

PENNSYLVANIA LIQUOR CONTROL BOARD
MEETING MINUTES

WEDNESDAY, AUGUST 23, 2017
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](#)
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PUBLIC MEETING – 11:00 A.M

CALL TO ORDER *Chairman Holden*

Pledge of Allegiance to the Flag

OLD BUSINESS..... *Secretary Stark*

A. Motion to approve the previous Board Meeting Minutes of the August 2, 2017 meeting.

Motion Made: Board Member Negra

Seconded: Board Member Newsome

Board Decision: Unanimously approved (3-0 vote) 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) **BOROUGH OF BERWICK**
Case No. 17-NE-12

Municipal Petition for
Exemption from the
Statute Regarding
Amplified Sound

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

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Noise Exemption for a Period from September 14, 2017 to September 14, 2020.

- (2) **Washington Tavern, Inc.** Request to Modify or Rescind Conditional Licensing Agreement
10 King Street
Northumberland, Pennsylvania 17857-1607
Restaurant Liquor License No. R-9309
LID 50684

Motion Made: Board Member Negra
Seconded: Board Member Newsome

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

- (3) **Oligan, Inc.** Request to Modify or Rescind Conditional Licensing Agreement
23 Southside Lane
Dalton, Pennsylvania 18414-9312
Restaurant Liquor License No. R-16429
LID 80567

Motion Made: Board Member Negra
Seconded: Board Member Newsome

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

- (4) **Transferor: KKFC, Inc.** Application for Conversion of Suspension to Fine
2636 East Ann Street
Philadelphia, Pennsylvania 19134-4901
Restaurant Liquor License No. R-9092
LID 37631

Transferee: Brown's Super Stores, Inc.
6710 Haverford Avenue
Philadelphia, Pennsylvania 19151-0000
Restaurant Liquor License No. R-9092
LID 86574

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

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 \$3,000.00.

(5) **Transferor: Uncle Jimmy’s, Inc.**
418-420 Semple Street
Pittsburgh, Pennsylvania 15213
Restaurant Liquor License No. R-1138
LID 29100

Application for
Conversion of
Suspension to Fine

Transferee: Semple Street Liquor, LLC
418-420 Semple Street
Pittsburgh, Pennsylvania 15213
Restaurant Liquor License No. R-1138
LID 86411

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.

(6) **The Liederkrantz**
722 South Chiques Road
Manheim, Pennsylvania 17545
Restaurant Liquor License No. CC-4553
LID 33013
Citation No. 15-0139

Appeal of
Adjudication and
Order of
Administrative Law
Judge

Board Member Negra asked Michelle Fox, Deputy Chief Counsel, to explain this matter.

Ms. Fox explained the matter as follows.

Licensee is a catering club in Manheim. In February of 2015, the Pennsylvania State Police, Bureau of Liquor Control Enforcement (“BLCE”) issued a citation to the catering club. The citation set forth two different counts: (1) selling alcohol to nonmembers on two different dates; and (2) selling an unlimited or indefinite amount of alcohol for a fixed price on one of those dates. An evidentiary hearing on the citation was held before an Administrative Law Judge (“ALJ”) in April of 2016. The ALJ issued an adjudication and order dismissing both counts of the citation in April of 2017. The BLCE filed a timely appeal from the ALJ’s adjudication and order.

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Catering clubs generally are not permitted to sell alcohol to nonmembers or to sell/serve an unlimited or indefinite amount of alcohol for set price, unless these activities occur during a catered event. There is no dispute that the catering club served alcohol to nonmembers on two occasions and sold an unlimited or indefinite amount of alcohol on one of those occasions. The issue on appeal is whether any of these activities occurred during catered events, so as to fall within the exception to the general prohibitions.

The first event was an “Oktoberfest” event. The admission fee for the event was \$6.00 and \$1.00 beer tickets were also sold during the event. The event was arranged by written contract between the catering club and a subgroup of the club, which had its own bylaws, officers, and checking account. In 2009, the catering club had asked the PLCB’s Office of Chief Counsel (“OCC”) whether this same subgroup qualified as an entity that could arrange for catered events, and the OCC concluded that the subgroup did qualify. As such, the ALJ was correct in concluding that this first event was a catered event, and the OCC recommends affirming the ALJ with regard to this event.

The second event was a beer festival. There was a \$35.00 charge to attend this event, which included food, a tasting glass, and unlimited beer. The event was arranged by written contract between the catering club and one of its members, who was the bar manager. The event could have qualified as a catered event under the law, even though it was arranged by a member of the club. However, in this case, the bar manager admitted that he arranged the event on behalf of the catering club, rather than in his individual capacity as a member. At the time this citation was issued, it was unlawful for a catering club to self-sponsor catered events. Therefore, the ALJ was wrong as to the second event, and the OCC recommends reversing the ALJ with regard to this event and remanding for the imposition of a penalty.

Board Member Negra asked Ms. Fox if this same type of activity is now legal moving forward.

Ms. Fox responded by indicating that now, under the current, law, it is permissible for catering clubs to self-sponsor a certain number of catered events each year. However, at the time of the events in question, it was still considered unlawful for catering clubs to self-sponsor catered events. Ms. Fox noted that this change in the law is something that the ALJ may consider on remand when determining the severity of the penalty to be imposed.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Affirm ALJ as to the September 13, 2014 Date of Violation Charged in Count One, Reverse the ALJ as to Count Two in its Entirety and to Count One as to the September 20, 2014 Date of Violation Only, and Remand to the ALJ for the Imposition of a Penalty.

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(7) **Proposed Regulatory Change
54-98**

Transportation of
Liquor, Malt or
Brewed Beverages or
Alcohol

Board Member Negra asked Rod Diaz, Chief Counsel, to explain the proposed regulatory changes.

Mr. Diaz provided the following explanation.

This is a straightforward change and is part of the PLCB’s overall effort to review and bring its regulations up-to-date based on amendments that have been made to the Liquor Code. This change involves amending the PLCB’s Regulations to reduce the minimum size requirement for lettering that must appear on vehicles used to transport alcoholic beverages from four inches down to two inches, in order to be consistent with statutory changes made by Act 113 of 2011.

Since the change being made simply involves bringing the regulations up to date with the current statutory provisions, without the need for the PLCB to provide additional interpretation or guidance, this regulatory package will be submitted on a final-omitted basis. This means that several steps of the regulatory review process, including a formal public comment period, will not be required in order for this change to be approved by the Independent Regulatory Review Commission.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to start the regulatory review process with regard to Proposed PLCB Regulation #54-98.

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

(1) **Acorn Markets, Inc.**
R-3883 (LID No. 66553)
109 North Oswayo Street, P. O. Box 681
Shinglehouse, Potter County

Place-to-Place Transfer &
Requests for Interior Connections
with Another Business and to
Conduct Other Businesses on the
Licensed Premises (Request to
Modify Premises) – Restaurant

HOLD – 5/17/17 SESSION

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Modified Premises and Requests for Interior Connections with Another Business and to Conduct Another Business on the Licensed Premises.

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- (2) **Endless Road, LLC** Person-to-Person Transfer –
R-15653 (LID No. 81990) Case No. 17-9027 Restaurant
1624 North Front Street
Philadelphia, Philadelphia County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Transfer.

- (3) **HHL-TRH Reading Joint Venture** Request to Sell Other Items on the
t/a Texas Roadhouse Licensed Premises – Hotel
H-5849 (LID No. 46516)
2801 Paper Mill Road
Spring Township
Wyomissing, Berks County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Request to Sell Other Items on the Licensed Premises.

- (4) **Market Street Sports Bar, Inc.** Extension of License – Restaurant
t/a The Works Tavern & Kitchen
R-11633 (LID No. 54911) Case No. 17-9010 **HOLD – 4/5/17 SESSION**
50 & 42 Market Street
Bangor, Northampton County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Extension.

- (5) **Myles Development Company, LLC** New – Economic Development
(LID No. 84303) Case No. 17-9041 Restaurant
2 West Market Street
West Chester, Chester County

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Motion Made: Board Member Negra
Seconded: Board Member Newsome

Chairman Holden asked if there was anyone present for the Applicant, but there was no response.

Board Decision: Unanimously agreed (3-0 vote) to Refuse New Economic Development Restaurant Liquor License.

(6) **Paddlers Pizza, LLC**
t/a Paddlers Pizza
R-20073 (LID No. 83375) Case No. 17-9029
15 Sherman Street
Ohiopyle, Fayette County

“Intermunicipal” Double
Transfer & Request for an
Interior Connection with
Another Business – Restaurant

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Transfer and Request for an Interior Connection with Another Business.

(7) **Sheetz, Inc.**
(LID No. 85433) Case No. 17-9039
717 South Pike Road
Buffalo Township
Sarver, Butler County

Auction License – New &
Requests for Interior Connections
with Another Business & to
Conduct Other Businesses on the
Licensed Premises – Restaurant

Motion Made: Board Member Negra
Seconded:

Board Decision: Hold by Board Member Negra.

(8) **Stony Run Brew House, LLC**
GP-35271 (LID No. 86137)
3605 East Market Street
Springettsbury Township
York, York County

Request to Sell Other Items on the
Licensed Premises – Brewery Pub

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Request to Sell Other Items on the Licensed Premises.

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- (9) **4936 SSP, Inc.** Conditional Licensing Agreement
R-15465 (LID No. 60140) Case No. 2015-60140 Renewal – District 11
Valley View Shopping Center
4936 Pennell Road **HOLD – 6/7/17 SESSION**
Aston Township
Aston, Delaware County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

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

- (10) **DVE, Inc.** Conditional Licensing Agreement
R-3952 (LID No. 68721) Case No. 2016-68721 Renewal – District 6
1325 Water Street
Brownsville, Fayette County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

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

- (11) **Kurtz House, Inc.** Renewal – District 3
t/a DeCarlo's Bar & Grill
R-7346 (LID No. 29419) Case No. 2017-29419
240-242 Penn Street
Reading, Berks County

Motion Made: Board Member Negra
Seconded:

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

- (12) **Marvis Leaf (Deceased)** Renewal – District 3
t/a Frank's Place
R-11873 (LID No. 15208) Case No. 2017-15208
400 South 7th Street
Reading, Berks County

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

Motion Made: Board Member Negra
Seconded:

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

(13) Manpants, LLC Renewal & Amusement Permit –
District 10
R-3735 (LID No. 50570) Case No. 2014-50570
1201-05 Frankford Avenue
109 East Girard Avenue
Philadelphia, Philadelphia County

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve Renewal and Amusement Permit.

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

Personnel Actions

There were 13 personnel actions presented for consideration.

- (1) Michael Armatrudo – Removal**
- (2) Condesa Cortez – Removal**
- (3) Daniel Garland – Removal**
- (4) Tyrone Miller – Removal**
- (5) Alyssa Nuzzi – Affirm Removal**
- (6) Karen Patchell – Affirm Removal**
- (7) Lyle Reed – Affirm Removal**
- (8) Daliyl Shakir – Affirm Removal**
- (9) Angelique Thompson – Demotion**
- (10) Tiffany Tillison – Removal**

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- (11) **Alexis Toth – Affirm Removal**
- (12) **Anne Tunney – Five Day Suspension**
- (13) **Samiria Watson – Removal**

Motion Made: Board Member Negra
Seconded: Board Member Newsome

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

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

Procurement Actions:

- (1) **Furniture for Store #2115** – New center table and wall units for Fine Wine & Good Spirits Store #2115 in Mechanicsburg.

Procured via DGS Statewide Contract #4400013989 – **VENDOR: TC Millwork – \$100,756.79 estimated cost.**
- (2) **Furniture for Store #3627** – New center table and wall units for Fine Wine & Good Spirits Store #3627 in Lancaster.

Procured via DGS Statewide Contract #4400013989 – **VENDOR: TC Millwork – \$82,701.35 estimated cost.**
- (3) **Furniture for Store #4641** – New center table and wall units for Fine Wine & Good Spirits Store #4641 in Royersford.

Procured via DGS Statewide Contract #4400013989 – **VENDOR: TC Millwork – \$99,252.17 estimated cost.**
- (4) **Furniture for Store #0101** – New center table and wall units for Fine Wine & Good Spirits Store #0101 in Gettysburg.

Procured via DGS Statewide Contract #4400013989 – **VENDOR: TC Millwork – \$117,307.61 estimated cost.**
- (5) **Court Reporting Services** – Provide court reporting services for the Office of Chief Counsel at licensing hearings at various locations across the Commonwealth.

Procured via Request for Quote #20170725 against DGS Statewide Contract #4400016808 – **VENDOR: Sargents Court Reporting – TERM: Nineteen (19) months for period 9/1/17 through 3/31/19 to align with DGS Contract Validity Period – \$93,681.00 estimated cost.** The selection

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criteria is based on a Best Value Determination with Sargent’s Court Reporting being selected as the best value for the agency.

- (6) **Senior Business Subject Matter Expert Staff Augmentation** – Provide assistance with various changes to the PLCB’s eCommerce site as required by Act 39.

Procured via DGS Statewide Contract #6100030999 – VENDOR: **OST, Inc.** – TERM: Three (3) months for period 9/5/17 through 12/1/17 - **\$53,323.03** estimated cost.

- (7) **Material Handling System Visualization Upgrade and FlexSort Upgrade for Distribution Center #1** – The purpose of this Change Order is to replace two (2) proprietary servers and upgrade the software that is obsolete which cannot be upgraded to deal with the processing or security vulnerability needs required today. The Graphical System Monitor (Iconics)/GSMi server is a web-based Visualization System which will provide a centralized organizational point for real-time graphical display monitoring of the Automated Material Handling System. This server will upgrade the technical environment of the system to updated current technology, helping to reduce the risk of downtime and improve support accessibility. The FlexSort server is a PC-based modern sortation control package with advanced control, user-friendly Human Machine Interface “HMI”, and diagnostic capabilities. With the legacy Rapid Route Sortation Control (RSC) software now obsolete, FlexSort will replace the current RSC hardware and software to provide an upgrade for legacy and future sortation equipment.

Procured via PO 63011123 Amendment – VENDOR: **Dematic Corporation** – TERM: Nine (9) months - **\$194,996.86** estimated cost.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

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

Inter-Agency Charges:

- (1) **Civil Service Commission (SCSC) Services (Job 46)** – Billing of \$549,338.76 for SCSC services for July – December 2017. The billing is virtually unchanged from FY 2015-16’s July-December billing (\$549,122.54).

The Bureau of Financial Management and Analysis has reviewed these charges and determined that they are reasonable based on billing methodology and previous experience.

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve all Actions Involving Inter-Agency Charges.

Following the vote on this matter, Chairman Holden asked whether these billing numbers are likely to change after the PLCB is able to engage in direct interviewing.

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Oren Bachman, Director of Finance, noted that numerous factors go into these billings.

Jason Lutcavage, Director of Administration, indicated that the billing numbers are not likely to change significantly. He explained that there are other factors that exist beyond the changes being made that will maintain the need for much of these costs, but that there may be some opportunity for cost savings moving forward.

Mr. Mooney added that the PLCB is exploring ways to make its processes involving personnel matters more efficient, just as it has been doing for other processes as well.

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

1. **#0255 – 1302 Pittsburgh Street, Cheswick Relocation**
2. **#0236 – 820 McKeesport Road, Elizabeth Amendment**
3. **#0928 – 118 North Flowers Mill Road, Langhorne Amendment**
4. **#4026 - #26 B Gateway Shopping Center, Edwardsville Amendment**
5. **#0919 – 2223 Galloway Road, Bensalem Standard Rebrand w/ Added Space**

Motion Made: Board Member Negra
Seconded: Board Member Newsome

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

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*From the Bureau of Product SelectionDale 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>Jim Beams Brands Co</u> Jim Beam Vanilla Whiskey 750 ML	3

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

2. Regular New Items Rejected Revision

<u>BRAND NAME AND SIZE</u>	<u>REASON</u>
<u>Southern Wine Spirits PA</u> The Divining Rod Pinot Noir Willamette Valley 750 ML	7

RECOMMENDED ACTION: We recommend the Board approve this action

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New Items – Recommended Rejections

Reason Codes

1. Price segment well-represented
2. Lack of marketing support
3. Negative category trend
4. Negative segment trend
5. Requires further research on viability of this product
6. Low dollar profit potential
7. No perceived need
8. Poor performance of other items in brand family
9. Inconsistent sales of others in brand family
10. Inventory issues with others in brand family
11. Need to evaluate sales of recent listed item(s) in brand family
12. Packaging/Closure concerns
13. Quality issues – (taste, sediment, color, etc.)
14. Recommend to propose to other PLCB Channels (Luxury, Online, SLO)
15. Non-competitive pricing with surrounding markets
16. Samples not provided
17. Did not pass pre-scoring process

3. Regular Recommended Delist Retail Reductions September 2017

<u>BRAND NAME AND SIZE</u>	<u>CODE</u>
<u>Constellation Wines US</u> Marcus James Chardonnay 1.5 L	5448
<u>Sazerac Company Inc</u> Fire Water Cinnamon Schnapps 750 ML	5853
<u>Sutter Home Winery</u> Sutter Home Malbec 1.5 L	9549
<u>William Grant Sons Inc</u> Tullamore Dew Phoenix Whisky Irish 110 Proof 750 ML	34174

EFFECTIVE DATE: The transference to closeout becomes effective August 28, 2017

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*

None

OTHER ISSUES

2018 Board Meeting Schedule.....Secretary Stark

The public meetings will be held in Harrisburg, PA, commence at 11:00 a.m. in the Northwest Office Building, Conference Room 117.

- Wednesday, January 17, 2018
- Wednesday, January 31, 2018
- Wednesday, February 14, 2018
- Wednesday, February 28, 2018
- Wednesday, March 14, 2018
- Wednesday, March 28, 2018
- Wednesday, April 11, 2018
- Wednesday, April 25, 2018
- Wednesday, May 16, 2018
- Wednesday, June 6, 2018
- Wednesday, June 27, 2018
- Wednesday, July 18, 2018
- Wednesday, August 1, 2018
- Wednesday, August 22, 2018
- Wednesday, September 12, 2018
- Wednesday, September 26, 2018
- Wednesday, October 17, 2018
- Wednesday, October 31, 2018
- Wednesday, November 14, 2018
- Wednesday, December 5, 2018
- Wednesday, December 19, 2018

Motion Made: Board Member Negra
Seconded: Board Member Newsome

Board Decision: Unanimously agreed (3-0 vote) to Approve the 2018 Board Meeting Schedule as presented.

CITIZEN COMMENT/BUSINESS FROM THE FLOOR

None

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NEXT BOARD MEETING

The next meeting of the PLCB will be a formal meeting on Wednesday, September 13, 2017 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