

ALCOHOL AND TOBACCO COMMISSION
January 5, 2021
10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

December 15, 2020

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

Applicant #3436667 Megan Pearsey - Findings of Fact

5. Consideration of Applications -

331 renewals
16 new/transfers
5 catering
16 new/renewal direct wine shippers
12 new/renewal carriers

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

7. Applications for Discussion –

RR84-37023 Fruitridge, Inc. - transfer with LB voting 3-0 to deny

RR49-36350 JD Spirits, LLC – request for commission to rescind prior approval of transfer

8. Inactive Files –

5 permits not subject to auction

9. Old Business -

RR22-34359 N/A mainstreet

10. New Business –

11. Policy Determinations –

12. Announcements -

Seized Alcohol Auction – Target Jan 8th through Jan 15th for bidding and pick-up by January 29th.

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JANUARY 5, 2021

CALL TO ORDER/NOTING OF QUORUM

Chairman Cook called the meeting to order and noted the quorum and the attendance. Also present virtually were Vice Chairman Krauss, Commissioner Maginn, Commissioner Grubb, Executive Secretary Allen, Prosecutor Harrison, Commission Counsel Hyer, and Sgt. Stewart.

By consent, the Commission, regarding items on the agenda that require signatures, gave permission for Kim Chew to initial approval for the commissioners.

DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the December 15, 2020 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Chairman Cook stated Prosecutor Harrison submitted 18 Parties' Agreed Dispositions, with fines totaling \$9,050.00, for the Commission's approval.

Vice Chairman Krauss moved to approve the PAD forms submitted by the Prosecutor. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

APPLICANT #3436667 MEGAN PEARSEY – Commissioner Maginn stated the permit was denied because the applicant has an OWI conviction in the past year. An appeal was filed and the matter was set for hearing. Commissioner Maginn, as Hearing Judge, submitted Proposed Findings of Fact and Conclusions of Law, which found, by statute, the applicant is not eligible to hold the permit until August 4, 2021.

Commissioner Grubb moved to uphold the Findings and deny the permit. Vice Chairman Krauss 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 said staff with the authority of the Commission, and hereby move for approval of same, pending any escrow hearings, 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 application for changes in location, 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 escrow, if needed, and inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the catering applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal carrier applications. 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.

RENEWAL LETTERS AND WAIVERS OF FEES

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

APPLICATIONS FOR DISCUSSION

RR84-37023 FRUITRIDGE, INC. – Chairman Cook noted this is a transfer with the local board voting 3-0 to deny.

Commissioner Maginn stated the local board feels there is an issue with honesty of the applicants and the information that was provided by them. There is a question as to whether there is an additional owner, whose reputation is questionable and who is not listed as an owner.

Vice Chairman Krauss stated that he was impressed by the thoroughness of the questions asked by the local board in their investigation of this application.

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

RR49-36350 JD SPIRITS, LLC – Commissioner Maginn stated the Commission received a request to set aside the previous conditional approval of the transfer to this applicant and allow the permittee to continue holding the permit. There was a tax hold on the permit at the time the application was conditionally approved. The transfer applicant no longer wishes to have the permit.

Commissioner Maginn moved to rescind the prior conditional approval of the transfer. Vice Chairman Krauss seconded. The motion was unanimously approved.

INACTIVE FILES

Vice Chairman Krauss moved to make five permits inactive. All five permits are not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

RR22-34359 NA MAINSTREET, LLC – Chairman Cook noted this permit was denied by the Commission on December 15, 2020, because the permittee does not meet the residency requirements or the minimum food sales requirements to hold the permit. Commission received an Injunction from the United States District Court that preliminarily enjoins the Commission from administering IC 7.1-3-21-5.4(a) and 7.1-3-21-6(a)(10)(B)(i) regarding residency and minimum food sales requirements.

Commissioner Maginn moved to set aside the denial and approve the renewal of the permit. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR84-30686 DIAMOND SHINE – Chairman Cook stated this permit was in escrow and ran of escrow time, so it reverted to the Commission in September. The renewal was mistakenly scheduled to go before the local board, after the permit was denied. The local board was not aware and voted to approve the renewal.

Commissioner Maginn moved to overturn the local board’s approval because the permit had reverted to the Commission and was not available for renewal. Vice Chairman Krauss seconded. The motion was unanimously approved.

NEW BUSINESS

No New Business

ANNOUNCEMENTS

SEIZED ALCOHOL AUCTION – Chairman Cook stated the target date for the auction is January 8, 2021 through January 15, 2021. For winning bidders, product must be picked up by January 29, 2021.

ADJOURNMENT

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

Approved this 20th day of January, 2021.

DC
DAVID COOK, CHAIRMAN

JK
JOHN KRAUSS, VICE CHAIRMAN

DG
DALE GRUBB, COMMISSIONER

MM
MARJORIE MAGINN, COMMISSIONER