

ALCOHOL AND TOBACCO COMMISSION

July 19, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

July 5, 2016

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

759 Renewals

59 New/Transfers

14 Catering

5 1st Year Escrow

8 2nd Year Escrow

8 3rd Year Escrow

6 4th Year Escrow

5 5th Year Escrow

14 New/Renewal Carriers

17 New/Renewal Direct Wine Shippers

6. Renewal Letters and Waiver of Fees for Letters of Extension -

7. Applications for Discussion –

RR45-31646 Indiana Harbor Yacht Club, Inc. – Conversion from 210 to social club

ELM1600007 Cal Co Packing, LLC

RR49-28549 Suite 38, Inc. – Renewal with LB voting 3-1 to approve.

RR32-32358 Cartel Brewing – Motion to Remand

RR29-32249 Nova 29, LLC – LB denied, no show

RR29-32385 Prairie Guest House Inc. – LB denied, no show

RR49-04789 The Arantee Group, LLC – LB denied, no show

Probationary Employee permits:

BR1838794 Jeshod Hughes – 1 violation

BR1641416 Anne Carroll – 1 violation

8. Inactive Files –

36 Permits Not Subject to Auction

10 Permits Subject to Auction

9. Old Business -

Megan Giffin, BR1787576 and Mathew Mounce, BR1714044 – provided proof of alcohol treatment

LSA DOC #15-290 – Adoption of rule

10. New Business –

11. Policy Determinations –

12. Announcements -

INDUSTRY ROUNDTABLE DISCUSSIONS

July 19, 3:00 pm, Vintner's Roundtable (Brown County)

August 9, 1:30 pm, Package Store Roundtable (ATC)

August 23, 1:30 pm, C-Store Roundtable (ATC)

September 20, 1:30 pm, Pharmacy/Grocery Store Roundtable (ATC)

October 4, 1:30 pm, RR Permit Roundtable (ATC)

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JULY 19, 2016

CALL TO ORDER/NOTING OF QUORUM

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Coleman, Commissioner Maginn and Commissioner Grubb. Executive Secretary Rothenberg, Prosecutor Mader, Commission Counsel Allen, Superintendent Strittmatter and Corporal Lynch were also in attendance.

Jeff McKean, Brooke Litherland, Mark Webb, Schyler Culver, Brooke Barnett, Bart Herriman, Marc Carmichael, Davey Neal, Angela Matney and Chip Garver were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the July 5, 2016 meetings. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 47 Parties' Agreed Dispositions that were submitted, totaling approximately \$18,425.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the July 19, 2016 meeting. Vice Chairman Coleman seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR32-32358 CARTEL BREWING COMPANY – Hearing Judge Rothenberg stated this applicant was denied a new permit. The matter is currently under appeal; however, the applicant requested this matter be remanded to the local board so information that was not presented to the local board could be heard and a new vote taken. The Hearing Judge recommended the Commission remand this application to the local board for further investigation.

Commissioner Grubb moved to uphold the recommendation of the Hearing Judge to remand this application to the local board. Commissioner Maginn seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Grubb moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the commission and hereby move for approval of same and the inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of permit applications for a new permit, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two commissioners and hereby move for approval of same, pending final floor plan approval by the Indiana State Excise Police, and inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of applications for catering. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a commissioner as appropriate for escrow and hereby move for approval of same and the inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal direct wine shipper permits. Commissioner Maginn seconded. The motion was unanimously approved.

Seven hundred fifty-nine (759) renewals approved, fifty-nine (59) new and/or transfer applications approved, fourteen (14) permits approved for catering, five (5) permits approved for first year escrow, eight (8) permits approved for second year escrow, eight (8) permits approved for third year escrow, six (6) permits approved for fourth year escrow, five (5) permits approved for fifth year escrow, fourteen (14) new and renewal carrier permits approved, and seventeen (17) new and renewal direct wine shipper permits approved.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Coleman moved to approve the renewal and fee waived letters of extension for the preceding weeks. Commissioner Maginn seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR4531646 INDIANA HARBOR YACHT CLUB – Commission Counsel Allen stated this permittee requests a conversion from a type 210 permit to a type 209 permit.

Vice Chairman Coleman moved to approve the conversion. Commissioner Maginn seconded. The motion was unanimously approved.

ELM1600007 CAL CO PACKING, LLC – Commission revoked this permit. See transcript for discussion.

RR49-28549 SUITE 38 – Chairman Cook noted this is a renewal with the local board voting 3-1 to approve. This was continued from the last meeting.

Commissioner Maginn stated she reviewed the record and found that the newer owner has made extensive improvements at the establishment, including more security and cameras. She also noted many of the police runs were not actually to the business, but to locations where patrons went after they left.

Commissioner Maginn moved to uphold the local board's recommendation to approve the renewal for one year. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR29-32249 NOVA 29, LLC – Chairman Cook noted the local board voted to deny this new permit because the applicant did not appear at the local board meeting, as required.

Vice Chairman Coleman moved to uphold the local board's recommendation to deny. Commissioner Maginn seconded. The motion was unanimously approved.

RR29-32385 PRAIRIE GUEST HOUSE, INC. - Chairman Cook noted the local board voted to deny this new permit because the applicant did not appear at the local board meeting, as required.

Commissioner Maginn moved to uphold the local board's recommendation to deny. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-04789 THE ARANTEE GROUP, LLC - Chairman Cook noted the local board voted to deny renewal of this permit because the applicant did not appear at the local board meeting, as required.

Vice Chairman Coleman moved to uphold the local board's recommendation to deny. Commissioner Maginn seconded. The motion was unanimously approved.

PROBATIONARY EMPLOYEE PERMITS - Commissioner Grubb moved, pursuant to IC 7.1-3-18-9.5, to order the following employee permit holder(s) to complete an alcohol evaluation and treatment program within the next six months and provide proof of same to the Commission. The Commissioner further moved to reschedule for the January 3, 2017 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Jeshod Hughes, BR1838794; Anne Carroll, BR1641416

INACTIVE FILES

Commissioner Grubb moved to make forty-six (46) permits inactive. Thirty-six of the permits are not subject to auction and ten permits are subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

BR1787576 MEGAN GIFFIN AND BR1714044 MATHEW MOUNCE – Commissioner Grubb moved to remove these employees from probationary status because they have provided proof of completing an alcohol treatment program. Commissioner Maginn seconded. The motion was unanimously approved.

LSA DOC. #15-290 E-LIQUID RULE – The Commission adopted LSA Doc #15-290, as published. See transcript for discussion.

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

INDUSTRY ROUNDTABLE DISCUSSIONS – Chairman Cook stated the schedule for the remainder of the discussions is as follows:

- July 19, 3:00 pm, Vintner’s Roundtable (Brown County)
- August 9, 1:30 pm, Package Store Roundtable (ATC)
- August 23, 1:30 pm, C-Store Roundtable (ATC)
- September 20, 1:30 pm, Pharmacy/Grocery Store Roundtable (ATC)
- October 4, 1:30 pm, RR Permit Roundtable (ATC)

Executive Secretary Rothenberg requested that anyone coming to the Package Store discussion email him, so he has an idea of how many people will be attending, for purposes of knowing how much space is needed.

ADJOURNMENT

Vice Chairman Coleman moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Approved this 2nd day of August, 2016.



DAVID COOK, CHAIRMAN



DAVID COLEMAN, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER

1 Chairman Cook ELM1600007 Cal Co Packing, LLC, which was a June 30th permit,
2 manufacturing permit for e-liquids that was approved. Since that date,
3 there has been information brought to the attention of the commission
4 that the information it contained in the application form itself was false.
5 So, I put it on for review. I asked Dan Rose to be here to summarize his
6 investigation. I see he is not here. He did submit a written
7 investigation report that I passed around to all of you all and had you
8 review them, so I think we're as informed as we need to be to go
9 forward. I'll open it up for discussion.

10 Vice Chairman Coleman Mr. Chairman, I have reviewed the statutes and I think the commission
11 has the authority to do two things. First of all, revoke the permit that
12 was previously issued and that's under IC 7.1-2-3-9, and also refer this
13 matter to the county prosecutor for possible perjury charges against the
14 person who signed the application. It would be a level 6 felony. The
15 second part of my motion would be that we fine the applicant
16 \$10,000.00, under IC 7.1-7-6-1. The code allows for both provisions to
17 be done---the sanctions for violating the Indiana code. That's my
18 motion.

19 Commissioner Maginn I second.

20 Chairman Cook Is there any other discussion on that? I would suggest we add to that
21 that there be a finding by the commission, pursuant to Officer Rose's
22 report, that there was a willful misrepresentation to the commission and
23 would move to amend your motion to that extent. Any other
24 discussion? First the motion to amend to add the finding by the

25 commission there be a willful misrepresentation to the commission on
26 its application. Any discussion on that motion to amend? All in favor
27 say, aye.

28 Commissioner Maginn Aye.

29 Commissioner Grubb Aye.

30 Vice Chairman Coleman Aye.

31 Chairman Cook Aye. Opposed say, no. Motion carries. So, then, we'll act on the
32 motion as amended, which is to revoke the permit of Cal Company
33 Packing LLC, heretofore granted manufacturing permit for e-liquids on
34 June 30, 2016, to refer Officer Rose's investigation to Marion County
35 Prosecutor's Office for them to pursue charges in the event they believe
36 it is appropriate that the commission fine Cal Company Packing LLC,
37 \$10,000.00, and there be a finding of a willful misrepresentation. Any
38 further discussion? All in favor say, aye.

39 Commissioner Maginn Aye.

40 Commissioner Grubb Aye.

41 Vice Chairman Coleman Aye.

42 Chairman Cook Aye. Opposed say, no. Motion carries. There was...Jessica, do you
43 want to submit that? There was sort of a belated motion to withdraw
44 his application sent on July 6th.

45 Jessica Allen The permit was granted on June 30th. On July 5th, he contacted me by
46 email and asked to withdraw the application. Then, subsequently
47 submitted a signed letter typed on July 6th and we received it on July
48 13th, asking to withdraw the application.

49 Chairman Cook So maybe we need to make a motion...

50 Vice Chairman Coleman It seems to me the horse is out of the barn. I move that we deny that
51 request.

52 Commissioner Maginn Second.

53 Chairman Cook It's been moved and seconded that the request to withdraw be denied.
54 Any further discussion? All in favor say, aye.

55 Commissioner Maginn Aye.

56 Commissioner Grubb Aye.

57 Vice Chairman Coleman Aye.

58 Chairman Cook Aye. Opposed say, no. Motion carries. Do you want to then make that
59 part of the record, Jessica?

60 Jessica Allen Sure.

1 Chairman Cook LSA Document #15-290, which is final commission adoption of the e-
2 liquid rules. We've had those rules in place for a considerable period of
3 time. The final adoption I don't think is any different than the
4 emergency rule that has been in place. Isn't that correct?

5 Jessica Allen What was the question?

6 Chairman Cook The final rule is the same as the emergency rule that's been in place.

7 Allen Yes. It is the same. I believe it is exactly the same and it is...we have
8 not made changes since we published the proposed rule.

9 Chairman Cook Yea, that's my point. Yea. We have conducted the necessary public
10 meetings and received comments as by statute. I will entertain a motion
11 regarding final adoption of that rule.

12 Commissioner Maginn I move we adopt LSA Doc #15-290.

13 Vice Chairman Coleman Second.

14 Chairman Cook It's been moved and seconded as it relates to LSA Doc #15-290, that
15 that rule be finally adopted by the commission. Any further discussion?
16 All in favor say, aye.

17 Commissioner Maginn Aye.

18 Commissioner Grubb Aye.

19 Vice Chairman Coleman Aye.

20 Chairman Cook Aye. Opposed say, no. Motion carries.