asks that both applicants examine a can with two envelopes in it, each containing the name and number

Marvin Yoder draws out an envelope with the "5448 Firetap" written on it.

**Tom Manning motions to approve the Firetap license**

**Ellen Ganley seconds the motion**

**Motion carries unanimously**

## **RENEWAL PROTESTS**

### **Fantasies on 5<sup>th</sup>**

[3:16:46 PM](#)

Yana Tatarinova provides testimony on behalf of herself, Elizabeth Alta Wilson, Myonghee Harter, and Christy Kimura (physically present) regarding the written protests that were filed.

Todd Sherwood, MOA Attorney, provides testimony.

Cynthia Franklin recommends to the board that the decision be tabled until the July, 2016 meeting, to wait until the Assembly can hold a protest hearing.

Brian Stibitz, Attorney for Fantasies on 5<sup>th</sup> Avenue, LLC, does not object to tabling.

Todd Sherwood does not object to tabling.

Donna Nass does not object to tabling.

The public objectors (Ms. Tatarinova, Ms. Wilson, Ms. Harter, and Ms. Kimura) do not object tabling.

**Tom Manning motions to table discussion and decision until the July, 2016 meeting.**

**Bobby Evans seconds the motion**

**Motion carries (3-0, Bobby Evans does not vote)**

### **McKinley View Lodge**

[3:27:19 PM](#)

Cynthia Franklin informs the board that the Mat-Su Borough has lifted its protest.

**No Action**

### **Slippery Salmon Bar & Grill (Renewal Protest)**

[3:27:40 PM](#)

Dick Rosston, Attorney for 115 E 5<sup>th</sup> Avenue, LLC, provides testimony that the licensee has applied for a loan to pay the taxes and that 30 days should be an acceptable amount of time to get this completed. He also discusses the reason for three transfer applications for the same license

**Tom Manning motions to uphold the protest of the renewal with a 30-day abeyance to have the protest lifted.**

**Bobby Evans seconds the motion**

**Motion carries unanimously**

## **PROTESTS**

### **Crush**

[3:34:21 PM](#)

**Tom Manning motions to delegate approval of the transfer to the director**

**Ellen Ganley seconds the motion**

**Motion carries unanimously**

**Dennys**

[3:35:38 PM](#)

Dan Coffey, Attorney for D. of Alaska, Inc., provides testimony and requests approval with delegation.

**Tom Manning motions to approve with delegation**

**Bobby Evans seconds the motion**

**Motion carries unanimously**

**Dish Japanese Restaurant**

[3:38:03 PM](#)

Cynthia Franklin informs the board that staff has received a letter rescinding the application.

**No Action**

**Hoarfrost Distilling**

[3:38:27 PM](#)

**Tom Manning motions to uphold the protest and deny the license**

**Ellen Ganley seconds the motion**

**Motion carries unanimously**

**Johnny Chicago's**

[3:41:45 PM](#)

**Tom Manning motions to uphold the protest and deny the license**

**Bobby Evans seconds the motion**

**Motion carries unanimously**

**Quake! Brewing Company (REPL & Brewpub)**

[3:43:13 PM](#)

**Tom Manning motions to table until the July meeting**

**Bobby Evans seconds the motion**

**Motion carries unanimously**

**BREAK**

[3:45:29 PM](#)

**OBJECTION HEARINGS**

**KBI Spirits**

[3:52:16 PM](#)

Wayne Sargent, licensee, provides testimony.

**Tom Manning motions to table decision until the July meeting**

**Ellen Ganley seconds the motion**

**Motion carries unanimously**

**Morning Wood Hotel Bar**

**[4:04:24 PM](#)**

Elizabeth Smith, applicant, provides testimony.

**No Action**

**Terry's Fish and Chips**

**[4:11:41 PM](#)**

Terrance Lee, licensee, provides testimony that he has been making payments and will have this completely paid off in 21 days.

**Ellen Ganley motions to deny the renewal with an abeyance period of 30 days to pay the delinquent taxes**

**Bobby Evans seconds the motion**

**Motion carries unanimously**

**The Pilotlight**

**[4:15:13 PM](#)**

Eric Forster, shareholder of The Pilotlight, LLC, provides testimony.

**Bobby Evans motions to approve the license with delegation**

**Tom Manning seconds the motion**

**Motion carries, 3-1 (Tom Manning votes No)**

**PREVIOUSLY DELEGATED APPLICATIONS STILL PENDING**

**Cannery Bay Restaurant**

**[4:18:31 PM](#)**

**El Dorado**

**Tequila Kitchen Express**

**Wings N Things**

**Tom Manning motions to table discussion of these licenses until July, 2016**

**Ellen Ganley seconds the motion**

**Motion carries**

**Fairbanks Distilling Company**

**[4:19:30 PM](#)**

Cynthia Franklin informs the board that the Certificate of Occupancy has been issued and the protest lifted.

**No Action**

**Winterlake Lodge**

**4:21:03 PM**

Kirsten Dixon, shareholder of Within the Wild Adventure Company, provides testimony and indicates that she will be rescinding her application.

**No Action**

**Bobby Evans has to leave the meeting.**

**4:30:00 PM**

**Acres Beverage Center (Third Waiver)**

**4:32:41 PM**

Jose Cebrian, licensee, provides testimony.

**The board votes that the licensee did not meet the burden of proof to meet the operating requirements for 2014, changing the application before them to that for a fourth waiver.**

**Tom Manning motions to approve the fourth waiver of operation**

**Ellen Ganley seconds the motion**

**Motion fails unanimously**

**Extreme Fun Center (Recreational Site)**

**4:53:14 PM**

Marvin Metiva, Director of Operations, and Cheryl Metiva, Director of Sales & Marketing, provide testimony regarding the facility.

Ellen Ganley asks what the hours of operation for the license would be and whether they are for leagues and competitions, or if people can come in and rent the facility.

**Ellen Ganley motions to approve the license**

**Tom Manning seconds the motion**

**Motion fails, 2-1 (Marvin Yoder votes Yes)**

**BEVERAGE DISPENSARY – TOURISM**

**5:00:41 PM**

**Bore Tide Deli**

**McKinley Chalet Resort – Karstens Public House**

**Rivers Edge Resort & Chena’s Alaskan Grill**

**Salmon Falls Lodge**

**Sealaska Inn & Lounge**

**Slippery Salmon Bar & Grill (stock transfer #1)**

**Slippery Salmon Bar & Grill (stock transfer #2)**

**Slippery Salmon Bar & Grill (ownership transfer)**

**Sushi on the Fly**

Philippe Janicka, representative for Westmark Hotels, Inc., provides testimony regarding McKinley Chalet Resort – Karstens Public House and shows the board a digital copy of the approval from the State Fire Marshal.

**Tom Manning motions to approve all licenses with delegation when necessary  
Ellen Ganley seconds the motion  
Motion carries unanimously**

**Harriet Milks states that she will look into whether or not the board can continue a meeting to a later date without having to give public notice.**

**CONSENT AGENDA**

**[5:06:40 PM](#)**

**Ninilchik Trading pulled from the consent agenda for independent consideration.**

**Tom Manning motions to approve the consent agenda as amended  
Ellen Ganley seconds the motion  
Motion carries unanimously**

**DELEGATED CONSENT AGENDA**

**[5:10:53 PM](#)**

**Tom Manning motions to approve the delegated consent agenda  
Ellen Ganley seconds the motion  
Motion carries unanimously**

**Ninilchik Trading**

**[5:15:53 PM](#)**

Debbie Cary, resident of Ninilchik, provides testimony objecting to the license and asks that the board postpone action on the license.  
James & Sharon Clark, shareholders of Echo Lake Superior Meat & Processing, LLC provide testimony.

**Tom Manning motions to approve the transfer  
Ellen Ganley seconds the motion  
Motion carries unanimously**

**Harriet Milks confirms that public notice for the continuation should be given.**

**RECESSED UNTIL MAY 4, 2016**

**[5:27:09 PM](#)**

**Discussion of the following items will be continue on Wednesday, May 4, 2016:**

**EXECUTIVE SESSION**

**Brown Bag Sandwich Co. (Beverage Dispensary – Duplicate)  
FIRST & SECOND WAIVERS**

**Sicily's Pizza**

**NOTICES OF VIOLATION**

**Loyal Order of Moose #1092**

**Suite 907**

**Notices of Violation Pending Accusations**

**Next ABC Board Meeting Date**