

Nevada State Dairy Commission Public Meeting
10/16/2013

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STATE OF NEVADA
DEPARTMENT OF AGRICULTURE

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NOTICE OF PUBLIC MEETING OF THE
NEVADA DAIRY COMMISSION
405 SOUTH 21st STREET, SPARKS, NEVADA

TRANSCRIPT OF PROCEEDINGS

October 16, 2013

Sparks, Nevada

Reported by: Karen Bryson
Certified Court Reporter #120

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APPEARANCES

CHRISTOPHER COOK, Chairman
JOHN COLLIER, Commission Member
TROY CROWTHER, Commission Member
THOMAS ORZECH, Commission Secretary

ALSO PRESENT:

KATHY EASLY
DONNELL BARTON
ERICA RYAN (via videoconference)
JAMES O'CALLAGHAN (via videoconference)
KIMBERLY WHITFIELD (via videoconference)

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1 SPARKS, NEVADA, WEDNESDAY, OCTOBER 16, 2013, 9:02 A.M.

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3 MR. COOK: Well, Mr. Orzech, would you convene
4 this October meeting of the Nevada State Dairy Commission.

5 MR. ORZECH: Thank you, Mr. Chairman.

6 This is the time and place set for the regular
7 scheduled meeting of the Nevada State Dairy Commission for
8 the month of October 2013.

9 This meeting has been scheduled and noticed in
10 compliance with pertinent statutes including the open
11 meeting law. The copy of the agenda has been handed to
12 the court reporter with the request that it be part of the
13 official transcript of these proceedings.

14 My name is Tom Orzech, the operations manager
15 for the Nevada State Dairy Commission. Present today are
16 Mr. Christopher Cook, chairman; Mr. Troy G. Crowther,
17 member of the commission; Mr. John Collier, member of the
18 commission.

19 Those who are present -- those who present
20 statements or evidence to the commission during this
21 meeting are requested to first be acknowledged by the
22 chairman and to identify themselves for the record.

23 MR. COOK: Okay. Thank you.

24 Would you proceed to the first agenda item,
25 please.

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1 MR. ORZECH: First agenda item is public
2 comment and discussion.

3 MR. COOK: Okay. And it does not appear we
4 have members of the public at either location, so I would
5 assume we can skip to agenda item two.

6 MR. ORZECH: Agenda item number two, for
7 possible action, is license application. It's a
8 processing distributor license for Euro Market and Deli,
9 5625 South Rainbow Boulevard, Suite J, Las Vegas, Nevada,
10 89118, Steve Jahier, owner.

11 The applicant seeks a license to distribute
12 fluid milk, fluid cream, butter, yogurt, cottage cheese,
13 ice cream, sherbet, novelties, and frozen yogurt in the
14 southern Nevada marketing area. This is a transfer of an
15 existing license due to a change of ownership. No labels
16 for fluid milk are listed as being imported at this time.

17 The applicant's prices and costs have been
18 reviewed by members of the Dairy Commission staff, and are
19 in compliance with this agency's laws and regulations.
20 The applicant will be responsible for these assessments.

21 MR. COOK: Okay. I don't see anybody
22 representing this applicant at either location.

23 Is there anything that the staff would care to
24 add to this detail-wise?

25 MR. ORZECH: Detail-wise this was simply a

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1 complete hundred percent change of ownership.

2 MR. COOK: Okay.

3 MR. ORZECH: So he needed to get the -- to come
4 in and have the license transferred before the commission.

5 MR. COOK: So the existing licensee that sold
6 their business and this is the --

7 MR. ORZECH: Yes.

8 MR. COOK: -- new owner?

9 MR. ORZECH: Yes.

10 MR. CROWTHER: So it's just the ownership, the
11 change, not the name or the --

12 MR. ORZECH: Nothing else.

13 MR. CROWTHER: -- company.

14 Oh, okay.

15 MR. ORZECH: Ownership -- ownership change.

16 MR. CROWTHER: Okay.

17 MR. COOK: And they're current on their
18 assessments and --

19 MR. ORZECH: They're all set.

20 MR. COOK: All right. Well, is there anybody
21 from staff who wants to make any additional comments?

22 Seeing none, I will entertain a motion.

23 MR. COLLIER: Mr. Chairman, I'll enter a --
24 make a motion that we accept the processing and
25 distributor license for Euro Market and Deli located at

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1 5625 South Rainbow Boulevard, Suite J, in Las Vegas,
2 Nevada, Mr. Steven Jahier, the owner.

3 This applicant seeks to receive a license to
4 distribute fluid milk, fluid cream, butter, yogurt,
5 cottage cheese, ice cream, sherbet, novelties, and frozen
6 yogurt in our southern Nevada marketing area.

7 MR. CROWTHER: Second.

8 MR. COOK: There being a motion and a second
9 and no dissenting votes, the motion carries, and the
10 license application is transferred.

11 Proceed to the next agenda item, please.

12 MR. ORZECH: Agenda item number three for
13 possible action is approval of the minutes for the
14 September 18th, 2013, Dairy Commission meeting.

15 As you recall last month they were not a
16 verbatim transcription so we had minutes, so there are no
17 corrections listed.

18 MR. COOK: Okay.

19 MR. ORZECH: So strictly need a motion
20 approving the past minutes.

21 MR. COOK: Does the staff feel comfortable with
22 the detail of the --

23 MR. ORZECH: Yes. We went -- we went through
24 to make sure that it did fully comply with the open
25 meeting law. And they do.

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1 MR. COOK: Okay. I'll entertain a motion.

2 MR. CROWTHER: Mr. Chairman, I'll make a motion
3 to approve the minutes as indicated with no corrections
4 of the September 18th, 2013, Nevada State Dairy Commission
5 meeting.

6 MR. COOK: Okay.

7 MR. COLLIER: Mr. Chairman, I'll second that
8 motion.

9 MR. COOK: All right. Having a motion and a
10 second and no dissenting votes, the somewhat modified
11 minutes from the last meeting will be approved.

12 MR. ORZECH: Agenda item four is a staff report
13 for October 2013. I would like to take this time to
14 introduce Mr. James O'Callaghan who's our new auditor down
15 in Las Vegas, and he's sitting right in the front there.

16 MR. COOK: Welcome aboard.

17 MR. ORZECH: And Mr. O'Callaghan --

18 MR. O'CALLAGHAN: Thank you.

19 MR. ORZECH: Mr. O'Callaghan comes to us from
20 the Department of Taxation.

21 I have completed the violation paperwork
22 regarding Legacy Ice Cream. And I'm currently waiting
23 approval to meet with the deputy attorney general assigned
24 to the Department of Agriculture to have him review and
25 approve the complaint paperwork.

1 Directly after today's meeting we'll depart for
2 the tour of the new dry powder plant in Fallon. And our
3 current agency reserve is \$512,431.

4 And that concludes the report.

5 MR. COOK: How is the tax holiday going? Is
6 that going to start to take place?

7 MR. ORZECH: It's already in place --

8 MR. COOK: In place?

9 MR. ORZECH: -- and the -- and the -- several
10 licensees and several of the -- in fact, the larger ones,
11 you know, such as Wal-Mart, have already taken their
12 credit. So that has -- that does reflect in this number
13 as compared to last month.

14 MR. COOK: Okay. And is that going to make a
15 significant dent in that reserve?

16 MR. ORZECH: At this point, no. The reserve --

17 MR. COOK: So we're revisiting this again do
18 you think?

19 MR. ORZECH: I've been instructed that there
20 will be no more tax holidays. So this -- I don't know. I
21 have -- I cannot answer that question.

22 MR. CROWTHER: We as commissioners recommend
23 that there be tax holidays. I mean, it seems like with
24 this reserve building it would make sense.

25 MR. ORZECH: I cannot answer that question.

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1 MR. CROWTHER: This is -- this is where we need
2 legal counsel, I guess, in the meeting.

3 MR. COLLIER: I would -- I would suspect that
4 the Department of Agriculture wants that to build. That's
5 what I suspect.

6 MS. BARTON: This is Donnell Barton, the
7 director of the -- for the Food and Nutrition Division?
8 And so for the -- for the attorney piece, we are in that
9 process of getting the deputy attorney general.

10 And I would like for that person to be able to
11 respond to that question if you have the ability to say,
12 yes, put in a tax holiday or not. I'm not fully aware of
13 all of the regulations. I'm still coming up to speed on
14 them. But we can definitely get the attorney general to
15 take a look at that.

16 MR. CROWTHER: I would like that because --

17 MS. BARTON: Okay.

18 MR. CROWTHER: -- these funds -- I mean, even
19 by statute are the dairy industry -- they're to be used
20 for the dairy industry.

21 MS. BARTON: Correct. The Department of
22 Agriculture couldn't use them for, say like I -- we have
23 the USDA food programs, they could not use that -- those
24 funds on the USDA food programs. It has to be just for
25 the dairy industry.

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1 MR. CROWTHER: Okay.

2 MS. BARTON: So I know that there -- that the
3 management is fully aware of that so that -- there's not
4 anything to try and move those funds out of the dairy
5 commission. They are to be used for the dairy industry.
6 So as far as I know, there's nothing going on with that.

7 MR. COLLIER: So you're saying that those are
8 dedicated funds.

9 MS. BARTON: To the dairy. Right, to the Dairy
10 Commission, to the dairy industry.

11 MR. COLLIER: So they're locked to that.

12 MS. BARTON: Correct.

13 MR. COLLIER: Okay.

14 MR. COOK: And it's been our understanding that
15 we are to try to keep that reserve from building too
16 large.

17 MS. BARTON: Okay.

18 MR. COOK: And the way that we've done it in
19 the past is to return it to the people that provide it to
20 us in the form of a tax holiday. And we would like to be
21 able to continue doing that.

22 MS. BARTON: Okay.

23 MR. COOK: Because we have to represent the
24 industry interest as much as we can --

25 MS. BARTON: Sure.

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1 MR. COOK: -- and I can't think of a better way
2 to do that than to reduce their burdens where and when we
3 can.

4 MS. BARTON: Sure, I agree. And so hopefully
5 we will have a deputy attorney general assigned to us for
6 the next meeting. We were pushing hard to try and have
7 one here today, and paperwork is what's caught us up, is
8 we were waiting for that letter back from the attorney
9 general that says, yes, we will assign someone to the
10 Dairy Commission.

11 So it's -- I think it's just a matter of them
12 figuring out. They had additional questions about how
13 long the attorney worked on the Dairy Commission and what
14 were the number of hours. So we've been responding back
15 to their questions of how much time is needed.

16 MR. COOK: Okay.

17 MR. CROWTHER: Let me ask this, also, I guess
18 in conjunction with that what -- another question to be
19 asked is, can we make a permanent change in the rates that
20 are charged? Instead of keeping -- continuing to go to
21 tax holidays, can we just reduce the --

22 MR. COOK: Reduce the assessment fee?

23 MR. CROWTHER: -- assessment fee?

24 MR. COLLIER: That makes good sense.

25 MR. ORZECH: But, see, this was the discussion

1 we had before, you know. You got to go -- you got to go
2 back and remember because we -- we addressed this before.

3 MR. CROWTHER: Right.

4 MR. ORZECH: And the deal with lowering the
5 assessments only affects a certain portion of your
6 taxpayer base. By doing the tax holiday you give that to
7 everyone equally depending on how much they pay.

8 So the decision -- this -- this -- because
9 we've gone over that, and that was a discussion at several
10 meetings way back. And so that's when we said the best
11 way and the fairest way to do this is to give the money
12 back based on how much everybody pays.

13 In other words, if we drop the fluid rate
14 assess -- the fluid rate, a fluid milk assessment rate, it
15 only benefits those that handle fluid milk. It doesn't
16 help the people doing yogurt. They don't -- they don't
17 get any break on it.

18 But by doing it across the board per month like
19 we've done it, we have -- it solves two things. First
20 off, we can -- we can sit and look at how much money we
21 can forecast, easily, how much that's going to reduce
22 things. It's -- it's fantastic being able to do that.

23 I was here when we did -- we did a -- one time
24 when we dropped all rates. It was a nightmare. We
25 actually got in trouble with the legislature because we

1 could not focus -- or, could not plan a budget because we
2 couldn't tell if the sales against -- because all our
3 sales are cyclical, the dairy products, we couldn't come
4 up with a forecast budget and we were going to go into the
5 hole. And so then we bought them back.

6 This system that we've done with allowing the
7 monthly tax holidays has been fantastic. I mean, it has
8 worked. It allows us to check this number. The fellow
9 who does our fiscal work, Walter, I can go to him, and he
10 tells me right away where the money's coming down and
11 who's paying and who doesn't pay.

12 It's been great as far as a management style
13 for the fiscal side for us. But, again, for the taxpayer,
14 for the person paying the assessments, it's been great
15 because everybody gets a break no matter what you do.

16 You put in -- you put in five bucks a month, if
17 that's all you pay, you're going to get a break.
18 Wal-Mart, you know, 25,000? They get the break, I mean,
19 based on how much they're putting in.

20 So it's been -- I would not recommend going and
21 reducing assessments straight out because it only serves
22 one specific tax-paying --

23 MR. CROWTHER: Unless you did it --

24 MR. ORZECH: -- group.

25 MR. CROWTHER: -- across the board.

1 MR. ORZECH: But there's no way -- there's no
2 way you can forecast it. I can -- I can -- that's the
3 problem, has been able to forecast what effect that's
4 going to have on your budget by doing that. Because,
5 again, it's cyclical.

6 This latest deal that happened with Chobani,
7 with the yogurt recall, I can guarantee you we were
8 watching that to see if that had a trickle effect down
9 through the yogurt industry and people buying yogurt.
10 They do and it's going to hit us, I mean, you know,
11 drastically.

12 So that's the type of thing that you can't plan
13 for. But through this you can. You can say that this --
14 for these months you're going to, you know, reduce --
15 because we -- since we have good records of how much we
16 bring in every month, it's very easy to track it.

17 And I'll tell you that the feedback we've
18 gotten from the licensees has been great. They've loved
19 the fact that we're able to do this and give everybody the
20 break rather than just a few segments, so that -- I guess
21 maybe I've never told you how well this worked. But it
22 has really worked well as far as the system of doing it.
23 Better than I could have even imagined.

24 MR. CROWTHER: How many times -- I probably
25 should know this -- but in the last two years have we done

1 this? Have we given --

2 MR. COOK: This is the third time?

3 MR. ORZECH: I believe this is the fourth.

4 MR. COOK: Fourth?

5 MR. ORZECH: This is the fourth time that we've
6 done this.

7 MR. CROWTHER: Okay.

8 MR. ORZECH: And part of what -- again, what
9 you're seeing is the reserves -- because -- because of
10 this change, because of the money is coming in very
11 strange now as far as -- the money coming in is pretty
12 standard.

13 What's going out as far as our expenses since
14 we moved over here is things that you can't really track
15 yet. I mean, the -- you know --

16 MR. COOK: No industry --

17 MR. ORZECH: No, as far as not paying the rent
18 because the rent is still kind of split from the old
19 property, it's kind of a --

20 MR. CROWTHER: And Las Vegas is going to
21 change --

22 MR. ORZECH: It is.

23 MR. CROWTHER: -- also.

24 MR. ORZECH: But just -- just the --

25 MR. CROWTHER: Okay.

1 MR. ORZECH: You know, it's been a very good
2 way of balancing our money. It's worked. It's worked
3 real well. And in the legislature, when we had to send
4 the reports back to them, we -- they were pleased with the
5 way we were doing it when we had those letters back to the
6 legislature.

7 MR. CROWTHER: Could we write something up and
8 maybe send it to Washington? To Washington D.C.? You
9 know, to maybe teach them how to do this?

10 Sorry.

11 MR. COOK: Come on, Troy, you're the CPA.
12 You're not supposed to be the humorist here.

13 MR. CROWTHER: Apparently I wasn't.

14 MS. BARTON: And just a real quick follow-up,
15 because one of you mentioned the building in Las Vegas.
16 And we have the Las Vegas staff on video, is that, they
17 have begun construction on the agriculture building to
18 widen that one room?

19 So that hopefully by the end of this year the
20 Las Vegas staff will be able to move over into the
21 agricultural building and will no longer have to pay the
22 lease on the property that they're in right now, so.

23 They're supposed to begin construction actually
24 tomorrow morning. So hopefully that won't take too long,
25 and they're knocking out the wall, new carpet, new paint.

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1 So we're excited to be able to get most everybody together
2 down there.

3 MR. COOK: Okay. All right. So --

4 MR. CROWTHER: So it's working well but right
5 now we can't do it anymore.

6 MR. COOK: That's what I'm hearing.

7 MR. ORZECH: That's the instructions that I've
8 been told. Because I did plan --

9 MR. COLLIER: Where did those instructions
10 originate from?

11 MS. BARTON: I can answer those questions.

12 MR. COLLIER: Yes' ma'am, I'd like to know.

13 MS. BARTON: The instructions came from our
14 director, Jim Barbee. And I think they want to take a
15 look at that situation and how we try to manage that, if
16 it is, as you suggested, maybe a change in assessment
17 rate, or if it is a tax holiday, to take a look at how we
18 track.

19 MR. COLLIER: Okay.

20 MR. COOK: Okay?

21 Would you proceed to the next agenda item,
22 please?

23 MR. ORZECH: Yes, sir. Agenda item number five
24 is consideration of any other matters relating to the
25 dairy industry.

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1 MR. COOK: Okay. Is there anything that
2 anybody wants to throw on the table in that regard at this
3 point?

4 Seeing none, let's move on to the next one.

5 MR. ORZECH: And the final agenda item is
6 agenda item number six, which is public comments and
7 discussion.

8 MR. COOK: We were hoping to have the Model
9 Dairy people here, and they didn't show, so we don't know
10 what has happened with their appeal of the Washoe County
11 contract?

12 MR. ORZECH: Exactly.

13 MR. COOK: Okay. Well -- and since there are
14 no members of the public, there can't be any public
15 comment, so we might as well wrap this meeting up and head
16 out to Fallon. Okay?

17 So the meeting is adjourned.

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19 (9:22 a.m. proceedings concluded.)

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1 STATE OF NEVADA,)
2) ss.
3 COUNTY OF WASHOE.)
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7 I, Karen Bryson, a Certified Court Reporter
8 and notary public in and for the County of Washoe, State
9 of Nevada, do hereby certify:

10
11 That on October 16, 2013, I reported the
12 proceedings entitled herein;

13
14 That the foregoing transcript is a true and
15 correct transcript of the stenographic notes of testimony
16 taken by me in the above-captioned matter to the best of
17 my knowledge, skill, and ability.

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Karen Bryson, CCR #120

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BOARD SIGNATURE PAGE

Christopher Cook, Chairman

Troy Crowther, Commission Member

John Collier, Commission Member

TOM ORZECH, Commission Secretary