

COMMONWEALTH OF PENNSYLVANIA
Pennsylvania Milk Marketing Board

MINUTES

SUNSHINE MEETING

April 6, 2016

1:00 P.M. – Room 202 – Ag Building
Harrisburg, PA

1. CALL OF MEETING TO ORDER/ROLL CALL:

Chairman Luke Brubaker called the regular Sunshine Meeting of the Pennsylvania Milk Marketing Board to order at 1:00 P.M. in Room 202 of the Agriculture Building in Harrisburg, PA. **Secretary Tim Moyer** called the roll. Those in attendance and constituting a quorum were:

Board Members:

Present: Chairman Luke Brubaker, Consumer Member Lynda Bowman, Member James Van Blarcom

Absent: None

Others Present: Secretary Tim Moyer, Doug Eberly, Esq., Andrew Saylor, Esq., Gary Gojsovich, Carl Herbein, CPA (PAMD), Earl Fink (PAMD), John Bell, Esq. (PA Farm Bureau), Wendy Yovienne, Esq. (PAMD), Allen Warshaw, Esq. (PFMA), Marvin Beshore, Esq. (PADC), Ed Schneider (Valley Farms Dairy), Dennis Schad (Land'O Lakes), Mark Caltagirone, CPA (Herbein + Co/PAMD)

2. ACCEPTANCE OF MINUTES:

A. Acceptance of Minutes of the March 1, 2016, Sunshine Meeting.

PRESENTED by: Chairman Brubaker

DISCUSSION: None

MOTION by: Member Van Blarcom

Moved to accept the minutes as attached of the March 1, 2016 Sunshine Meeting. (*Note: Minutes were prepared and distributed to the Board members for their review prior to the April 6, 2016 Sunshine Meeting.* **Seconded by Consumer Member Bowman. Motion carried without dissent.**

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom

Dissenting: None

B. Acceptance of Minutes of the March 23, 2016, Special Sunshine Meeting.

PRESENTED by: Chairman Brubaker

DISCUSSION: None

MOTION by: Consumer Member Bowman

Moved to accept the minutes as attached of the March 23, 2016 Special Sunshine Meeting. (*Note:* Minutes were prepared and distributed to the Board members for their review prior to the April 6, 2016 Sunshine Meeting). **Seconded by Member Van Blarcom. Motion carried without dissent.**

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom

Dissenting: None

3. PUBLIC INPUT (PERTAINING TO GENERAL ISSUES):

N/A

4. OLD BUSINESS:

N/A

5. NEW BUSINESS:

1. Delegate to Tim Moyer the authority to make decisions regarding submission of amendments to 7 PA Code chapter 149 through the proposed form stage of the regulatory review process.

PRESENTED by: Chairman Brubaker

MOTION by: Consumer Member Bowman

Moved to approve the delegation to Tim Moyer of the authority to make decisions regarding submission of amendments to 7 PA Code chapter 149 through the proposed form stage of the regulatory review process. **Seconded by Member Van Blarcom**

DISCUSSION: Attorney Eberly explained the process for the Board in promulgating a regulation. There are various administrative steps to be completed. The Board prepares the paperwork for the Independent Regulatory Review Commission, which it is then submitted to the Attorney General for form and legality. Upon it being returned approved then it is then submitted to the Legislative Reference Bureau and Committees. Then it is published in the PA Bulletin which triggers a 30 day public comment period. The Board having to approve each administrative step would require various meetings and it is not be feasible to keep waiting for the next Sunshine meeting. This way it could keep moving administratively. The Board will give approval to the final form regulation.

DISCUSSION: Consumer Member Bowman commented that the process is a good idea to save time and expense.

Attorney Warshaw inquired about the entire process proposed and Attorney Eberly reiterated the entire process.

Attorney Eberly stated that he will post the copy of the process on the website.

Motion carried without dissent.

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom

Dissenting: None

6. REPORT OF CHIEF COUNSEL:

PRESENTED by: Attorney Eberly

DISCUSSION: Attorney Eberly stated he met with Secretary Moyer and the Board Members to discuss the regulatory review process, and a few other items relating to the Board staff, and the employee recognition which is upcoming. No official actions and no deliberations took place. The Board will meet following this meeting this afternoon. No deliberations will take place and no official actions will be undertaken by the Board.

7. LEGAL CASE DISPOSITIONS

- 1. Wayne Harman Trucking late filing of hauler monthly reports and late fee payment.
- 2. Wayne Harman Trucking late filing of hauler monthly reports and late fee payment

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented **1. Legal Docket CA-15-059, for Wayne Harman Trucking** for a late filing of hauler monthly reports and late payment of monthly fee. A consent order was signed and a penalty of \$300.00 was paid. **2. Legal Docket CA-16-003 Wayne Harman Trucking** for late filing of hauler monthly report and late payment of monthly fee. A consent order was signed and a penalty of \$450.00 was paid.

MOTION by: Member Van Blarcom

Moved to accept the consent orders as presented. **(1. Legal Docket CA-15-059 for Wayne Harman Trucking), (2. Legal Docket CA-16-003 for Wayne Harman Trucking) Seconded by Consumer Member Bowman.**

DISCUSSION: Consumer Member Bowman inquired on the \$300.00 penalty as it was not the norm. Attorney Saylor responded that the norm is a \$50.00 penalty for first time offenders. There was an extended period of noncompliance. This is habitual for this hauler and they are trying to encourage compliance.

Attorney Saylor stated that they came close to having a hearing last year, due to their noncompliance. They paid \$500.00 in previous since November 2014. There has been an effort made to work with him and visits done by staff in the past. They understand the system and it has been explained repeatedly.

Motion carried without dissent.

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom

Dissenting: None

- 3. Wayne Harman Trucking Hauler employed weigher-samplers without current certifications to pick up milk from farms.

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented **3. Legal Docket CA-16-004 for Wayne Harman Trucking** for hauler employed weigher-samplers without current certifications to pick up milk from farms. A consent order was signed and a penalty of \$150.00 was paid.

MOTION by: Consumer Member Bowman

Moved to accept the consent orders as presented. **(3. Legal Docket CA-16-004 for Wayne Harman Trucking). Seconded by Member Van Blarcom. Motion carried without dissent.**

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom
Dissenting: None

4. Blue Ribbon Farm Dairy late filing of dealer monthly report

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented **4. Legal Docket CA-16-001 for Blue Ribbon Farm Dairy for late filing of dealer monthly report.** A consent order was signed and a penalty of \$100.00 was paid.

MOTION by: Consumer Member Bowman

Moved to accept the consent order as presented. **(4. Legal Docket CA-16-001 for Blue Ribbon Farm Dairy) Seconded by Member Van Blarcom. Motion carried without dissent.**

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom
Dissenting: None

5. Paul K Manning late filing of dealer monthly report

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented **5. Legal Docket CA-16-005 for Paul K. Manning** for late filing of dealer monthly report. A consent order was signed and a penalty of \$100.00 was paid.

MOTION by: Member Van Blarcom

Moved to accept the consent orders as presented. **(5. Legal Docket CA-16-005 for Paul K. Manning). Seconded by Consumer Member Bowman. Motion carried without dissent.**

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom
Dissenting: None

6. HP Hood LLC (Winchester) late filing of dealer monthly report

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented **6. Legal Docket CA-16-006** for late filing of dealer monthly report. A consent order was signed and a penalty of \$200.00 was paid.

MOTION by: Consumer Member Bowman

Moved to accept the consent orders as presented. **(5. Legal Docket CA-16-006 for HP Hood LLC (Winchester) for late filing of dealer monthly report. Seconded by Member Van Blarcom.**

DISCUSSION: Chairman Brubaker inquired why the \$200.00 penalty. Attorney Saylor stated it was reflective of multiple past violations.

Motion carried without dissent.

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom
Dissenting: None

8. LICENSE APPLICATIONS:

1. Chas M. Sledd Company d/b/a Team Sledd Subdealer

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented that Chas. M. Sledd Company d/b/a Team Sledd has submitted an application for a subdealer license, for 2015-2016. Applicant will purchase packaged milk/cream products from an out of state dealer for resale. Applicant will sell packaged milk/cream products to stores in Areas 1, 2, 3, 4, 5, and 6. No bond is required. Appropriate staff has reviewed the application to ensure that all forms and fees have been received and are in order, and that the applicant has met the requirements of the Milk Marketing Law. With Board approval of this application, a subdealer license will be issued.

MOTION by: Member Van Blarcom

Moved to approve a subdealer license to Chas. M. Sledd Company d/b/a Team Sledd as presented. **Seconded by Consumer Member Bowman.**

DISCUSSION: Consumer Member Bowman inquired if they were doing home delivery. Attorney Saylor stated no.

Motion carried without dissent.

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom
Dissenting: None

2. Cow Belle, LLC Subdealer

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented that Cow Belle, LLC has submitted an application for a subdealer license, for 2015-2016. Applicant will purchase packaged milk products from a dealer. A COD (cash on delivery) has been provided in lieu of a bond. Applicant will sell packaged milk products to restaurants, schools, stores and home delivery in Areas 1, 2, and 3. Appropriate staff has reviewed the application to ensure that all forms and fees have been received and are in order, and that the applicant has met the requirements of the Milk Marketing Law. A provisional license was granted on March 9th, 2016 and with Board approval of this application, a subdealer license will be issued.

MOTION by: Member Van Blarcom

Moved to approve a subdealer license to Cow Belle, LLC as presented. **Seconded by Consumer Member Bowman.**

DISCUSSION: Chairman Brubaker inquired on who was the dealer. Attorney Saylor responded by stating the name of the dealer listed in the application.

Motion carried without dissent.

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom

Dissenting: None

3. Liberty, USA, a division of Eby-Brown, LLC Subdealer

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented that Liberty, USA, a division of Eby-Brown, LLC has submitted an application for a subdealer license, for 2015-2016. Applicant will purchase packaged milk products from a dealer for resale. A bond has been provided. Applicant will sell packaged products to stores in Areas 3, 4 and 5. Appropriate staff has reviewed the application to ensure that all forms and fees have been received and are in order, and that the applicant has met the requirements of the Milk Marketing Law. A provisional license was granted on April 1, 2016. With Board approval of this application, a subdealer license will be issued.

MOTION by: Consumer Member Bowman

Moved to approve a subdealer license to Liberty, USA, a division of Eby-Brown, LLC as presented. **Seconded by Member Van Blarcom. Motion carried without dissent.**

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom

Dissenting: None

4. Sorrento Lactalis, Inc. Dealer

PRESENTED by: Attorney Saylor

DISCUSSION: Attorney Saylor presented that Sorrento Lactalis, Inc. has submitted an application for a dealer license, for 2015-2016. Applicant will purchase milk directly from individual producer. Applicant will use milk/cream products to manufacture cheese, to sell nationally and throughout PA. A bond has been provided. Appropriate staff has reviewed the application to ensure that all forms and fees have been received and are in order, and that the applicant has met the requirements of the Milk Marketing Law. With Board approval of this application, a dealer license will be issued.

MOTION by: Member Van Blarcom

Moved to approve a dealer license to Sorrento Lactalis, Inc. as presented. **Seconded by Consumer Member Bowman. Motion carried without dissent.**

Assenting: Chairman Luke Brubaker, Consumer Member Bowman, Member Van Blarcom

Dissenting: None

DISCUSSION: Attorney Saylor shared with all that we currently have 190 licensed dealers and 156 subdealers.

9. REMINDERS:

PRESENTED by: Chairman Brubaker

<u>Sunshine Meeting</u>	<u>Date</u>	<u>Time</u>	<u>Room</u>
Regular Sunshine Meeting	Wed – May 4, 2016	1:00 PM	202 Ag Bldg.

10. ADJOURNMENT:

Chairman Brubaker, hearing no further matters to come before the Board, adjourned the meeting at 1:25 PM