

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

AUGUST 7, 2012

#### **CALL TO ORDER/NOTING OF QUORUM**

Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Guthrie and Commissioner Sturtz. Also in attendance was Superintendent Strittmatter. Chairman Huskey welcomed the agency's new Executive Secretary, Doug Kowalski.

Matt Brase, Diane Masariu, Jim Purucker, Ali King, Deb Scott, Bart Herriman, Mike Gray, Buck Gray, Marc Carmichael, Mark Webb, Lisa McKinney, Alex Intermill, and Debbie Rolfsen were present as observers.

#### **DISPOSITION OF MINUTES**

Commissioner Sturtz moved to approve the minutes that were submitted for the July 17, 2012 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

#### **HEARING JUDGE'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the August 7, 2012 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

#### **CONSIDERATION OF APPLICATIONS**

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

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, 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. Vice Chairman Johnson seconded. The motion was unanimously approved.

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

Five hundred twenty-nine (529) permits approved for renewal, fifty-one (51) new and/or transfer permits approved, thirteen (13) permits approved for catering, four (4) permits approved for first year escrow, four (4) permits approved for second year escrow, three (3) permits approved for third year escrow, two (2) permits approved for fourth year escrow and one (1) permit approved for fifth year escrow.

### **RENEWAL LETTERS AND WAIVER OF FEES**

Vice Chairman Johnson 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**

DL68-21627 WAL-MART STORES EAST, LP - Commissioner Guthrie noted this is a type 208 renewal application with the local board voting four (4) to zero (0) to approve.

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

RR29-28681 HAMILTON COUNTY HOLDINGS II, LLC, D/B/A WALTON GARDENS – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie stated the local board does not feel that this proposed business meets their idea of a restaurant.

Commissioner Guthrie moved to uphold the local board's recommendation to deny the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

DL43-29022 NIRMAL PETROLEUM, INC. – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to one (1) to disapprove.

Commissioner Guthrie stated this was tabled from the last meeting. The Excise officer recommended approval because the other local board members stated there were too many permits in the small town and the officer felt that was not a valid reason for recommending denial. However, Commissioner Guthrie stated he felt like that was another way to say there is no need or desire in the community for another permit.

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

RR25-29088 DEPT. OF PARKS AND RECREATION CITY OF ROCHESTER – Commissioner Guthrie noted this is a new type 103 application with the local board voting four (4) to zero (0) to approve.

Commissioner Guthrie moved to uphold the local board and approve the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR44-92137 KT & T LEE, INC. - Commissioner Guthrie noted this is a type 209 renewal application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie stated the local board recommended denial because the permittee failed to meet required food sales figures to qualify for the permit.

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

DL63-29070 DOLGENCORP, LLC – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to approve.

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

RR49-28780 GLADYS BOTINA – Commissioner Guthrie noted this is a new type 210 application with the local board voting three (3) to zero (0) to disapprove.

Commissioner Guthrie stated the local board cited two reasons for recommending denial. The first was due to the fact the applicant failed to appear and the second was the applicant had an application denied within the last year.

Commissioner Guthrie moved to uphold the local board and deny the new permit. Commissioner Sturtz seconded. The motion was unanimously approved.

RR09-28906 GOLF FIVE, LLC – Commissioner Guthrie noted this is a new type 209 application with the local board voting two (2) to two (2).

Chairman Huskey stated even though this is a new application, the applicant previously had a permit that expired in 2009. The Chairman stated he received several letters in support of this new application, however, in those letters it appeared that this applicant may have been selling alcoholic beverages during the last two years when he did not have a valid permit. Chairman Huskey felt it prudent to review the history of the old permit and the new information before voting on this application.

Commissioner Guthrie moved to table this matter for further investigation. Vice Chairman Johnson seconded. The motion was unanimously approved.

### **INACTIVE FILES**

INACTIVE FILES – Vice Chairman Johnson moved to make seven (7) permits inactive. All of the permits are not subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

## NEW BUSINESS

REVOCATION OF EMPLOYEE PERMITS - Commissioner Guthrie stated the following permittees were convicted of a disqualifying crime after their employee permits were issued: Christine J. Rommer, permit #BR1694496; and Amanda R. Linnenburger, permit #BR1612040.

Commissioner Guthrie stated after conducting an investigation of the permittees, Senior Officer Rich Swallow recommended the Commission revoke the permits.

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

STATUS CHANGE FOR PROBATIONARY OFFICERS – Superintendent Strittmatter requested the Commission change the status from probation officer to permanent officer for the following: Steve Stepleton, Mike Cruze and Thomas Tully.

Commissioner Guthrie moved to change the status to permanent for the above-referenced officers. 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 Guthrie seconded. The motion was unanimously approved.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

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ALEX HUSKEY, CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER

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FRANK GUTHRIE, COMMISSIONER