

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MAY 7, 2013

CALL TO ORDER/NOTING OF QUORUM

Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Commissioner Sturtz and Commissioner Grubb. Also in attendance were Superintendent Strittmatter, Officer Bedwell, Prosecutor Drewry, and Executive Secretary Kowalski.

Matt Brase, Connie Vickery, Diane Masariu, Chip Garver, Debbie Rolfsen, Jeff McKean, Greg Genrich, Marc Carmichael, Alex Intermill, and Mark Webb were present as observers.

DISPOSITION OF MINUTES

Commissioner Grubb moved to approve the minutes that were submitted for the April 16, 2013 meeting. Commissioner Sturtz seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR49-24057 CHARAFA D. SALIOU – Executive Secretary Kowalski stated this was an appeal from a recommendation of denial by the Marion County Local Board and the upholding of that denial by the Commission. The applicant filed a timely notice of appeal and the matter was set for hearing. Notices were sent to the applicant and to the remonstrators. On the day of the appeal hearing, the applicant failed to appear and, therefore, was unable to provide evidence to overturn the denial. Staff Attorney Melissa Coxey was the hearing judge for the appeal. She now submits her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Grubb moved to uphold the recommendation of the Hearing Judge. Commissioner Sturtz seconded. The motion was unanimously approved.

PARTIES' AGREED DISPOSITIONS – Hearing Judge Kowalski recommended the Commission approve the Parties' Agreed Dispositions that were submitted for the May 7, 2013 meeting.

Commissioner Grubb moved to approve the PAD forms that were submitted. Commissioner Sturtz seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, either with or without a quorum at the local board meeting, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Commissioner Grubb seconded. The motion was unanimously approved.

Commissioner Sturtz 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. Commissioner Grubb seconded. The motion was unanimously approved.

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

Commissioner Sturtz 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. Commissioner Grubb seconded. The motion was unanimously approved.

Five hundred fifty-two (552) permits approved for renewal, forty-seven (47) new and/or transfer permits approved, eleven (11) permits approved for catering, six (6) permits approved for first year escrow, four (4) permits approved for second year escrow, two (2) permits approved for third year escrow and one (1) permit approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Commissioner Grubb moved to approve the renewal and fee waived letters of extension for the preceding weeks. Commissioner Sturtz seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR34-09754 DANNY D'S, LLC – Commissioner Sturtz noted this is a type 210 renewal application with the local board voting two (2) to two (2). The Excise officer sitting on the board voted in favor of renewal.

Commissioner Grubb stated a lot of information has been presented regarding this renewal. He stated he needs more time to review that information and maybe consult with the staff attorneys.

Chairman Huskey stated he received emails from community members regarding this permit, after the local board meeting, that he shared with the Commission members. He stated that even though that information is not pertinent to what occurred at the local board, further review is necessary.

Commissioner Grubb moved to table this matter until the next meeting. Commissioner Sturtz seconded. The matter was unanimously approved.

RR34-08124 THE SOCIAL EXPERIENCE, LLC – Commissioner Sturtz noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to approve.

Commissioner Sturtz moved to uphold the local board's recommendation and approve the renewal. Commissioner Grubb seconded. The motion was unanimously approved.

DL29-27548 L D VENTURES, INC. – Commissioner Sturtz noted this is a type 115 renewal application with the local board voting four (4) to zero (0) to approve.

Commissioner Sturtz moved to uphold the local board's recommendation and approve the renewal. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-28781 SKYFALL LOUNGE, LLC – Commissioner Sturtz noted this is a type 210 transfer of ownership and location with the local board voting three (3) to one (1) to disapprove.

Commissioner Sturtz moved to uphold the local board and deny the transfers. Commissioner Grubb seconded. The motion was unanimously approved.

RR28-29585 & RR28-29586 OLE MEXICAN BAR & GRILL, INC. – Commissioner Sturtz noted this is a new type 103 application and a new type 210-1 application. The local board forwarded these to the Commission without a vote because the applicant failed to appear, as required, at three local board meetings regarding the new permits.

Commissioner Sturtz moved to deny the new permits. Commissioner Grubb seconded. The motion was unanimously approved.

DL18-27519 SUNNY AND JUGAD FOOD MART, INC. – Commissioner Sturtz noted this is a type 115 renewal application with the local board voting four (4) to zero (0) to disapprove.

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

INACTIVE FILES

RR06-03237 ERJ, LLC – Executive Secretary Kowalski stated this was continued from the last meeting. This permit was ready to be made inactive, subject to auction. However, the permittee is trying to work with the Department of Revenue to clear the taxes, so the permit can remain active. Since the auction is a few months away, the Executive Secretary recommended the Commission table this to see if something can be worked out regarding the taxes.

Commissioner Grubb moved to table this matter. Commissioner Sturtz seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business.

NEW BUSINESS

REVOCATION OF EMPLOYEE PERMITS – Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Jill M. McClanahan, permit #BR1504025. Ms. McClanahan is on probation for 550 days and will not be eligible to hold an employee permit until January 25, 2016.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

REVOCATION OF EMPLOYEE PERMITS – Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Beth L. Henke, permit #BR1594823. Ms. Henke is on probation for 355 days and will not be eligible to hold an employee permit until October 5, 2015.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Sturtz seconded. The motion was unanimously approved.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Commissioner Grubb seconded. The motion was unanimously approved.

Approved this _____ day of _____, 2013.

ALEX HUSKEY, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

DALE GRUBB, COMMISSIONER