

ALCOHOL AND TOBACCO COMMISSION

December 6, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum-----

2. Disposition of Minutes -----

November 15, 2016

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

DL67-30743 Cataract Gas and Grocery, LLC – Findings of Fact and Conclusions of Law

5. Consideration of Applications -

845 renewals  
65 new/transfers  
6 catering  
10 1<sup>st</sup> year escrow  
6 2<sup>nd</sup> year escrow  
8 3<sup>rd</sup> year escrow  
5 4<sup>th</sup> year escrow  
2 5<sup>th</sup> year escrow  
10 new direct wine shippers  
24 new/renewal carriers

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

7. Applications for Discussion –

RR71-03974 The Friendly Confines, LLC – Renewal with LB voting 3-0 to approve

DL49-30824 Fair Brothers, Inc. – New with LB voting 3-0 to deny

8. Inactive Files –

2 Permits Subject to Auction  
7 Permits Not Subject to Auction

9. Old Business -

Revocation of Employee Permits – (no proof of treatment program)

BR1688662 Matthew Bradley  
BR1588923 Dustin K. Grogan  
BR1552786 Benjamin Wagner  
BR1822007 Christina Michelle Ziegler  
BR1814313 Ellison A Smith

10. New Business –

Probationary Employee permittee –

BR1660453 Marianne Hutchens – 1 conviction  
BR1786951 Amanda Rose Leach – 1 conviction  
BR1760416 Connor B Dant – 1 conviction

11. Policy Determinations –

12. Announcements -

Ethics Holiday memo

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

DECEMBER 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, Corporal Lynch and Master Officer Bedwell were also in attendance.

Brooke Burtnett, Jeff McKean, Mark Webb, Greg Genrich, Schuyler Culver, Marc Carmichael, Matt Brase, Travis Barnes, Nick Ladig, Philip Sicuso, Jessica Whelan, Davey Neal, Katie Maddox and Alex Intermill were present as observers.

#### DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the November 15, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 60 Parties' Agreed Dispositions that were submitted, totaling \$21,725.00 in fines.

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

#### HEARING JUDGE'S RECOMMENDATIONS

DL67-30743 CATARACT GAS AND GROCERY, LLC – Hearing Judge Rothenberg stated that due to a Scrivener's error, a quota opening was created in Putnam County that did not exist. This applicant applied for that opening and was awarded the permit. It was brought to the Commission's attention that the permit was granted in error. The applicant appealed, but did not appear for the appeal hearing. Hearing Judge Rothenberg now submits the Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Coleman moved to uphold the Findings of the Hearing Judge and deny the permit. Commissioner Maginn seconded. The motion was unanimously approved.

Attorney Jeff McKean stated he represents this applicant for a new restaurant permit. Because Indiana law does not allow a person to apply for a permit within a year of being denied a permit, he inquired as to whether or not the denial of this permit would prohibit the filing of an application for the new restaurant permit, because it was due to no fault of his client the previous permit was denied. Chairman Cook stated that it would not and Cataract Gas and Grocery, LLC could apply for the restaurant permit.

Commissioner Maginn suggested that the agency change the procedures as to who is allowed to make changes in jurisdiction (quota) matters, so these errors no longer occur. Chairman Cook stated the Commission will look into this matter.

### **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 renewal carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

Eight hundred forty-five (845) renewals approved, sixty-five (65) new and/or transfer applications approved, six (6) permits approved for catering, ten (10) permits approved for first year escrow, six (6) permits approved for second year escrow, eight (8) permits approved for third year escrow, five (5) permits approved for fourth year escrow, two (2) permits approved for fifth year escrow, ten (10) new and renewal direct wine shipper permits approved and twenty-four (24) 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**

RR71-03974 THE FRIENDLY CONFINES, LLC – Chairman Cook noted this is a renewal application with the local board voting 3-0 to approve for one year.

Vice Chairman Coleman stated the permittee built an outside area where the music was very loud and was disruptive. The city filed a lawsuit and obtained a temporary injunction to stop the loud music. And, the neighbors have complained. The Vice Chairman noted that the Commission is to uphold the local board's recommendation unless the action was arbitrary.

Chairman Cook indicated that the permittee did comply with the city's restriction and has continued to comply.

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

DL49-30824 FAIR BROTHERS, INC. – Chairman Cook noted this is a new application with the local board voting 3-0 to deny.

Chairman Cook stated the permit was denied because it was within 200 feet of a church or school.

Commissioner Maginn noted also that there were remonstrators present who stated they did not want any other establishments selling alcohol in the area.

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

### **INACTIVE FILES**

Commissioner Grubb moved to make nine (9) permits inactive. Seven permits are not subject to auction and two permits are subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

### **OLD BUSINESS**

REVOCAION OF EMPLOYEE PERMITS FOR NON-PROOF OF TREATMENT PROGRAM – Commissioner Grubb moved to revoke the following employee permits for not providing proof of completing an alcohol treatment program. Commissioner Maginn seconded. The motion was unanimously approved.

BR1688662 Matthew Bradley; BR1588923 Dustin K Grogan; BR1552786 Benjamin Wagner; BR1822007 Christina Michelle Ziegler; BR1814313 Ellison A Smith

### **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 June 6, 2017 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

BR1660453 Marianne Hutchens; BR1786951 Amanda Rose Leach; BR1760416 Connor B Dant

**POLICY DETERMINATIONS**

No Policy Determinations

**ANNOUNCEMENTS**


ETHICS HOLIDAY MEMO – Chairman Cook stated the 2016 State Ethics Holiday Memo will be posted on our website.

JANUARY COMMISSION MEETING – Chairman Cook stated the first 2017 meeting of the Alcohol and Tobacco Commission will be on Wednesday, January 4<sup>th</sup>.

**ADJOURNMENT**

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

Approved this 20<sup>th</sup> day of December, 2016.



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DAVID COOK, CHAIRMAN



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DAVID COLEMAN, VICE CHAIRMAN



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DALE GRUBB, COMMISSIONER

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MARJORIE MAGINN, COMMISSIONER