

ALCOHOL AND TOBACCO COMMISSION  
February 20, 2018  
10:00 A.M.

1. Call to Order and Noting of Quorum –
2. Disposition of Minutes – February 8, 2018
3. Prosecutor's Recommendations – PAD Forms
4. Hearing Judge's Recommendations –
5. Consideration of Applications -
  - 546 renewal
  - 50 new/transfer
  - 4 catering
  - 4 1<sup>st</sup> year escrow
  - 11 2<sup>nd</sup> year escrow
  - 5 3<sup>rd</sup> year escrow
  - 1 4<sup>th</sup> year escrow
  - 2 5<sup>th</sup> year escrow
  - 14 new/renewal carrier
6. Renewal Letters and Waivers of Fees for Letters of Extension -
7. Applications for Discussion –
  - RR29-29535 Phat Investments LLC – consideration of 6<sup>th</sup> year escrow
  - RR41-32861 La Rosa Mexican Restaurant, LLC – Renewal with LB voting 3-0 to deny
  - DL90-31000 Freebie's Fireworks, Inc. – New with LB voting 4-0 to deny
  - DL83-31137 Jai Harikrishna, Inc. – New with LB voting 2-1 to deny
8. Inactive Files –
  - 3 permits not subject to auction
9. Old Business -
  - Remove from probationary status – proof provided
  - BR1779021 Andrew Benagh
10. New Business –
  - Probationary status employee permit –
  - Probationary status employee permit –
  - BR1470248 Peter Surfus – 1 conviction
  - BR1772413 Kaitlyn Smith – 1 conviction
  - BR1789949 Steve King – 1 conviction
  - BR1707990 Deanna Johnson – 1 conviction

11. Policy Determinations –

12. Announcements -

2018 Proposed Roundtable Dates:

Brewer's Guild – March 20, 2018

Package Stores – April 17, 2018

Convenience Stores – May 15, 2018

Wholesalers – June 19, 2018

Vintner's Conference – July 17, 2018

Retailers – August 21, 2018

Non-Package Store Dealers – September 18, 2018

Artisan Distillery – October 16, 2018

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 20, 2018

#### CALL TO ORDER/NOTING OF QUORUM

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Krauss, Commissioner Maginn and Commissioner Grubb. Prosecutor Coleman, Executive Secretary Allen, Communications Director Devlin and Industry Liaison Stewart were also in attendance.

David Rothenberg, Greg Genrich, Scott Bedwell, Abigail Smith, Marc Carmichael, Brooke Burtnett, Schuyler Culver and Mark Webb were present as observers.

#### DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the February 8, 2018 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Coleman noted there were 73 Parties' Agreed Dispositions submitted, totaling \$19,250.00 in fines.

Commissioner Maginn moved to approve the Dispositions submitted for the February 20, 2018 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

No Hearing Judge's Recommendations

#### 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.

Five hundred forty-six (546) renewals approved, fifty (50) new and/or transfer applications approved, four (4) permits approved for catering, four (4) permits approved for first year escrow; eleven (11) permits approved for second year escrow, five (5) permits approved for third year escrow, one (1) permit approved for fourth year escrow, two (2) permits approved for fifth year escrow, and fourteen (14) new and/or renewal carrier permits approved.

### **RENEWAL LETTERS AND WAIVERS OF FEES**

Vice Chairman Krauss 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**

RR29-29535 PHAT INVESTMENTS LLC – Chairman Cook noted the Commission received a 6<sup>th</sup> year escrow request.

Executive Secretary Allen stated the 5<sup>th</sup> year escrow will expire in March 2018. The permittee stated the city of Carmel has given approval for construction and they are expecting to enter into a franchise agreement on February 27, 2018. The Executive Secretary recommended the Commission continue this matter until the next meeting, to see if we receive documentation those two things have occurred.

Commissioner Maginn recommended it be extended two meetings out, which would be closer to the expiration of the 5<sup>th</sup> year of escrow and would allow more time for the documentation to be submitted and possibly a lease.

Vice Chairman Krauss stated there appears to be a lot of good intentions, but not a lot of details. He would like to see very specific evidence of a commitment submitted.

Chairman Cook stated he would like to see a signed franchise agreement and a copy of the city approval. The Chairman also made part of the record, the response to Executive Secretary Allen's request by Mike Hammond, along with floor plans of the construction site.

Vice Chairman Krauss noted that the request for the details is time sensitive, so the permittee should position himself where there would be no further request for additional time.

Commissioner Maginn moved to extend voting on this request until March 20, 2018, to allow the permittee time to submit a document proving the city of Carmel approved plans for construction, a signed franchise agreement, and a specific timetable for putting permit into use. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR41-32861 LA ROSA MEXICAN RESTAURANT, LLC – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny.

Commissioner Maginn stated the permittee was notified to appear before the local board, due to a violation, in December, January and February. Permittee failed to appear.

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

DL90-31000 FREEBIE'S FIREWORKS, INC. – Chairman Cook noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated this is a grocery application, however, the premises is operating as a tobacco store. The pictures that were submitted show there are very few grocery items being sold and it does not appear to be a grocery.

Vice Chairman Krauss reviewed the photos and also felt there were not enough grocery items to support this type of permit.

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

DL83-31137 JAI HARIKRISHNA, INC. – Chairman Cook noted this is a new application with the local board voting 2-1 to deny.

Commissioner Maginn stated there were remonstrators present at the local board meeting. Remonstrators stated how much they support the business and owners, but do not want alcohol being sold at the establishment. The Commissioner believes the local board is listening to the community and sees no reason to overturn their recommendation.

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

#### **INACTIVE FILES**

Vice Chairman Krauss moved to make three (3) permits inactive. All three permits are not subject to auction. Commissioner Grubb seconded. The motion was unanimously approved.

#### **OLD BUSINESS**

EMPLOYEE PERMITS – REMOVE FROM PROBATIONARY STATUS – Commissioner Grubb moved to remove the following permittee(s) from probationary status. Permittee provided proof of completion of an alcohol treatment program. Commissioner Maginn seconded. The motion was unanimously approved.

BR1779021 Andrew Benagh

**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 August 7, 2018 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

BR1470248 Peter Surfus; BR1772413 Kaitlyn Smith; BR1789949 Steve King; BR1707990 Deanna Johnson

**POLICY DETERMINATIONS**

No Policy Determinations

**ANNOUNCEMENTS**

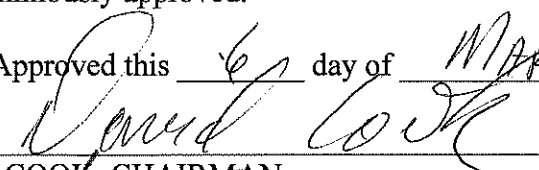
2018 ROUND TABLE DISCUSSIONS – Chairman Cook stated roundtable discussions regarding different areas of the alcohol industry will be held throughout 2018. The discussions will be held in our hearing room.

- Brewer’s Guild – March 20, 2018
- Package Stores – April 17, 2018
- Convenience Stores – May 15, 2018
- Wholesalers – June 19, 2018
- Vintner’s Conference – July 17, 2018
- Retailers – August 21, 2018
- Non-Package Store Dealers – September 18, 2018
- Artisan Distillery – October 16, 2018

**ADJOURNMENT**

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

Approved this 6 day of MARCH, 2018.

  
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DAVID COOK, CHAIRMAN

  
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JOHN KRAUSS, VICE CHAIRMAN

  
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DALE GRUBB, COMMISSIONER

  
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MARJORIE MAGINN, COMMISSIONER