

PENNSYLVANIA LIQUOR CONTROL BOARD

MEETING MINUTES

WEDNESDAY, OCTOBER 31, 2018
NORTHWEST OFFICE BUILDING, CONFERENCE ROOM 117, HARRISBURG, PA

Tim Holden, Chairman
Mike Negra, Board Member
Michael Newsome, 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 – Bryan Troop, Legislative Affairs Office

OLD BUSINESS.....*Secretary Stark*

A. Motion to approve the previous Board Meeting Minutes of the October 17, 2018 meeting.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to approve previous Board Minutes.

PUBLIC COMMENT ON AGENDA ITEMS

There was no public comment on the printed agenda items.

NEW BUSINESS

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

(1) **TRANSFEROR:**
Perry Plaza Classic Lanes, Inc.
2230 Broad Street
Erie, Pennsylvania 16503
Restaurant Liquor License No. R-5664
LID 39095

Application for Conversion of
Suspension to Fine

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

TRANSFeree:

UGAF, LLC

6 Sassafras Street
Erie, Pennsylvania 16503
Restaurant Liquor License No. R-5664
LID 94085

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Conversion of Suspension to a Fine of \$1,000.00.

- (2) **Phoenicia Fine Middle Eastern Cuisine, LLC** Proposed Conditional Licensing Agreement to Allow for the Reinstatement of the Liquor License.
154 Northampton Street
Easton, Pennsylvania 18042-3647
Restaurant Liquor License No. R-7878
LID 63033

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Conditional Licensing Agreement.

- (3) **Liveevil, Inc.** Request to Rescind Conditional Licensing Agreement
262-266 Market Street
Sunbury, Pennsylvania 17801-3405
Restaurant Liquor License No. R-16319
LID 58324

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Request to Rescind Conditional Licensing Agreement.

- (4) **Liu's Torresdale, Inc.** Appeal of Adjudication and Order of Administrative Law Judge
5500 Torresdale Aveue
Philadelphia, Pennsylvania 19134-1625
Restaurant Liquor License No. R-11256
LID 66672
Citation No. 17-0670

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Motion Made: Board Member Negra
Seconded: Board Member Newsome

Attorney Fox described this appeal and the next appeal Citation No.18-0346, concerns the 400-square-foot serving area and is a mirror image of the past 13 or so appeals on the same issue. This Licensee was cited twice for having less than the 400 square feet (182 square feet and 140 square feet of serving area, respectively). Chief Counsel's Office again recommends affirming the ALJ, based on the violation of section 102 of the Liquor Code.

Board Decision: Unanimously agreed (3-0 vote) to Affirm Administrative Law Judge's Decision.

- (5) **Liu's Torresdale, Inc.** Appeal of Adjudication and Order of Administrative Law Judge
5500 Torresdale Aveue
Philadelphia, Pennsylvania 19134-1625
Restaurant Liquor License No. R-11256
LID 66672
Citation No. 18-0346

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Affirm Administrative Law Judge's Decision.

- (6) **T D Beer, Inc.** Appeal of Adjudication and Order of Administrative Law Judge
2262 E. Allegheny Avenue
Philadelphia, Pennsylvania 19134-3831
Restaurant Liquor License No. R-11382
LID 67601
Citation No. 17-0634

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Attorney Fox explained this licensee was cited, among other things, for having less than a 400-square-foot area accessible to the public. Its area was measured at 206 square feet, resulting in a violation of section 102 of the Liquor Code. It is recommended the appeal be dismissed and the ALJ affirmed.

Board Decision: Unanimously agreed (3-0 vote) to Affirm Administrative Law Judge's Decision.

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(7) **David Perretta v. PLCB**
Office of Open Records
Docket No. AP 2018-1597

Appeal to Commonwealth Court

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Chief Counsel Diaz addressed this RTK issue where a former employee requested information under the Right To Know Law seeking to reveal the individual who filed an EEO complaint against him. OOR granted his request and directed the PLCB to provide the information concerning the complaining individual. It is the opinion of the Chief Counsel that this is clearly protected information and OOR is wrong in directing the release of the information. Therefore, Chief Counsel recommends that the OOR order be appealed.

Board Decision: Unanimously agreed (3-0 vote) to Appeal to Commonwealth Court

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

(1) **Benj, LLC**
t/a Hags Hotel
H-242 (LID No. 66276) Case No. 18-9067
5661 Main Street, P. O. Box 325
Upper Bern Township
Shartlesville, Berks County

Renewal - Hotel

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Chariman Holden asked if there was anyone present from the Licensee, Benj, Inc. No response.

Board Decision: Unanimously agreed (3-0 vote) to Refuse Renewal.

(2) **Big Gingers, LLC**
R-8964 (LID No. 88063) Case No. 18-9063
931 Liberty Avenue
Pittsburgh, Allegheny County

Appointment of Manager –
Restaurant

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Appointment of Manager.

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- (3) **Bill's Best Organic BBQ Sauces, LLC** (LID No. 92893)
57 South Keswick Avenue
Cheltenham Township
Glenside, Montgomery County
- New & Requests for an Interior Connection with Another Business, to Conduct Another Business on the Licensed Premises & Dual Employment – Brewery

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve New Application and Requests for an Interior Connection with Another Business, to Conduct Another Business on the Licensed Premises and Dual Employment.

- (4) **Smokin Joe's Tobacco Shop, Inc.**
t/a **Smokin Joe's – Honesdale**
R-2731 (LID No. 83724) Case No. 18-9078
263 Willow Avenue
Honesdale, Wayne County
- Extension of License & Request to Conduct Another Business on the Licensed Premises - Restaurant

Motion Made: Board Member Negra
Seconded:

Board Decision: Member Negra requested a Hold on this application.

- (5) **Smokin Joe's Tobacco Shop, Inc.**
t/a **Smokin Joe's**
R-20530 (LID No. 88186) Case No. 18-9079
2447 Elmira Street
Athens Township
Sayre, Bradford County
- Place-to-Place Transfer & Request to Conduct Another Business on the Licensed Premises - Restaurant

Motion Made: Board Member Negra
Seconded:

Board Decision: Member Negra requested a Hold on this application.

- (6) **Eastvale Inn & Restaurant, Inc.**
R-17511 (LID No. 18727) Case No. 2018-18727
318 Second Avenue
Beaver Falls, Beaver County
- Renewal – District 6

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Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Renewal with Existing Conditional Licensing Agreement.

- (7) **West Side Republican Club of Bethlehem, Inc.** Renewal – District 4
C-717 (LID No. 685) Case No. 2018-685
1207 West Broad Street
Bethlehem, Lehigh County

Motion Made: Board Member Negra
Seconded:

Board Decision: Hold by Member Negra for a Conditional Licensing Agreement.

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

Personnel Actions

There were 6 personnel actions presented for consideration.

- (1) **Sade Fitzgerald – Removal**
- (2) **Trenton Ford - Removal**
- (3) **Steven Ganz – Removal**
- (4) **Stephen Murray – Removal**
- (5) **Mark Ryan – Removal**
- (6) **Weston Townsend – Removal**

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Personnel Actions.

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

Procurement Actions:

- (1) **Cisco Smartnet Maintenance and Support Renewal** – Provide Cisco Smartnet hardware and software maintenance for the PLCB’s Cisco network components such as switches, routers, access points, and other appliances. These components are installed in Distribution Centers, Regional Offices, PLCB Central Office, and Point of Sale (POS) stores.

Procured via DGS Statewide Contract #4400011887 – VENDOR: **ePlus Technology Inc.** – TERM: One (1) year – **\$120,098.12 estimated cost** which represents a 34% decrease over last year’s cost of \$182,322.28 due to reduced quantity of components requiring maintenance.

- (2) **Steel Shelving for Store #0929** – Steel shelving for relocation of standard to premium Fine Wine & Good Spirits Store #0929 in Chalfont.

Procured via DGS Statewide Contract #4400016767 – VENDOR: **Kent Fixtures Corp.** – **\$52,622.01 estimated cost.**

- (3) **Steel Shelving for Store #1007** – Steel shelving for relocation of premium Fine Wine & Good Spirits Store #1007 in Cranberry.

Procured via DGS Statewide Contract #4400016767 – VENDOR: **Kent Fixtures Corp.** – **\$56,816.97 estimated cost.**

- (4) **Furniture for Store #1007** – Wall units for relocation of premium Fine Wine & Good Spirits Store #1007 in Cranberry.

Procured via DGS Statewide Contract #4400013989 – VENDOR: **TC Millwork** – **\$56,638.87 estimated cost.**

- (5) **Furniture for Store #4632** – Wall units and display table for relocation of standard to premium Fine Wine & Good Spirits Store #4632 in North Wales.

Procured via DGS Statewide Contract #4400013989 – VENDOR: **TC Millwork** – **\$96,242.93 estimated cost.**

- (6) **Furniture for Store #1533** – Wall units for premium rebrand of existing Fine Wine & Good Spirits Store #1533 in Phoenixville.

Procured via DGS Statewide Contract #4400013989 – VENDOR: **TC Millwork** – **\$59,238.11 estimated cost.**

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Procurement Actions.

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Inter-Agency Charges:

None

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

1. **#0205 – 149 5th Avenue, McKeesport
Amendment**
2. **#3919 – Allentown Towne Center, 4777 Tilghman St., Allentown
Amendment**
3. **#5802 – Price Chopper Plaza, 16750 State Rt. 706, Montrose
Amendment**
4. **#0231 – Robinson Town Center, 1106 Park Manor Blvd., Pittsburgh
Relocation / Additional Space**
5. **#09XX – Marketplace at Neshaminy, 500 Rockland Drive, Bensalem
Relocation / Consolidation (0908 & 0918)**
6. **#23XX – 127 West Lancaster Avenue, Wayne
Relocation / Consolidation (1513 & 2306)**

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Retail Operations Actions.

*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>	
Black Box Rose 3 L	2, 3, 5, 9
Kim Crawford Rose 750 ML	2, 3, 5, 9
<u>Pip Imports and Domestics LLC</u>	
Gerberas Garnacha Red Wine Spain 750 ML	9, 12
Gerberas Dry Rose Spain 750 ML	9, 12
<u>Sand Castle Winery Inc</u>	
Sand Castle Dry Vermouth 750 ML	8

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Sand Castle Sweet Vermouth 750 ML	8
<u>Sazerac Company Inc</u>	
Sazerac Straight Rye Whiskey 750 ML	1, 2, 5
Southern Comfort Whiskey 80 Proof 750 ML	2, 3

RECOMMENDED ACTION: We recommend the Board approve this action

2. Regular PA Spirits New Items

<u>BRAND NAME AND SIZE</u>	<u>REASON</u>
<u>Blackbird Distillery</u>	
Blackbird Distillery Apple Black Corn Shine 80 Proof 750 ML	16
Blackbird Distillery Homemade Apple Pie Corn Shine 42 Proof 750 ML	16
Blackbird Distillery Hot Cinnamon Corn Shine 76 Proof 750 ML	16

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

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3. Regular Recommended Delist

<u>BRAND NAME AND SIZE</u>	<u>CODE</u>
<u>North Wales Wines</u> Gascon Colosal Red Blend 750 ML	6544
<u>Sazerac North America Inc</u> Wave Baja Vodka 60 Proof 750 ML	9477

EFFECTIVE DATE: The transference to closeout will become effective November 30, 2018

4. Regular Recommended Delist Revision

<u>BRAND NAME AND SIZE</u>	<u>CODE</u>
RESCIND	
<u>Southern Wine and Spirits PA</u> Clos De Nouys Demi Sec Vouvray 750 ML	7802
Heidsieck and Co Monopole Blue Top Brut NV 750 ML	45245

Note: Sent to the board as recommended delist 8-22-18

RECOMMENDED ACTION: We recommend the Board approve this action

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Bureau of Product Selection/
Marketing Actions.

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

**Commonwealth of Pennsylvania
Pennsylvania Liquor Control Board
State Stores Fund
Comparative Statement of Net Position
(Unaudited)**

	<u>August 31, 2018</u>	<u>August 31, 2017</u>
<u>ASSETS</u>		
Current assets:		
Cash	\$ 49,576,085	\$ 44,503,896
Investments - short term	225,099,623	207,671,868
Accounts and claims receivable, net	357,928	1,231,509
Due from other funds - Note 8	-	2,143
Merchandise inventories, net	262,630,267	260,357,598
Operating supplies	568,975	236,282
Prepaid expenses	<u>1,727,435</u>	<u>3,613,621</u>
Total current assets	<u>539,960,313</u>	<u>517,616,917</u>
Non-current assets:		
Non-depreciable capital assets:		
Land	322,973	322,973
Depreciable capital assets:		
Building	20,873,018	19,816,479
Leasehold improvements	612,301	582,597
Machinery and equipment	48,444,591	47,485,191
Intangibles - internally generated software	<u>25,990,043</u>	<u>29,572,750</u>
Less: accumulated depreciation	<u>68,073,335</u>	<u>63,002,362</u>
Net depreciable capital assets	<u>27,846,618</u>	<u>34,454,655</u>
Total non-current capital assets	<u>28,169,591</u>	<u>34,777,628</u>
Total assets	<u>\$ 568,129,904</u>	<u>\$ 552,394,545</u>
Total deferred outflows of resources - Note 4	\$ 88,550,800	\$ 132,598,773
<u>LIABILITIES</u>		
Current liabilities:		
Trade accounts payable	\$ 267,143,927	\$ 265,512,053
Other accounts payable	25,331,046	26,211,586
Accrued expenses	19,764,399	19,278,414
OPEB - Note 5	11,976,000	17,767,000
Self-insurance, workers' compensation - Note 6	8,637,029	7,739,857
Due to other funds - Note 8	3,593,327	3,405,517
Due to fiduciary funds - Note 8	2,812,681	2,634,321
Due to other governments - Note 8	<u>752,536</u>	<u>691,769</u>
Total current liabilities	<u>340,010,945</u>	<u>343,240,517</u>
Non-current liabilities:		
OPEB - Note 5	781,379,000	841,082,000
Self-insurance, workers' compensation - Note 6	47,949,448	42,256,546
Net pension liability - Note 4	445,997,473	482,443,490
Compensated absences - Note 1	<u>20,809,984</u>	<u>18,904,788</u>
Total non-current liabilities	<u>1,296,135,905</u>	<u>1,384,686,824</u>
Total liabilities	<u>\$ 1,636,146,850</u>	<u>\$ 1,727,927,341</u>
Total deferred inflows of resources - Note 4	\$ 104,798,959	\$ 20,057,976
<u>NET POSITION</u>		
Net investment in capital assets	\$ 28,169,591	\$ 34,777,628
Deficit	<u>(1,112,434,696)</u>	<u>(1,097,769,627)</u>
Total net position	<u>\$ (1,084,265,105)</u>	<u>\$ (1,062,991,999)</u>

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**Commonwealth of Pennsylvania
Pennsylvania Liquor Control Board
State Stores Fund
Comparative Statements of Revenues, Expenses, and Changes in Net Position
For the Month Ending August 31, 2018 and August 31, 2017
(Unaudited)**

	<u>2018-19</u>	<u>2017-18</u>
Sales net of taxes	\$ 172,764,609	\$ 162,682,644
Cost of goods sold	<u>(118,667,207)</u>	<u>(112,843,991)</u>
Gross profit from sales	54,097,402	49,838,653
Operating (expenses):		
Retail operations	(32,905,054)	(33,391,304)
Marketing & merchandising	(1,333,239)	(1,076,927)
Supply chain	(653,017)	(965,287)
Wholesale operations	(151,018)	(111,588)
Information technology services	(2,569,141)	(2,818,607)
Regulatory affairs	(1,720,442)	(1,727,858)
Administration	(1,306,555)	(1,282,774)
Finance	(310,000)	(324,810)
Board & secretary	(348,325)	(503,532)
Legal	(324,752)	(291,576)
Commonwealth provided services - Note 2	<u>(1,181,069)</u>	<u>(1,052,689)</u>
Total	<u>(42,802,612)</u>	<u>(43,546,952)</u>
Operating profit	11,294,790	6,291,701
Other operating revenues (expenses):		
Enforcement fines	118,642	99,075
License fees	3,337,855	2,192,690
Miscellaneous income	242,516	200,237
Administrative law judge	<u>(255,816)</u>	<u>(239,816)</u>
Total	<u>3,443,197</u>	<u>2,252,186</u>
Total operating income	14,737,987	8,543,887
Non-operating revenues (expenses):		
Interest income	435,347	206,944
Other	<u>-</u>	<u>-</u>
Total	<u>435,347</u>	<u>206,944</u>
Income before operating transfers	15,173,334	8,750,831
Operating transfers out:		
PSP enforcement - Note 3	(2,535,864) <u>(2,535,864)</u>	(2,333,042) <u>(2,333,042)</u>
Income after enforcement/before other transfers	12,637,470	6,417,789
Other operating transfers out:		
General fund - Note 3	-	-
Drug and alcohol programs - Note 3	-	-
Total	<u>-</u>	<u>-</u>
Change in net position	12,637,470	6,417,789
Total net position - beginning	<u>(1,096,902,575)</u>	<u>(1,095,566,788)</u>
Total net position - ending	<u>\$ (1,084,265,105)</u>	<u>\$ (1,089,148,999)</u>
Liquor tax	31,301,244	29,184,752
State Sales Tax	12,323,316	11,485,466
Local Tax	787,096	737,641
Taxes remitted to Dept.of Revenue YTD	<u>\$ 44,411,656</u>	<u>\$ 41,407,859</u>

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**Commonwealth of Pennsylvania
Pennsylvania Liquor Control Board
State Stores Fund
Comparative Statements of Revenues, Expenses, and Changes in Net Position
For the Two Months Ending August 31, 2018 and August 31, 2017
(Unaudited)**

	<u>2018-19</u>	<u>2017-18</u>
Sales net of taxes	\$ 334,273,395	\$ 320,654,270
Cost of goods sold	<u>(228,145,812)</u>	<u>(221,473,123)</u>
Gross profit from sales	106,127,583	99,181,147
Operating (expenses):		
Retail operations	(66,070,326)	(66,133,779)
Marketing & merchandising	(2,954,891)	(2,595,687)
Supply chain	(1,200,470)	(1,782,721)
Wholesale operations	(298,153)	(231,064)
Information technology services	(5,171,781)	(5,182,919)
Regulatory affairs	(3,777,640)	(3,606,835)
Administration	(2,446,184)	(2,420,111)
Finance	(612,511)	(638,308)
Board & secretary	(704,244)	(1,004,023)
Legal	(680,501)	(618,055)
Commonwealth provided services - Note 2	<u>(2,152,336)</u>	<u>(2,070,882)</u>
Total	<u>(86,069,037)</u>	<u>(86,284,384)</u>
Operating profit	20,058,546	12,896,763
Other operating revenues (expenses):		
Enforcement fines	281,399	223,146
License fees	7,024,791	5,992,887
Miscellaneous income	390,322	388,369
Administrative law judge	<u>(495,365)</u>	<u>(466,778)</u>
Total	<u>7,201,147</u>	<u>6,137,624</u>
Total operating income	27,259,693	19,034,387
Non-operating revenues (expenses):		
Interest income	839,599	393,387
Other	<u>-</u>	<u>1,200</u>
Total	<u>839,599</u>	<u>394,587</u>
Income before operating transfers	28,099,292	19,428,974
Operating transfers out:		
PSP enforcement - Note 3	(5,057,498)	(4,466,086)
Income after enforcement/before other transfers	23,041,794	14,962,888
Other operating transfers out:		
General fund - Note 3	-	-
Drug and alcohol programs - Note 3	-	-
Total	<u>-</u>	<u>-</u>
Change in net position	23,041,794	14,962,888
Total net position - beginning	<u>(1,107,306,899)</u>	<u>(1,104,111,887)</u>
Total net position - ending	<u>\$ (1,084,265,105)</u>	<u>\$ (1,089,148,999)</u>
Liquor tax	59,888,339	57,948,285
State Sales Tax	23,567,001	22,797,784
Local Tax	1,492,978	1,439,609
Taxes remitted to Dept.of Revenue YTD	<u>\$ 84,948,318</u>	<u>\$ 82,185,678</u>

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

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 Wednesday, November 14, 2018, 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 Board Member Newsome, the meeting was adjourned.

The foregoing actions are hereby officially approved.

Chairman

Member

Member

ATTEST:

Secretary