

PENNSYLVANIA LIQUOR CONTROL BOARD

MEETING MINUTES

WEDNESDAY, MARCH 13, 2019
NORTHWEST OFFICE BUILDING, CONFERENCE ROOM 117, HARRISBURG, PA

Tim Holden, Chairman
Mike Negra, Board Member
Charlie Mooney, Executive Director
John Stark, Board Secretary

[Office of Chief Counsel](#)
[Bureau of Licensing](#)
[Bureau of Human Resources](#)
[Bureau of Accounting & Purchasing](#)

[Office of Retail Operations](#)
[Bureau of Product Selection](#)
[Financial Report](#)
[Other Issues](#)

PUBLIC MEETING – 11:00 A.M

Board Secretary John K. Stark indicated that a quorum of the Board was present and Chairman Holden called the meeting to order.

CALL TO ORDER *Chairman Holden*

Pledge of Allegiance to the Flag - Chelsea Howard-Foley - Administration

OLD BUSINESS.....*Secretary Stark*

A. Motion to approve the previous Board Meeting Minutes of the February 27, 2019 meeting.

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve Previous Board Minutes.

PUBLIC COMMENT ON AGENDA ITEMS

The Board has reserved 10 minutes for Public Comment on printed agenda items.

No comments.

NEW BUSINESS

From the Office of Chief Counsel*Rodrigo Diaz, Chief Counsel*

(1) **Borough of Jim Thorpe**
Case No. 19-NE-01

Municipal Petition for Exemption
from the Liquor Code Statute
Regarding Amplified Sound

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve the Petition for Exemption
for the period March 23, 2019 to March 23, 2024.

Note: Board Minutes are not officially approved until all required signatures are affixed.

- (2) **M.T.K. Food Services, Inc.** Proposal to Allow for the Renewal
3250 Easton Avenue of the Liquor License
Bethlehem, Pennsylvania 18020-4266
Restaurant Liquor License No. R-4907
LID 52189

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve Renewal.

- (3) **Your Corner Tavern, Inc.** Request for Rescission of
834 West King Street Modification of Conditional
York, Pennsylvania 17404-3602 Licensing Agreement
Restaurant Liquor License No. R-19291
LID 20125

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve the Request to Rescind the Conditional Licensing Agreement.

- (4) **943 South 9th Street, LLC** Request for Rescission of
943 South 9th Street Conditional Licensing Agreement
Philadelphia, Pennsylvania 19147-3934
Restaurant Liquor License No. R-1250
LID 71039

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve the Request to Rescind the Conditional Licensing Agreement.

- (5) **BCLT, Inc.** Proposed Conditional Licensing
1400 Fifth Avenue Agreement
Pittsburgh, Pennsylvania 15219-6216
Restaurant Liquor License No. R-10019
LID 49876

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve Renewal with Conditional Licensing Agreement.

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- (6) **Philadelphia Film Society** Appeal of Adjudication and Order
1412 Chestnut Street of Administrative Law Judge
Philadelphia, Pennsylvania 19102-2505
License No. PAF-102/LID 72037
Citation No. 18-0258

Motion Made: Board Member Negra
Seconded:

Board Decision: Hold for Further Consideration.

- (7) **GM Investors, LTD. t/a Old Time Saloon** Appeal of Adjudication and Order
201-203 West 7th Avenue of Administrative Law Judge
Conshohocken, Pennsylvania 19428-1639
License No. R-11774/LID 15146
Citation No. 18-0515

Executive Deputy Chief Counsel Fox stated that in April 2018, Licensee was charged with gambling and selling alcohol to a visibly intoxicated person. A hearing was held on the visibly intoxicated person charge only, which the Administrative Law Judge sustained and fined Licensee \$300.00 and required one year of Responsible Alcohol Management Program compliance.

Licensee filed a timely appeal, saying the evidence was insufficient to show it served a visibly intoxicated person.

However, the evidence showed that two undercover Bureau of Liquor Control Enforcement officers sat down at the bar next to a man drinking beer and tequila. The man was very loud, had slurred speech, made sexual comments to a female patron across the bar, jumped from topic to topic, could not hold or operate his cell phone, stumbled, and grabbed the female patron's breast. Other patrons and the bartender told him several times to stop, but he did not. He ordered and received a double whiskey, then another, and became more aggressive. When the officers got up to leave, he stood between them, put his arms around their necks and kissed them.

Licensee's defense was that the man was not drunk, he was always loud, and the female patron was an old friend.

This was a matter of credibility, which is a matter for the Administrative Law Judge to determine. Since there was plenty of evidence to show that Licensee served a visibly intoxicated person, the Office of Chief Counsel recommends that the Administrative Law Judge's decision be affirmed.

Board Member Negra stated, I presume there is no video evidence available? Ms. Fox said no.

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Affirm the Administrative Law Judge.

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(8) **Wood Brothers Bar, Inc.**
200-202 South 13th Street
Philadelphia, Pennsylvania 19107
License No. R-5334/LID 37666
Citation No. 17-0313

Appeal of Adjudication and Order
of Administrative Law Judge

Executive Deputy Chief Counsel Fox stated that this case and the next one stem from citations issued to the same Licensee in 2017. Both citations were for loudspeaker violations (loud music). Following a hearing, the Administrative Law Judge sustained the charges and issued a \$350.00 fine in the first case and a \$400.00 fine in the second case.

Licensee filed timely appeals, saying the evidence was insufficient to sustain the charges.

The testimony of the Bureau of Liquor Control Enforcement officers was similar. They heard loud music coming from the licensed premises on four different occasions, went into the bar and verified that it was coming from Licensee's DJ or sound system. Music could be heard a block away. Although there are a lot of other bars in the area, no audible music was coming from them. The music got louder when Licensee's doors opened.

These cases boiled down to credibility determinations and the Administrative Law Judge had sufficient evidence to decide the way she did. Therefore, the Office of Chief Counsel recommends affirming the Administrative Law Judge's decisions.

Board Member Negra stated that the only part of these cases that was timely was the appeal. He asked Chief Counsel Rodrigo Diaz why this has taken this long to be addressed as the citation was in 2017. Chief Counsel Rodrigo Diaz stated that it was stuck at the Office of the Administrative Law Judge and the Office of the Administrative Law Judge is independent from us. Executive Director Charles Mooney stated that the Pennsylvania Liquor Control Board is addressing this issue and attempting to correct the situation.

Motion Made: Board Member Negra

Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Affirm the Administrative Law Judge.

(9) **Wood Brothers Bar, Inc.**
200-202 South 13th Street
Philadelphia, Pennsylvania 19107
License No. R-5334/LID 37666
Citation No. 17-0827

Appeal of Adjudication and Order
of Administrative Law Judge

Motion Made: Board Member Negra

Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Affirm the Administrative Law Judge.

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(10) Michael D. Norris v. PLCB Appeal to Commonwealth Court
Unemployment Compensation Board of Review,
Appeal No. B-18-09-G-5369

Chief Counsel Rodrigo Diaz stated that this case is about an employee and the acceptance of a gift from a customer. The Unemployment Compensation Board of Review ruled that the fired employee’s testimony was credible and he should receive unemployment compensation benefits as he did not willingly accept a customer’s gift, it was simply left by his register when he was away from it. Chief Counsel Diaz stated that the customer was not a licensee and the Pennsylvania Liquor Control Board tends to be more lenient in cases involving non-licensees rather than licensees, but it is policy not to accept gifts from anyone when you hold a position with the Pennsylvania Liquor Control Board. The Office of Chief Counsel recommends no appeal should be taken to Commonwealth Court in this matter.

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Not Appeal to Commonwealth Court.

(11) Responsible Alcohol Management Program Proposed Regulatory Change

Chief Counsel Rodrigo Diaz stated that it has been a while since the Pennsylvania Liquor Control Board has looked at the Responsible Alcohol Management Program regulations. He stated that online training is acceptable and the structure of the course has been updated. The fees charged for this does not cover the cost of the program. Chief Counsel Diaz continued by stating, this is only the first step, we are open to accept any recommendations and comments made.

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve Submission of the Proposed Regulatory Change.

*From the Bureau of LicensingTisha Albert, Director of Regulatory Affairs
Barbara Peifer, Director, Bureau of Licensing*

(1) Foxburg Wine Cellars, Inc. Request to Conduct Another
Business on the Licensed
Premises – Limited Winery
LK-173 (LID No. 50270)
65 Main Street, P. O. Box 349
Foxburg, Clarion County

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve the Request to Conduct Another Business on the Licensed Premises.

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- (2) **Lehigh Valley Restaurant Group, Inc.** Appointment of Manager –
t/a Red Robin Gourmet Burgers Restaurant
R-5417 (LID No. 51620) Case No. 18-9116
2020 Wilkes Barre Township Marketplace
Wilkes Barre Township
Wilkes Barre, Luzerne County
- Motion Made:** Board Member Negra
Seconded:
- Board Decision:** Hold for a Conditional Licensing Agreement
- (3) **Plains Six Packs to Go, LLC** Double Transfer & Request for
R-10685 (LID No. 95802) Interior Connections with Other
575 East Main Street Businesses - Restaurant
Plains Township, Luzerne County
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Transfer and Request for Interior Connections with Another Business.
- (4) **TH Minit Markets, LLC** “Intermunicipal” Double
t/a Turkey Hill Minit Market #133 Transfer & Request for Interior
R-14538 (LID No. 93217) Case No. 18-9080 Connections with Another
130 East Fifth Street Business - Restaurant
Mount Carmel, Northumberland County
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Transfer and Request for Interior Connections with Another Business.
- (5) **3001 Castor, LLC** Conditional Licensing Agreement
R-9527 (LID No. 56341) Case No. 2018-56341 Renewal – District 10
3001 Castor Avenue
Philadelphia, Philadelphia County
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with New Conditional Licensing Agreement.

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- (6) **4311 Main License, LLC** Renewal – District 10
t/ 4311 Main
R-8136 (LID No. 83480) Case No. 2018-83480
4311 Main Street
Philadelphia, Philadelphia County
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with Existing Conditional Licensing Agreement.
- (7) **Bar-B-Corp.** Conditional Licensing Agreement
t/a Good Old Days Tavern Renewal – District 8
R-16818 (LID No. 24349) Case No. 2018-24349
501 East Street
Bloomsburg, Columbia County **HOLD – 2/13/19 SESSION**
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with New Conditional Licensing Agreement.
- (8) **CM Burns3, LLC** Conditional Licensing Agreement
R-7699 (LID No. 72602) Case No. 2018-72602
215 South Main Street
Wilkes Barre, Luzerne County **HOLD – 1/30/19 SESSION**
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with New Conditional Licensing Agreement.
- (9) **CMB Restaurants, LLC** Conditional Licensing Agreement
R-10562 (LID No. 89928) Case No. 2018-89928
2300 Route 309
Ashley, Luzerne County **HOLD – 1/30/19 SESSION**
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with Conditional Licensing Agreement.

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- (10) **Clinton J. Lewis Lodge No. 201 IBPOE of W** Conditional Licensing Agreement
CC-3680 (LID No. 3487) Case No. 2017-3487 Renewal – District 11
809 Lake Street
Bristol, Bucks County **HOLD – 2/13/19 SESSION**
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with Conditional Licensing Agreement.
- (11) **Italo American Recreative Circle** Conditional Licensing Agreement
C-2904 (LID No. 1436) Case No. 2018-1436 Renewal – District 10
3001B Castor Avenue
Philadelphia, Philadelphia County
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with Conditional Licensing Agreement.
- (12) **Mambo Café, Inc.** Conditional Licensing Agreement
R-14666 (LID No. 85844) Case No. 2018-85844 Renewal & Amusement Permit –
501 South Church Street District 8
Hazleton, Luzerne County **HOLD – 1/16/19 SESSION**
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal and Amusement Permit with Conditional Licensing Agreement.
- (13) **Maze Hospitality, LLC** Renewal – District 10
R-6747 (LID No. 70364) Case No. 2018-70364
208 South 13th Street
Philadelphia, Philadelphia County
- Motion Made:** Board Member Negra
Seconded: Chairman Holden
- Board Decision:** Unanimously agreed (2-0 vote) to Approve Renewal with Existing Conditional Licensing Agreement.

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- (14) **Nabil Abualburak, Inc.** Renewal – District 8
t/a Omnia Bar & Grill and Ali Baba Lounge
R-7002 (LID No. 63256) Case No. 2018-63256
219-225 South Main Street
Wilkes Barre, Luzerne County
- Motion Made:** Board Member Negra
Seconded:
- Board Decision:** Hold for Conditional Licensing Agreement/Offer in Compromise.

- (15) **Raul Ortiz** Renewal – District 3
t/a Silver Dollar Bar
R-10255 (LID No. 57313) Case No. 2017-57313
356 South 4th Street
Reading, Berks County
- Motion Made:** Board Member Negra
Seconded:
- Board Decision:** Hold for Conditional Licensing Agreement/Offer in Compromise.

*From the Bureau of Human Resources Jason Lutcavage, Director of Administration
Jennifer Haas, Director, Bureau of Human Resources*

Personnel Actions

There were 12 personnel actions presented for consideration.

- (1) **Rita Akers – Affirm Removal**
- (2) **Parker Anderson – Affirm Removal**
- (3) **Brenda Borysowski – Affirm Removal**
- (4) **Lisa Didomenico – Removal**
- (5) **Raymond Fischer – Affirm Removal**
- (6) **Regina Hill – Affirm Removal**
- (7) **Kiara Johnson – Removal**
- (8) **Katrina McCoy – Removal**
- (9) **Jonathan McCrea – Removal**

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- (10) **Mariah Shelton – Removal**
- (11) **Demetre Tate – 5 -Day Suspension**
- (12) **Christopher Wiest – Affirm Removal**

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve all Personnel Actions.

*From the Bureau of Accounting & PurchasingMichael Demko, Director of Finance
Koppolu Ravindraraj, Director, Bureau of Accounting & Purchasing
Mike Freeman, Director, Bureau of Financial Management & Analysis*

Procurement Actions:

- (1) **Steel Shelving for Store #0231** – Steel shelving for premium Fine Wine & Good Spirits Store #0231 in Pittsburgh due to store moving to another location in same shopping plaza.

Procured via DGS Statewide Contract #4400016767 – **VENDOR: Kent Fixtures Corp. – \$51,950.74 estimated cost.**

- (2) **Court Reporting Services Renewal** – Provide court reporting services for the Office of Chief Counsel at licensing hearings at various locations across the Commonwealth.

Procured via PO 63016908 Option Year One – **VENDOR: Sargents Court Reporting – TERM: One year for period 4/1/2019 through 3/31/2020 – \$55,222.00 estimated cost.**

- (3) **Point of Service (POS) Production Support and Enhancement Consulting Services Renewal** – To continue support, maintenance, and enhancement consulting services for PLCB’s specific Oracle POS and cash register environments.

Procured via PO 63013714 Option Year Three to RFP Contract 20143025 – **VENDOR: SkillNet Solutions, Inc. – TERM: One year for period 5/18/2019 through 5/17/2020 – \$1,404,000.00 estimated cost** which represents the same cost as the last two renewals.

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve all Procurement Actions.

Inter-Agency Charges:

None

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From the Office of Retail Operations..... Carl Jolly, Director of Retail Operations

- 1. #2202 – 1200 North Third Street, Harrisburg
Amendment
- 2. #6307 – 2038 Smith Township Road, Burgettstown
Amendment
- 3. #46XX – Pennsburg Square, 454 Pottstown Avenue, Pennsburg
New Store / Relocation (to replace #4615)
- 4. #65XX – Hyde Park Plaza, 451 Hyde Park Road, Leechburg
New Store / Consolidation (consolidating stores #0303 and #6514)
- 5. #22XX – Paxton Town Center, Harrisburg
Temporary Store (during the premium upgrade of #2210)

Motion Made: Board Member Negra
Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve Retail Operations Actions #1, 2, 3, 5 and to Hold #4 for Further Consideration.

*From the Bureau of Product Selection Dale Horst, Director of Marketing & Merchandising
Tom Bowman, Director, Bureau of Product Selection*

1. Regular New Items Accepted

<u>BRAND NAME AND SIZE</u>	<u>REASON</u>
<u>Constellation Brands Inc</u>	
Svedka Rose Flavored Vodka 750 ML	3
<u>Majestic W S USA Inc</u>	
Choco Vine Dutch Dark Chocolate 750 ML	2,3,10
Jesse James America’s Outlaw Bourbon Whiskey 750 ML	5
<u>Sazerac Company Inc</u>	
Fireball Cinnamon Whiskey 12 pack 50ML	3,9
<u>Southern Wine and Spirits PA</u>	
Owen’s Craft Mixers Ginger Beer and Lime Non-Alcoholic Mixer 750 ML	12
Owen’s Craft Mixers Grapefruit and Lime Non-Alcoholic Mixer 750 ML	12
Owen’s Craft Mixers Mint, Cucumber and Lime Non-Alcoholic Mixer 750 ML	12

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Serralles USA LLC

Don Q 151 Puerto Rico Rum 750 ML 3,8

RECOMMENDED ACTION: We recommend the Board approve this action

2. Regular PA Preferred New Items Accepted

BRAND NAME AND SIZE **REASON**

Five Saints Distilling

Five Saints Absinthe Americane 750 ML	8,16
Five Saints Humane No. 1 Maple Bourbon Butter Pecan Flavored Rum 750 ML	8,16

Mermaid Spirits LLC

Forbidden Drive Vodka 750 ML	16
Golden Tail Mermaid Rum 750 ML	16
Mermaid Spirits White Rum Xaymaca Style 750 ML	16

Pittsburgh Pickle Company

Briney Mary Bloody Mary Mix 32 oz	8
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RECOMMENDED ACTION: We recommend the Board approve this action

**New Items – Recommended Listings
Reason Codes**

1. Strong marketing support
2. High brand recognition
3. Line/Size extension of successful brand
4. Trade up opportunity
5. Growing category
6. Growing segment
7. National rollout
8. Niche item / Limited distribution
9. High dollar profit potential
10. Trade out
11. High quality for the value
12. Innovative product/flavor
13. High sales through other PLCB channels (Luxury, Online, SLO)
14. Underrepresented category/segment
15. Hole in selection – consumer/store requests
16. PA Spirits
17. PA Wines
18. Licensee only
19. Probationary listing

Motion Made: Board Member Negra

Seconded: Chairman Holden

Board Decision: Unanimously agreed (2-0 vote) to Approve all Bureau of Product Selection/Marketing Actions.

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FINANCIAL REPORT *Michael J. Burns, Comptroller Operations, Office of Budget*

None.

OTHER ISSUES

None.

CITIZEN COMMENT/BUSINESS FROM THE FLOOR

None.

NEXT BOARD MEETING

The next meeting of the PLCB will be a formal meeting on Tuesday, March 26, 2019, beginning at 11:00 A.M. Prior to the public meeting, there will be an Executive Session to discuss matters of personnel and to engage in non-deliberative informational discussions, some of which are regarding actions and matters which have been approved at previous public meetings.

ADJOURNMENT

On a motion by Board Member Negra, seconded by Chairman Holden, the meeting was adjourned.

The foregoing actions are hereby officially approved.

Chairman

Member

ATTEST:

Secretary