

ALCOHOL AND TOBACCO COMMISSION

September 6, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum --

2. Disposition of Minutes

August 16, 2016

3. Prosecutor's Recommendations --

PAD Forms

4. Hearing Judge's Recommendations --

RR71-26941 SDTG, INC. -- Proposed Findings of Fact and Conclusions of Law

RR46-32097 MARK NEWKIRK, JR. - Proposed Findings of Fact and Conclusions of Law

RR46-06543 1103-05, INC. - Proposed Findings of Fact and Conclusions of Law

5. Consideration of Applications -

827 Renewals

27 New/Transfers

17 Catering

23 1st Year Escrow

7 2nd Year Escrow

5 3rd Year Escrow

2 4th Year Escrow

2 5th Year Escrow

12 New/Renewal Direct Wine Shippers

23 New/Renewal Carriers

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

7. Applications for Discussion --

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DL~~75~~-30743 Cataract Gas & Grocery, LLC

8. Inactive Files --

87 Permits Not Subject to Auction

303 Permits Subject to Auction

9. Old Business -

BR1519806 Tracy Jenkins and BR1641416 Anne Carroll -- provided proof of alcohol treatment

10. New Business --

Probationary Employee Permits

BR1832818 Christopher Phipps -- 1 conviction

11. Policy Determinations --

12. Announcements -

INDUSTRY ROUNDTABLE DISCUSSIONS

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

SEPTEMBER 6, 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. Prosecutor Mader, Commission Counsel Allen, Executive Secretary Rothenberg, Superintendent Strittmatter and Master Officer Bedwell were also in attendance.

Dan DeRoziere, Brooke Litherland, Brooke Barnett, Bart Herriman, Anthony Mitson, Jenny Drewry and Diane Masariu were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the August 16, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 178 Parties' Agreed Dispositions that were submitted, totaling \$50,125.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the September 6, 2016 meeting. Vice Chairman Coleman seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR71-26941 SDTG, INC. – Hearing Judge Rothenberg noted this was a recommended denial by the local board and an upholding of that denial by the Commission. Permittee filed a notice of appeal and the matter was set for hearing. The Hearing Judge stated that remonstrators provided police reports for incidents that occurred in a parking lot that is “behind” the premises, but not inside the premises. The parking lot is not behind and not even adjacent to the business, but that is what it is commonly known as. The permittee stated he was not aware of all of the problems, but said he would try to correct issues that may be contributing to these incidents. Hearing Judge Rothenberg recommended approving the renewal for one year.

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

RR46-06543 1103-05, INC. – Hearing Judge Rothenberg noted this was a recommended denial by the local board and the upholding of that denial by the Commission. The permittee filed an appeal. The permittee also requested permission to file a transfer of ownership of the permit. A transfer of ownership was filed. The Hearing Judge recommends the Commission overturn the denial and approve the renewal, so the permit can be transferred to Mark Newkirk, Jr..

Vice Chairman Coleman moved to uphold the Hearing Judge's recommendation and approve the renewal. Commissioner Maginn seconded. The motion was unanimously approved.

RR46-32097 MARK NEWKIRK, JR. – Hearing Judge Rothenberg noted this was a recommended denial by the local board and an upholding of that denial by the Commission. The local board thought this applicant was not going to break away from the previous owner and would still have ties to him. The Hearing Judge stated the applicant provided proof that the purchase price was paid in full and the previous owner no longer owned the building.

Commissioner Grubb moved to uphold the Hearing Judge's recommendation to approve the transfer. Commissioner Maginn seconded. The motion was unanimously approved.

RR64-31493 PAVILION PARTNERS – Hearing Judge Rothenberg noted this applicant withdrew their appeal.

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 direct wine shipper permits. 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.

Eight hundred twenty-seven (827) renewals approved, twenty-seven (27) new and/or transfer applications approved, seventeen (17) permits approved for catering, twenty-three (23) permits approved for first year escrow, seven (7) permits approved for second year escrow, five (5) permits approved for third year escrow, two (2) permits approved for fourth year escrow, two (2) permits approved for fifth

year escrow, twelve (12) new and renewal direct wine shipper permits approved and twenty-three (23) new and renewal carrier 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

DL67-30743 CATARACT GAS & GROCERY, LLC – Chairman Cook stated this permit was issued in error, because there was no quota opening available for this type permit at this location. The application should not have been accepted and processed. The Chairman sent notification to the permittee, by certified mail, which states the commission is not authorized to issue permits over the statutory quota.

Vice Chairman Coleman moved to revoke this permit. Commissioner Maginn seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make three hundred ninety (390) permits inactive. Three hundred three of the permits are not subject to auction and eighty-seven permits are subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

REMOVAL OF PROBATIONARY STATUS – Commissioner Grubb moved to remove the following employee permittees from probationary status. Each has provided the Commission proof of completing an alcohol treatment program.

Tracy Jenkins, BR1519806 and Anne Carroll, BR1641416

NEW BUSINESS

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 March 7, 2017 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Christopher Phipps, BR1832818

POLICY DETERMINATIONS

No Policy Determinations

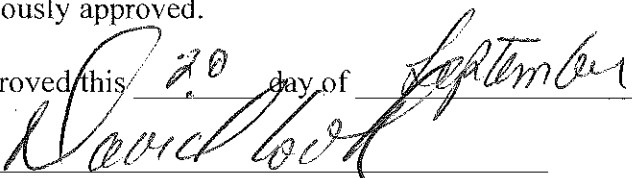
ANNOUNCEMENTS

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

September 20, 1:30 pm, Pharmacy/Grocery Store Roundtable (ATC)
October 4, 1:30 pm, RR Permit Roundtable (ATC)

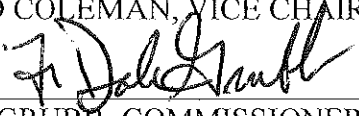
ADJOURNMENT

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

Approved this 20 day of September, 2016.


DAVID COOK, CHAIRMAN

DAVID COLEMAN, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER