



Washington State Liquor and Cannabis Board Meeting

Wednesday, August 5, 2020, 10:00 a.m.
This meeting was held via conference call

Meeting Minutes

1. CALL TO ORDER

Chair Jane Rushford called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, August 5, 2020. Member Ollie Garrett was present. Member Russ Hauge was excused.

Chair Rushford: Welcome to our August 5 Board meeting. Thank you to staff for preparing us well for the discussion today. We also have a guest in addition to those who have signed in for testimony or public comment. With us today is Chairman Robert de los Angeles from the Snoqualmie tribe. Welcome. I'll invite you to say a few words after Brett's presentation. Thank you for joining us. With that, we'll move to consideration of two sets of minutes, July 8 and July 22.

2. APPROVAL OF MEETING MINUTES

MOTION: Member Garrett moved to approve the July 8 and July 22, 2020, meeting minutes.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

3. CONSIDERATION OF THE SNOQUALMIE TRIBE MARIJUANA COMPACT

Chair Rushford: Seconded and so moved. I neglected to note that Russ is not with us today; he is on a well-deserved few days away. We'll move now to Brett. I would like to again acknowledge that Brett Cain has accepted a position with the Employment Security Department. He has served effectively as a policy analyst and Tribal liaison for the LCB. Brett, thank you for assuring that we do the best job possible and for all of your contributions to the work that we do.

Brett Cain: Thank you so much, Chair Rushford, I really enjoyed my time with the LCB. The agency does important work and is full of great people. Thank you so much.

Onto consideration of the marijuana compact between the Snoqualmie Tribe and the State of Washington. Once again, good morning Chair Rushford and Member Garrett.

LCB and staff from the Attorney General's office worked closely with Tribal attorney Rob Roy Smith to negotiate the provisions in the compact. Also, the tax-related provisions of the Compact have been reviewed by the Department of Revenue. The Compact has been approved by the Tribe and signed by Tribal Council Chairman, Robert de los Angeles. If adopted by the Board, I will deliver the Compact to the governor's office later today for consideration. The Compact has been shared with Board members for their review; do you have any questions for me?

Member Garrett: No questions.

Chair Rushford: I don't have any questions. Thank you, Brett.

Mr. Cain: Great, thank you. I believe Snoqualmie Tribal Council Chairman de los Angeles would like to say a few words if he was able to log on.

Dustin Dickson: Good morning, Chair, and other Board Member Garrett. I do not see the Tribal Chair logged on yet. I'll keep you updated if I see that he signed on.

Mr. Cain: Thank you.

Chair Rushford: Thank you, Brett. And thank you, Dustin. He can join us later.

Mr. Cain: Chair, did you want to move to consider the Compact now or did you want to wait until after the Tribal Chair makes his remarks??

Chair Rushford: We'll go ahead with a motion.

MOTION: Member Garrett moved to approve the Snoqualmie Tribe Marijuana Compact.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

4. ALCOHOL RELATED RULEMAKING AND TIMELINES

Presenter – Audrey Vasek, Policy and Rules Coordinator

Audrey Vasek: Good morning, Chair Rushford and Member Garrett. Thank you for providing me with the opportunity to give an update today on the alcohol-related rulemaking timelines.

First, the student tastings and permits rule project. Over the past couple of weeks, we've met with staff to review the draft conceptual rule language and determine what changes need to be made before filing a CR 102 proposal. Based on those meetings we plan to schedule a "listen and learn" session before moving forward. We'll be encouraging all stakeholders, industry partners, and other interested parties to participate as we start to introduce the "listen and learn" session format on the alcohol rulemaking projects.

Distilleries' alternating proprietorships rule project. We had a meeting with staff last week to review the draft conceptual language and determined what changes need to be made before moving forward. We plan to meet again next week to continue that work.

Special occasions licenses project. The public hearing on the Supplemental CR 102 was held on July 8th, 2020. There were a few lengthy comments received that we are analyzing before moving to the CR 103.

For the rule projects related to implementation of alcohol-related 2020 legislation, the CR 101 was filed as WSR 20-15-160 on July 22nd after the last Board meeting for implantation of four bills, including Substitute Senate Bill 6392, Local Wine Association Licenses, Engrossed Substitute Senate Bill 5006, Brewery and Winery On-Premise Consumption Endorsements, Engrossed Substitute Senate Bill 6095, and Common Carrier Licenses, and House Bill 2412, Domestic Brewery and Microbrewery Licenses and Keg Registration requirement. Notice to stakeholders was sent out via GovDelivery after the CR 101 was filed, and an initial project team meeting with staff has been scheduled for later this week. After that meeting we plan to schedule "listen and learn" sessions.

Last but not least today, I'll be presenting the CR 101 package for implementation of Engrossed Second Substitute Senate Bill 5549, Distillery Marketing and Sales Restrictions. This is "Action Item A" on the agenda.

This concludes my updates for the alcohol-related rulemaking timeline. Can I answer any questions?

Member Garrett: No questions.

Chair Rushford: No questions. Thank you Audrey.

ACTION ITEM (A)

ACTION ITEM 4A - Board Approval of CR 101 for 2020 Legislation Implementation – E2SSB 5549
Audrey Vasek, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 4A 1-3).

Ms. Vasek: Today we're requesting Board approval to file a pre-proposal statement of inquiry, a CR 101, for rulemaking to implement the requirements of Engrossed Second Substitute Senate Bill 5549, enacted during the 2020 legislative session. For background and to explain why rules are needed, I'll give a brief summary of the bill.

Engrossed Second Substitute Senate Bill 5549 modifies the privileges and requirements for distillery and craft distillery licenses and establishes a new, off-site tasting room license available to distillery and craft distillery licensees that authorizes operation of an off-site tasting room. A distillery or craft distillery licensed production facility is eligible for up to two off-site tasting room licenses located in the state, and the total number of off-site tasting room licenses that may be issued is limited to 150.

A licensed distillery or craft distillery operating in the on-site or off-site tasting room must provide food offerings for free or for sale to customers during public service hours, and the bill directs the Board to establish requirements for food offerings in the rule.

The bill also authorizes jointly occupied and co-operated off-site tasting rooms as well as jointly operated conjoined consumption areas. The first of these, the jointly occupied and cooperated off-site tasting rooms, are authorized for any distillery, craft distillery, domestic winery, or combination of those licenses,

and jointly operated conjoined consumption areas are authorized for any domestic brewery, microbrewery, domestic winery, distillery, or craft distillery, or combination of those licensees whose property, parcels, or buildings are located in direct physical proximity to one another.

New rules sections are needed to implement this bill and existing WAC sections will need to be amended in order to align the existing legal language with the changes made to the statute. For those reasons we are requesting Board approval to file the CR 101 pre-proposal statement of inquiry, and if approved for filing with the code reviser today, notice would be published in the Washington state register on August 19, 2020 under WSR 20-16.

I also want to note the CR 101 initiates the rule development process and at this stage there is no proposed language offered. After the CR 101 is filed, we'll begin discussing proposed rule language with staff, stakeholders, industry partners, and other interested parties, including scheduling "listen and learn" sessions.

That concludes my presentation on the CR 101 package. Are there any questions?

There were no questions.

Chair Rushford: Thank you, Audrey. Is there a motion?

MOTION: Member Garrett moved to approve the filing of CR 101 for 2020 Legislation Implementation – E2SSB 5549

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

Chair Rushford: Thank you very much, so moved.

I'd like to welcome now Chair de los Angeles from the Snoqualmie Tribe. He'd like to comment on the Compact. Thank you and welcome.

Chair Robert de los Angeles: Good morning! Thank you for the opportunity to speak on behalf of the Snoqualmie Indian Tribe. The Snoqualmie Indian Tribe is a federally recognized sovereign Indian Tribe [indistinct]. We have longstanding compacts with the state [indistinct], and the Tribe appreciates your strong government-to-government relationship. This Compact represents a new chapter in that relationship.

We appreciate the LCB's consideration of the compact and the efforts of the state in working with us on the agreement. We look forward to exercising our sovereign rights under the Compact with tribal membership and the entire community. Thanks again for allowing me to speak during your busy agenda.

Chair Rushford: Thank you so much for your comments. We also share deep appreciation for our government-to-government relationship in addition to the many things that we have collaborated on. Thank you so much for taking the time to join us today.

Chair de los Angeles: Thank you again.

Chair Rushford: Casey--we'll move now to cannabis related rulemaking.

5. CANNABIS RELATED RULEMAKING

TIMELINES

Presenter – Casey Schaufler, Policy and Rules Coordinator

Mr. Schaufler: Good morning Chair Rushford and Board Member Garrett. Thank you for the opportunity to be here today. I have a number of timeline updates for you today.

First, we are developing a supplemental proposal for the Marijuana Quality Control rule. After analysis of the comments received during the public hearing on July 8, we are considering substantive changes that require a supplemental rule proposal hearing. This also means that we'll be amending the small business economic impact statement and significant analysis. At time we anticipate bringing that supplemental proposal to you on or about September 30, tentatively putting the hearing in early November.

Also, the legal team is preparing an online survey of Tier I licensees regarding the Tier I expansion project. The survey is designed to explore and expand our understanding of the scope of tier one concerns, specifically beyond what was captured during both online sessions. This survey is tentatively scheduled for distribution in late August.

We received two public comments following the CR 101 filing for Marijuana Vapor Products. We are working internally to identify processes required for the implementation of HB 2826, including a framework describing how the Board might prohibit a substance. We are considering federal along with Washington state and other state agency's processes for identifying and prohibiting substances or chemicals of concern, as well as exploring public input processes when substances or chemicals of concern are considered for prohibition.

Rule staff are coordinating with marijuana licensing staff to draft conceptual rules for issuance of marijuana business certificates of compliance. Once draft conceptual rules are complete we will share them via GovDelivery with the request for a public comment. Since the rule changes are required by SSB 6206, and we are keeping the rule revisions narrowly focused on legislative implementation, we do not anticipate the need for any "listen and learn" sessions. This should keep us on-track for adoption by the end of the year.

That concludes my timeline updates for today. Please let me know if there are questions. Thank you.

Member Garrett: No questions.

Chair Rushford: No questions. Thank you very much, Casey. Kathy--action items.

ACTION ITEM (A)

ACTION ITEM 5A - Board Approval of CR 102 for Marijuana Consultation and Education Program
Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUTS 5A 1-6).

Ms. Hoffman: Thank you and good morning, Chair Rushford and Member Garrett.

This morning I'd like to request your approval to file a CR 102 that proposes a new section of rule to establish the Voluntary Marijuana Licensee Consultation and Education Program. To provide some background, we began considering revisions to marijuana enforcement guidelines in late 2018. Those efforts were extended by the passage of Engrossed Senate Substitute Bill 5318 during the 2019 regular session at the legislature.

ESSB 5318 provided direction for enforcement guideline redesign. It also provided an initial framework to perfect and expand existing programs for compliance education offered to marijuana licensees and their employees. Specifically, the legislation now codified primarily in RCW 69.50.561 provides that the Board may adopt rules on the frequency, manner, and method of providing consultative services to licensees. The rules may include the scheduling of those services as well as the prioritization of requests for services while maintaining the important requirements of chapter 69.50 RCW. All of those elements are embodied in the rule proposal before you today. These rules were developed in consultation with several marijuana business owners, industry representatives and others, beginning in November of last year and concluding in February this year.

Our movement toward meaningful stakeholders on conceptual rules and "listen and learn" sessions was delayed by the Covid-19 outbreak and our state's response. We were eventually able to hold the "listen and learn" session in May and following a robust and well-attended session, we received a substantial amount of meaningful feedback. That content is attached with the significant analysis as a part of your packet. We reviewed those comments over the course of two internal work sessions resulting in the incorporation of many of the suggestions we heard at that "listen and learn" session.

Timeline

August 5, 2020	Board is asked to approve filing the proposed rules (CR 102 filing).
August 19, 2020	Code Reviser publishes notice.
September 16, 2020	End of formal comment period.
September 16, 2020	Public hearing held.
October 14, 2020	Board is asked to adopt rules.
October 14, 2020	Agency sends notice to those who commented both at the public hearing and in writing.
October 14, 2020	Agency files adopted rules with the Code Reviser (CR 103)
November 14, 2020	Rules become effective consistent with RCW 34.05.380(2).

I'd be glad to answer any questions, if you have any.

Member Garrett: No questions.

Chair Rushford: No questions, thank you Kathy.

MOTION: Member Garrett moved to approve the CR 102 for Marijuana Consultation and Education Program.

SECOND: Chair Rushford seconded.

ACTION: Motion passed unanimously.

Chair Rushford: Seconded and so moved. Thank you, Kathy, for the excellent overview. We'll move now to the public hearing.

PUBLIC HEARING (B)

PUBLIC HEARING 5B – 314-55-035 – Marijuana True Party of Interest

Kathy Hoffman, Policy and Rules Coordinator, began the briefing with materials (HANDOUT 5B 1).

Ms. Hoffman: Thank you very much, Chair Rushford. Much like the CR 102 regarding the Voluntary Marijuana Licensee Consultation and Education program, the rules proposal for hearing today represents and embodies the collaborative efforts of the LCB, our licensed community, industry representatives, and many others over the last 18 months. We started revision of the marijuana True Party of Interest rules in late 2018 after they were bifurcated from a larger project to implement 2017 legislation and based on the public hearing received during that effort, the agency determined that additional development was needed regarding this specific rules section.

The 2019 legislative session included the passage of House Bill 1794 that proposed and eventually made amendments to RCW 69.53.95 concerning agreements between licensed marijuana businesses and other people and businesses, including royalty and licensing agreements relating to the use of intellectual property. Since there was potential for the substance of that bill to influence the revisions being considered for these rules, the project was temporarily paused during the 2019 legislative session. The law became effective on July 28th of last year, but we resumed our work on the project before that. I want to emphasize here that the composition of the work group that formulated and produced the draft conceptual rules offered or contributed to our “listen and learn” session held in May, was representative of our authorizing environment.

Marijuana business owners, industry association representatives, industry attorneys, and representatives from LCB Licensing and Enforcement worked collaboratively to develop these rules. From June 24th of 2019 to January of this year, we've held in excess of 10 meetings to discuss more revisions, explore policy options and work towards a viable, sustainable solution.

The first of these meetings was concentrated on defining “control”. Our discussion of what “control” means in this context dates back to our first discussions with licensees and others when we began our work on enforcement reform under 5318 in early 2019. We consulted with Colorado, considered the SEC definition of “control”, and explored several alternatives for arriving at the definition offered in the rule proposal today. This definition represents the combination of a great deal of discussion, analysis, and compromise.

The proposed rules accomplish several things, including:

- Modernization of language regarding which entities are considered to be true parties of interest
- Removes the spousal vetting requirement
- Expands definitions that include control, financial institutions, growth profit, net profit, and revenue

- Clarifies and expands upon what persons or entities are not considered to be true parties of interest
- Describes the circumstances under which licensees must continue to depose funds that will be invested in a licensed marijuana business
- Incorporates reference to amendments to RCW 69.53.95 regarding disclosure agreements and in an actual property
- Establishes a new subsection distinguishing the requirements for financiers from that true parties of interest.

I'd be glad to answer any questions the Board may have.

Chair Rushford: Kathy, what an impressive effort. We greatly appreciate your keeping us informed and the outstanding collaboration between so many. Ollie, do you have any questions?

Member Garrett: No questions.

Chair Rushford: Anything additionally, Kathy, before we move our speakers?

Ms. Hoffman: No, Chair Rushford, but I just wanted to extend appreciation for the Board's support during the development of this rule proposal, it's greatly appreciated. Thank you.

Chair Rushford: Thank you. We have two signed in to speak this morning, Lucas Hunter, you are first. I like to always remind that we limit comments to four minutes. Dustin will provide a 30-second notice and then at four minutes, we will conclude. Please know this is not a statement of agreement or disagreement but rather, our approach to fairness for all who wish to speak.

Lukas Hunter – Harmony Farms

Good morning, Chair Rushford and Ollie. I'm looking at the section of rules, and I think about the feasibility of recognizing true parties of interest as defined in this section. Businesses continue to grow and change very dynamically, much faster than the change request process has been shown to accommodate and far faster than any [modification to] true party of interest to the license can take. I worry that this current definition of control and the requirement to disclose all those who meet the proposed definition of control will be creating a bottleneck in Licensing, and further bottlenecking the ability for businesses to grow and adapt in an ever-changing landscape.

At this time, I'm urging for further exceptions to allow for non-shareholding members or employees of license to be exempt from being a true party of interest. From visiting a vast number of licensees across the state, I believe that these rules do not allow for businesses to delegate necessary day-to-day tasks to mid-level managers and senior staff, which constitutes them as a true party of interest. This limits licensees who are growing and cannot afford to keep their thumb on the day-to-day operational issues that can be handled by proven staff members. This becomes another prohibitive issue putting a barrier on Washington cannabis, making it less attractive than others in the country. This is not acceptable as we move forward towards a future of open interstate commerce.

I also look at the definition of control equating to a vetted true party of interest and think about the tax on the Liquor and Cannabis Board to investigate each and every one of these new true parties of interest. With this proposed language industry will be looking at mid-level managers and senior staff to license as

a true party of interest, not as a shareholder, but as a true party of interest to insure they're not in violation of this chapter. I'm currently not aware of a mechanism within the Liquor and Cannabis Board to accomplish this. I am familiar with the mechanism in liquor licensing, to allow non-entity members to be a true party of interest on the license, but for marijuana, a new form of licensure would need to take place along with a tsunami-sized wave of change requests that will hit the Liquor and Cannabis Board's doorstep.

This wave of new licensing cases will additionally be met with a LCB budget cut of 15 percent, as discussed in yesterday's caucus meeting. I fear this perfect storm will result in delays of the licensing process, and further making it prohibitive for owners to delegate day-to-day operational paths and further prohibiting owners to explore entrepreneurial opportunities. In an effort to make it a workload and expense of industry is not a way to phase along with, what I predict, a workload the Liquor and Cannabis Board is not ready to face, along with the ebb and flow of employees coming and going from licensed facilities is positioned to meet the proposed definition of control.

I would encourage the Liquor and Cannabis Board to consider changing their criteria of "control" to something along the lines of "executive level decision making", focusing on decisions that change the course of where a company is going and limiting day-to-day operational decisions as covered in this current definition. Thank you.

Chair Rushford: Thank you, Lucas. Ezra Eickmeyer, welcome.

Ezra Eickmeyer – Producers Northwest

I appreciate you taking the time to hear our concerns and thoughts and about this. I agree with what Lukas just said. I've sent written comments with a few different, specific concerns, but I wanted to focus on really the big one, which is unless we're misinterpreting this, seems like this very much could open up to TPI investigations of staff at different management levels

The definition of control involves the word policy, but then the word policy isn't defined. Policy, then, could be interpreted in a multitude of different directions in the field by enforcement officers. Does that word exclude policy, for example, on how you feed your plants every day? It's not the sort of thing that the LCB needs to be vetting people for, if they're making that level of decision

I have a number of concerns but the big one is just that we don't want to open Pandora's Box on businesses all of a sudden having to figure out which employees at what levels they have to start disclosing to LCB, or whether those employees have to be vetted before they can be hired and put in the field and activated as employees. If there is simply an exemption added that says that employees, unless they're also owners, are not included in this. I think that would cover the concerns. We don't want extra workload for LCB, and we don't want extra workload for the industry if it's not providing any additional public policy benefit.

I represent Producers Northwest, it's a small group of producer processors. I'm not representing my own interest here, but a small group. With that said, another more minor issue is for financiers We think that if LCB can get enough data to feel like they vetted a financier from another country, that the door should be open for that but with the caveat that you have the right to say to the licensee who's applying to get an out of country financier, "Sorry, we couldn't get enough data on that person, we can't vet them, therefore, you can't include them." That would be acceptable, but to our knowledge, if you're in liquor, you can get financiers from out of country, so we're thinking that would work for marijuana as well, but with some tight

restrictions. We understand that it's more difficult since you don't have an FBI database to vet people from out of country.

Just to be clear, though, that second concern is far further down the list of priorities for us compared to the prospect of us having to sort out the possible TPI investigation of non-owner employees. That concludes my comments, thank you.

Chair Rushford: Thank you very much, Ezra. This completes the public testimony today, unless we received an additional name prior to the beginning of this public hearing.

Dustin Dickson: No, Chair, no additional requests.

6. GENERAL PUBLIC COMMENT

Chair Rushford: Thank you. We'll move now to our general public comments, and here again I want to advise that we limit to four minutes and welcome everyone's to participation. I'm going to ask staff to follow up if there's clarification or additional information that would benefit our speakers today. With that, Linda Thompson, welcome!

Linda Thompson – Greater Spokane Substance Abuse Council

Thank you, Chair Rushford, this is Linda Thompson, I'm with the Greater Spokane Substance Abuse Council. I am part of a coalition group called Prevention Voices in Washington State. We represent--we come together, there's no formal coalition on this--a coalition of prevention leaders and advocates across the state for youth marijuana prevention education programs, community prevention wellness initiatives, the Washington Association for Substance Abuse and Violence Prevention, and a number of people who are concerned about, as we work through the Covid-19 situation, the loosening of regulations around alcohol and marijuana that have been put into place as an economic help to those businesses who are unable to do their business as normal with the Covid-19. Our concern is that these policies will be made permanent and we will see an impact. We're already seeing an impact on impaired driving, and I'm not saying it's because of these policies alone, but even in the Spokane area we had four incidences in just 48 hours with two fatalities. We have seen a number of people who are in recovery, and in working with groups who are in recovery, we are seeing that many people are struggling to stay in recovery because they can't be in their group. It's just part of a "norm" that we are looking at as prevention advocates. While we recognize and are empathetic to the restaurant and bar industry and realize that they need to have these curbside cocktail delivery services, we're hoping that by raising our voices for advocacy for prevention of public safety that these policies, as you work on them in the future, will not become permanent.

We are also seeing that, as I'm listening today about the work groups, I don't hear that prevention and public health has been at the table of any of the work groups as many of these rules and rulemaking processes and policies are being put into place. It may be that we have not offered to come to the table, and I never realized some of the policies may not seem like that affect prevention and our community of public safety directly, but I think that the voice of prevention has to be there.

As I just listened to the information about financiers coming in from out of the country and not being able to vet some folks like family--we have worked on this since we legalized marijuana in our state, and want the system to work. But we also know, anecdotally, from some communities that there have been ways that those owners have somehow been able to be involved but shouldn't have been involved because of

criminal activity in the past or other issues. I'm not saying that's everyone, I'm not saying that, but we want to make sure that those guardrails are in place to protect our community and make sure that this business, this marijuana business, is successful but it stays within regulations and it is controlled for the benefit of the health and well-being of our communities.

I just wanted to let you know that we have several of our group on these calls, and we will continue to be more engaged in providing our input.

Mr. Dickson: Linda, you have thirty seconds.

Ms. Thompson: I appreciate having the chance to speak with you today. Thank you.

Chair Rushford: Thank you very much, Linda, for taking the time to join us. John Fry, welcome.

John Fry – Fraternal Private Clubs

Hello, and thank you for your time, Chair Rushford. I'm a member of two fraternal organizations, the Elks and the Eagles. As a matter of fact, I'm the bar manager at the Shoreline Elks Lodge, number 1800.

Last Friday, on July 31st, our Governor had, for lack of a better word, relaxed some of the restrictions on alcohol service and allowed restaurants and taverns to serve indoors. We were naturally thinking that we would be allowed to do the same, but because of our private club status we are still being required for outdoor service only. That's really bad news for a lot of the lodges, that they're basically not going to open. They do need the income and it would also be good to be on the same level as the other establishments.

I would hope that sometime soon that we are included so that we can put our employees to work and earn some income. I know of a couple of Elks Lodges that are wondering if they're going to make it through the lodge year financially, and this would certainly help if we could be on the same page with the other public establishments.

We are buying the liquor for the same prices now as the public establishments, which before the changes, you could buy spirits in a grocery store. Before then we were buying it from the state and getting the discount, and those days are gone. I'd like to see, in general, us being allowed to do a little bit more than what we are already doing. In the meantime, I would happily settle for being allowed to have indoor alcohol service, and I hope that happens someday soon. That's all that I have to say, I just wanted to implore that.

Chair Rushford: Thank you very much for bring your concern forward. Dustin, do we have anyone that we've missed before we conclude this agenda item?

Mr. Dickson: No one that we missed, but Bob Sterbank registered to speak for general comments and then Kathy would like to make some remarks at the end, please.

Chair Rushford: Welcome Bob. Thank you.

Bob Sterbank – City Attorney, City of Snoqualmie

Thank you very much, and thank you for the opportunity to speak. My name is Bob Sterbank, I'm the City Attorney for the City of Snoqualmie. Like the Board, the City has a longstanding government-to-government relationship with the Snoqualmie Indian tribe, which the city values. The city has been a longstanding provider of sanitary sewer services for the Tribal casino, and participates on the Tribe impact mitigation committee, which has funded many valuable public projects, and the city has also partnered with the Tribe on other important items such as providing funding for a temporary on-ramp at the interchange of State Route 18 and Interstate I-90.

The reason for my comments to the Board are that we were unable to obtain a copy of the Compact which was before the Board to ascertain whether the city might have comments on it or might wish to address any concerns with the Snoqualmie Indian Tribe. I found it extraordinary that an item would be on the Board agenda for action, and then when I contacted Board staff to obtain a copy of any materials, was told I needed to submit a public records request, which was then summarily denied last night on the basis that the documents were drafts. Of course the Board knows, and certainly Board Member Hauge who is a longstanding member of the state bar, the exemption that applies for draft materials ceases to apply once a document is cited in connection with an action. The Compact itself was cited on the Board agenda, and in fact was discussed. I find it unusual and extraordinary and certainly not transparent for Board staff to make it impossible for members of the public to see documents that are being presented to the Board for action.

I think that if the CR 102 that the Board previously considered was not available to anyone, or whether the Marijuana True Party of Interest regulations that were the subject of a Board public hearing were not available to members of the public for view, it's just simply impossible for people to comment on documents or actions that the Board might take. In the city's case, the action might be positive, the city might be supportive or they might have concerns they wish to address privately with the tribe, or it might have comments that they wanted to present to the Board, but all of that was rendered impossible by the Board staff who responded to the city's reasonable request for copies of documents related to the agenda.

I don't know if the Board can take action or can address this with its staff, but certainly the document that was presented to the Board was public record and ought to be available for public review and comment, and I would renew my request here today, to the Board, to be provided a copy.

Thank you very much for the opportunity to speak, and I'm happy to answer any questions the Board might have about anything I just said.

Chair Rushford: No questions, but thank you for expressing your concerns today. Dustin, is there anything additionally?

Mr. Dickson: No additional speakers, but I know Kathy wanted to say a few words.

Chair Rushford: Thank you. Kathy.

Ms. Hoffman: Thank you, Chair Rushford, and Dustin. I wanted to give some response to Linda Thompson with respect to the public health participation in the rule development process. I've want to assure that we have engaged with public health, actually quite extensively, in 2019 with respect to the packaging and labelling rules and also the vapor product rules and other rulemaking projects.

Since we've had Sara Cooley Broschart on staff with us at LCB, prevention is generally at the table when we begin these projects and we do consider the public health and prevention perspectives during the rule development process. I would invite you to stay on top of GovDelivery messages with respect to "listen and learn" sessions that will generally be a part of most of our rulemaking projects. I certainly invite you to connect with Sara and I specifically if you have questions or concerns about where we are with rulemaking or policy development. I wanted to offer that in response to Linda. Thank you.

Chair Rushford: Thank you very much, Kathy. I wanted to clarify one thing for Bob Sterbank. When requests come in for compacts, tribes are allowed 14 days to seek injunction before release as public documents. I wanted to clarify that much and again, appreciate your concern and interest.

We have completed the orders of the day unless there is anything additionally from Board Member Garrett?

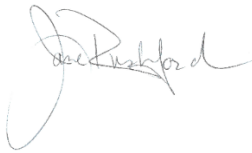
Member Garrett: No, thank you.

Chair Rushford: Thank you very much. We are adjourned.

ADJOURN

Chair Rushford adjourned the meeting at 10:44am.

Minutes approved this 2nd day of September, 2020



Jane Rushford
Board Chair



Ollie Garrett
Board Member



Russ Hauge
Board Member

Minutes prepared by: Dustin Dickson, Executive Assistant to the Board

LCB Mission - Promote public safety and trust through fair administration and enforcement of liquor, cannabis, tobacco, and vapor laws.

Complete meeting packets are available online: http://lcb.wa.gov/boardmeetings/board_meetings
For questions about agendas or meeting materials you may email dustin.dickson@lcb.wa.gov or call 360.664.1717