



TOWN OF JACKSON

TOWN COUNCIL

AGENDA DOCUMENTATION

PREPARATION DATE: November 7, 2016
MEETING DATE: November 21, 2016

SUBMITTING DEPARTMENT: Town Clerk
DEPARTMENT DIRECTOR: Roxanne DeVries Robinson
PREPARED BY: Sandy Birdyshaw, Town Clerk

SUBJECT: Public Hearing for New Restaurant Liquor License for:
Big Hole BBQ Jackson LLC D/B/A Big Hole BBQ

STATEMENT/PURPOSE

The Town Council is the local licensing authority for the issuance, renewal, and transfer of all liquor licenses within the Town of Jackson.

It is necessary for the Mayor to **OPEN A PUBLIC HEARING** to hear protests against the issuance, renewal, or transfer of these liquor licenses. After public comment has been taken, the Mayor must **CLOSE THE PUBLIC HEARING**.

BACKGROUND/ALTERNATIVES

The applicant, **Big Hole BBQ Jackson LLC d/b/a Big Hole BBQ**, has applied for a new restaurant liquor license for its new restaurant located at 325 West Pearl Street, in the old Betty Rock space. The applicant expects to be operational in November and therefore requests approval of the application to be effective November 21st.

This application has been reviewed by the Wyoming Liquor Division and certified complete. It was also distributed to the Town Clerk's office, Police Department, Town Attorney, Building & Planning Department, and Fire/EMS for review. Public Notices were posted at the location premises, town website, and in the Jackson Hole News & Guide on October 26 and November 2.

The following is an excerpt from Wyoming Statute §12-4-104 regarding the issuance of a liquor license:

- (b) Any license or permit authorized under this title shall not be issued, renewed or transferred until on or after the date set in the notice for hearing protests. If a renewal or transfer hearing, the hearing shall be held no later than thirty (30) days preceding the expiration date of the license or permit. A license or permit shall not be issued, renewed or transferred if the licensing authority finds from evidence presented at the hearing:
- (i) The welfare of the people residing in the vicinity of the proposed license or permit premises shall be adversely and seriously affected;
 - (ii) The purpose of this title shall not be carried out by the issuance, renewal or transfer of the license or permit;
 - (iii) The number, type and location of existing licenses or permits meet the needs of the vicinity under consideration;
 - (iv) The desires of the residents of the county, city or town will not be met or satisfied by the issuance, renewal or transfer of the license or permit; or
 - (v) Any other reasonable restrictions or standards which may be imposed by the licensing authority shall not be carried out by the issuance, renewal or transfer of the license or permit.

The applicant has up to two years to become operational per Wyoming Statute §12-4-103(a)(iv):

(a) A license or permit authorized by this title shall not be held by, issued or transferred to:

(iv) Any licensee who fails to demonstrate that his licensed alcoholic or malt beverage enterprise will be operational in a planned but not physically functional building within two (2) years after a license or permit has been issued or transferred, or if holding a license, fails to open his business in a functional building within two (2) years after license issuance or transfer. Upon a showing of good cause by the licensee and for an additional period of not to exceed one (1) year, the local licensing authority may extend the time period in which the business or enterprise of the licensee is required to become operational or open for business pursuant to this paragraph.

ATTACHMENTS

New Restaurant Liquor License Application

FISCAL IMPACT

The approval of this liquor license would result in the collection of \$625 from a prorated annual application fee and potentially \$1500 at the next annual renewal.

STAFF IMPACT

Staff impact is minimal which includes processing the application and assuring that conditions of approval have been met before issuing the license.

LEGAL REVIEW

Complete. Additionally, the Wyoming Supreme Court has determined that “the law of the State of Wyoming is abundantly clear that there is no vested right in any person to have a liquor license.” (emphasis added) *Berry v. Arapahoe and Shoshone Tribes*, 420 F.Supp. 934, 941 (D. Wyo. 1976). It is also clear under the current Wyoming Statutes that an applicant for a new license has no right of appeal. W.S. § 12-4-104(e).

RECOMMENDATION

Should the Council be amenable to an additional restaurant liquor license, staff recommends approval of the application, subject to following conditions of approval and/or restrictions:

1. Any additional minor corrections by staff and the Wyoming Liquor Division.
2. Prior to liquor license issuance, the applicant shall have obtained all required permits and approvals from all applicable Town/County departments.
3. Prior to liquor license issuance, the applicant shall have passed a dispensing room inspection conducted by the Town Clerk or Wyoming Liquor Division.

SUGGESTED MOTION

I move to approve the restaurant liquor license application made by **Big Hole BBQ Jackson LLC d/b/a Big Hole BBQ** effective November 21, 2016 for the remaining 2016-2017 liquor license year, subject to the conditions and restrictions listed in the staff report, and further direct the Town Clerk to issue the license upon confirmation that the conditions of approval have been met within the timeframe set forth in §12-4-103(a)(iv).

NEW OR TRANSFER LIQUOR LICENSE OR PERMIT APPLICATION

To be completed by the City/Town or County Clerk:

Date Filed With Clerk: 10 / 14 / 2014

	Annual Fee	Prorated Fee
Basic Fee:	\$ <u>1500.00</u>	\$ <u>625.00</u>
Add'l Dispensing Room Fee:	\$ _____	\$ _____
Transfer Fee:	\$ _____	\$ _____
Total License Fee Collected	\$ _____	\$ <u>625.00</u>
Publishing Fee Collected:	\$ <u>100.00</u>	\$ _____

Publishing Direct Billed:

Advertising Dates (2 wks): 10/26, 11/2

Hearing Date: 11 / 21 / 2014

LICENSE TERM: 11 / 21 / 2014
Month Day Year

Through: 3 / 31 / 2017
Month Day Year

A copy must be immediately forwarded to:
 State of Wyoming Liquor Division
 6601 Campstool Rd.
 Cheyenne WY 82002-0110

Formerly Held by: _____

Applicant: BIG HOLE BBQ JACKSON, LLC

Trade Name (dba): BIG HOLE BBQ

Premise Address: 325 WEST PEARL AVE
Number & Street

JACKSON WY 83001 TETON
City State Zip County

Mailing Address: PO BOX 978
Number & Street or P.O. Box

VICTOR ID 83455
City State Zip

Business Telephone Number: (208) 201-1187

Fax Number: _____

E-Mail Address: bigholebbq@hotmail.com

LICENSING AUTHORITY: Begin publishing promptly. As W.S. 12-4-104(d) specifies: **NO LICENSING AUTHORITY SHALL APPROVE OR DENY THE APPLICATION UNTIL THE LIQUOR DIVISION HAS CERTIFIED THE APPLICATION IS COMPLETE.**

<p>FILING FOR</p> <p><input checked="" type="checkbox"/> NEW <input type="checkbox"/> TRANSFER LOCATION <input type="checkbox"/> TRANSFER OWNERSHIP IP</p> <p>FILING IN (CHOOSE ONLY ONE)</p> <p><input type="checkbox"/> CITY OF <u>JACKSON</u></p> <p><input type="checkbox"/> COUNTY OF <u>TETON</u></p> <p>FILING AS (CHOOSE ONLY ONE)</p> <p><input type="checkbox"/> INDIVIDUAL <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> CORPORATION <input type="checkbox"/> LTD PARTNERSHIP <input type="checkbox"/> ASSOCIATION <input type="checkbox"/> ORGANIZATION</p> <p><input checked="" type="checkbox"/> LLC <input type="checkbox"/> LLP</p>	<p>TYPE OF LICENSE OR PERMIT (CHOOSE ONLY ONE)</p> <p>RETAIL LIQUOR LICENSE <input type="checkbox"/> ON-PREMISE ONLY (BAR) <input type="checkbox"/> OFF-PREMISE ONLY (PACKAGE STORE) <input type="checkbox"/> COMBINATION ON/OFF PREMISE (BOTH BAR & PACKAGE STORE)</p> <p><input checked="" type="checkbox"/> RESTAURANT LIQUOR LICENSE <input type="checkbox"/> RESORT LIQUOR LICENSE <input type="checkbox"/> BAR AND GRILL</p> <p>LIMITED RETAIL (CLUB) <input type="checkbox"/> VETERANS CLUB <input type="checkbox"/> FRATERNAL CLUB <input type="checkbox"/> GOLF CLUB <input type="checkbox"/> SOCIAL CLUB</p> <p><input type="checkbox"/> MICROBREWERY <input type="checkbox"/> WINERY <input type="checkbox"/> DISTILLERY SATELLITE <input type="checkbox"/> WINERY SATELLITE <input type="checkbox"/> COUNTY RETAIL or SPECIAL MALT BEVERAGE PERMIT</p>	<p>To Assist the Liquor Division with scheduling inspections:</p> <p>WHEN DO YOU OPERATE?</p> <p><input type="checkbox"/> NON-OPERATIONAL/PARKED <input checked="" type="checkbox"/> FULL TIME (e.g. Jan through Dec) <input type="checkbox"/> SEASONAL/PART-TIME (specify months of operation) from _____ to _____</p> <p>DAYS OF WEEK (e.g. Mon through Sat) <u>7 DAYS</u></p> <p>HOURS OF OPERATION (e.g. 10a - 2a) <u>11:30AM - 9:30 PM</u></p>
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1. DISPENSING ROOM DESCRIPTION WITH DIMENSIONS:

(a) Give a description with dimensions of the dispensing room and state where it is located within the building (e.g. 10 x 12 room in SE corner of building). Please provide a drawing of the establishment that includes the dispensing room: W.S. 12-4-102(a)(i)

5x7 ROOM ADJACENT TO SERVICE COUNTER NEAR CENTER OF BUILDING SEE ATTACHED DRAWING 6' x 8' ROOM IN CENTER OF BUILDING

(b) If Winery or Microbrewery, also list the manufacturing facility. (e.g. MFG: 10' X 12' room in SW portion of bldg.)

MFG: N/A

(c) Do you have an additional dispensing room? YES NO If yes, provide description and location:

(d) Provide the legal description and the zoning of the site where the applicant will conduct business:
LOT 5 THRU 8, BLK 4, WORT-1 ZONE: DC

2. BUILDING OWNERSHIP: Does the applicant? W.S. 12-4-103 (a) (iii)

(1) **OWN** the building in which sales room is located? YES (own)
 (2) **LEASE** the building in which sales room is located? YES (lease)

(A) **DATE** lease expires 10/31/2021 located on page 1 paragraph #7 of lease document.
 (B) Provision for **SALE** of alcoholic or malt beverages located on page 17 paragraph 3 of lease.

NOTE: Please submit a copy of the lease with the application. W.S. 12-2-103(a)(iii) requires the lease be valid THROUGH the TERM OF THE LICENSE and MUST contain a provision for SALE OF ALCOHOLIC or MALT BEVERAGES.

3. Have you already assigned, leased, transferred or do you intend to assign, lease, transfer, contract or in any other manner agree with any person or firm other than yourself as licensee to operate and assert control or partial control of the license and the licensed room to carry on the licensed liquor business? YES NO
4. Does any manufacturer, brewer, rectifier, wholesaler, or through a subsidiary affiliate, officer, director or member of any such firm: W.S. 12-5-401, 12-5-402, 12-5-403
- (a) Hold any interest in the license applied for? YES NO
- (b) Furnish by way of loan or any other money or financial assistance for purposes hereof in your business? YES NO
- (c) Furnish, give, rent or loan any equipment, fixtures, interior decorations or signs other than standard brewery or manufacturer's signs? YES NO
- (d) If you answered YES to any of the above, explain fully and submit any documents in connection therewith: _____
5. Does the applicant have any interest or intent to acquire an interest in any other liquor license issued by this licensing authority? W.S. 12-4-103(b) YES NO
If "YES", explain: _____
6. Is the applicant a mayor, member of a city or town council, or member of the board of county commissioners within the jurisdiction of this licensing authority? W.S. 12-4-103(a)(i) YES NO
7. Is the applicant employed by the State, City or Town, or County as a law enforcement officer, or hold office as a law enforcement officer through election? W.S. 12-4-103(a)(ii) YES NO

RESTAURANT OR BAR AND GRILL LICENSE:

8. Have you submitted a valid food service permit? W.S. 12-4-407(a)/W.S. 12-4-413(a) YES NO

RESORT LICENSE:

9. Does the resort complex:
- (a) Have an actual valuation of at least one million dollars, or have you committed or expended at least one million dollars (\$1,000,000.00) on the complex, excluding the value of the land? W.S. 12-4-401(b)(i) YES NO
- (b) Include a restaurant and a convention facility which will seat at least one hundred (100) persons? W.S. 12-4-401(b)(ii) YES NO
- (c) Include motel, hotel or privately owned condominium, town house or home accommodations approved for short term occupancy with at least one hundred (100) sleeping rooms? W.S. 12-4-401(b)(iii) YES NO
- (d) If no on question (c), have a ski resort facility open to the general public in which you have committed or expended at least one million dollars (\$1,000,000.00)? W.S. 12-4-401(b)(iv) YES NO

MICROBREWERY LICENSE:

10. Will the license be held in conjunction with another liquor license? W.S. 12-4-412(b)(iii) YES NO
- (a) If "YES", please specify type: RETAIL RESTAURANT RESORT
 BAR AND GRILL MICROBREWERY WINERY
11. (a) Do you self distribute your products? W.S. 12-2-201(a) YES NO
(Requires additional licensing with the Liquor Division)
- (b) Do you distribute your products through an existing malt beverage wholesaler? W.S. 12-2-201(g)(i) (Requires additional licensing with the Liquor Division) YES NO

WINERY LICENSE:

12. Will the license be held in conjunction with another liquor license? W.S. 12-4-412(b)(iii) YES NO
- (a) If "YES", please specify type: RETAIL RESTAURANT RESORT
 BAR AND GRILL MICROBREWERY WINERY

LIMITED RETAIL (CLUB) LICENSE:

13. **FRATERNAL CLUBS** W.S. 12-1-101(a)(iii)(B)
- (a) Has the fraternal organization been actively operating in at least thirty-six (36) states? YES NO
- (b) Has the fraternal organization been actively in existence for at least twenty (20) years? YES NO

LIMITED RETAIL (CLUB) LICENSE:

14. **VETERANS CLUBS** W.S. 12-1-101(a)(iii)(A):
- (a) Does the Veteran's organization hold a charter by the Congress of the United States? YES NO
- (b) Is the membership of the Veteran's organization comprised only of Veterans and its duly organized auxiliary? YES NO

LIMITED RETAIL (CLUB) LICENSE:

15. SOCIAL CLUBS W.S. 12-1-101(a)(iii)(E):

- (a) Do you have more than one hundred (100) bona fide members who are residents of the county in which the club is located? YES NO
- (b) Is the club incorporated and operating solely as a nonprofit organization under the laws of this state? YES NO
- (c) Is the club qualified as a tax exempt organization under the Internal Revenue Service? YES NO
- (d) Has the club been in continuous operation for a period of not less than one (1) year? YES NO
- (e) Has the club received twenty-five dollars (\$25.00) from each bona fide member as recorded by the secretary of the club and are club members at the time of this application in good standing by having paid at least one (1) full year in dues? YES NO
- (f) Does the club hold quarterly meetings and have an actively engaged membership carrying out the objectives of the club? YES NO
- (g) Have you filed a true copy of your bylaws with the local licensing authority and the Wyoming Liquor Division? YES NO
- (h) Has at least fifty one percent (51%) of the membership signed a petition indicating a desire to secure a Limited Retail Liquor License?
(THE PETITION MUST BE ATTACHED TO APPLICATION) YES NO
- (i) Have you filed with the licensing authority and the Wyoming Liquor Division a detailed statement of your activities during the preceding year which were undertaken or furthered in pursuit of the objectives of the club, along with an itemized statement expended for such activities? YES NO

LIMITED RETAIL (CLUB) LICENSE:

16. GOLF CLUBS W.S. 12-1-101(a)(iii)(D):

- (a) Do you have more than fifty (50) bona fide members? YES NO
- (b) Do you own, maintain, or operate a bona fide golf course together with clubhouse? YES NO

17. (a) If applicant is filing as an Individual or Partnership: W. S. 12-4-102 (a) (ii) & (iii)
Each individual or partner must complete this section.

If the applicant is filing as a Club:
Each officer must complete this section.

True and Correct Name	Date of Birth	DONOT LIST PO BOXES Residence Address No. & Street City, State & Zip	Residence Phone Number	Have you been a DOMICILED resident for at least 1 year and not claimed residence in any other state in the last year?	Have you been Convicted of a Felony Violation?	Have you been Convicted of a Violation Relating to Alcoholic Liquor or Malt Beverages?
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
				YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>

(If more information is required, list on a separate piece of paper and attach to this application.)

(b) If the applicant is a Corporation, Limited Liability Company, Limited Liability Partnership or Limited Partnership: W.S. 12-4-102 (a) (iv) & (v)

Each stockholder holding, either jointly or severally, ten percent (10%) or more of the outstanding and issued capital stock of the corporation, limited liability company, limited liability partnership, or limited partnership, and every officer, and every director must complete this section.

True and Correct Name	Date of Birth	DONOT LIST PO BOXES Residence Address No. & Street City, State & Zip	Residence Phone Number	No. of Years in Corp or LLC	% of Stock Held	Have you been Convicted of a Felony Violation?	Have you been Convicted of a Violation Relating to Alcoholic Liquor or Malt Beverages?
						YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
NICK JACOB				1	80%	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
MAYA CROTHERS				1	20%	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
						YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
						YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
						YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>
						YES <input type="checkbox"/> NO <input type="checkbox"/>	YES <input type="checkbox"/> NO <input type="checkbox"/>

(If more information is required, list on a separate piece of paper and attach to this application.)

OATH OR VERIFICATION

(Requires signatures by **ALL** Individuals, **ALL** Partners, **ONE (1)** LLC Member, or **TWO (2)** Corporate Officers or Directors except that if all the stock of the corporation is owned by **ONE (1)** individual then that individual may sign and verify the application upon his oath, or **TWO (2)** Club Officers.) W.S. 12-4-102(b)

Under penalty of perjury, and the possible revocation or cancellation of the license, I swear the above stated facts, are true and accurate.

STATE OF WYOMING)

SS.

COUNTY OF TETON)

Before Me, Sandra P Birdyshaw (specify)
(Printed name of Notary or other officer authorized to administer oaths)

a Notary Public, Officer authorized to administer oaths in and for

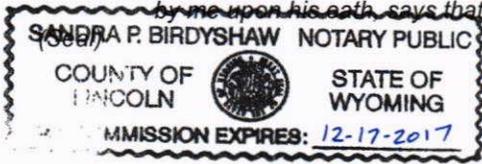
Teton County, State of Wyoming, personally appeared

Nick Jacob

(Insert Names)

name he/she being first duly sworn

by me upon his oath, says that the facts alleged in the foregoing instrument are true.



1. NICK JACOB 
2. _____
3. _____
4. _____

My Commission expires: 12-17-2017

Witness my hand and official seal:

Sandra P Birdyshaw

(Notary Public or other officer authorized to administer oaths)

Title Notary Public / Town Clerk

Dated: 10-14-2014

REQUIRED ATTACHMENTS:

- A statement indicating the financial condition and financial stability of the applicant W.S. 12-4-102 (a) (vi).
- Include a drawing of the dispensing room W.S. 12-5-201 (a).
- Attach any lease agreements W.S. 12-4-103 (a) (iii).
- Include a copy of the CURRENT food service permit for Restaurant or Bar & Grill Liquor License applicants W.S. 12-4-407 (a) or 12-4-413 (a).
- If transferring a license from one ownership to another, a form of assignment from the current licensee to the new applicant authorizing the transfer W.S. 12-4-601 (b).

ADVERTISING REQUIREMENTS W.S. 12-4-104(a):

When an application for a license, permit, renewal or any transfer of location or ownership thereof has been filed with a licensing authority, the clerk shall promptly prepare a notice of application, place the notice conspicuously upon the premises shown by the application as the proposed place of sale and public the notice in a newspaper of local circulation once a week for two (2) consecutive weeks. The notice shall state that a named applicant has applied for a license, permit, renewal or transfer thereof, and that protests against the issuance, renewal, or transfer of the license or permit will be heard at a designated meeting of the licensing authority.

FOR LIQUOR DIVISION USE ONLY		
Reviewer	Initials	Date
Agent:		
Chief:		
Acct.:		