

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

DECEMBER 18, 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 were Superintendent Strittmatter, Major Poindexter and Executive Secretary Kowalski.

Diane Masariu, Connie Vickery, Debbie Rolfsen, Jeff McKean, Jane Gentry, Mark Webb, Bart Herriman, Marc Carmichael, and Greg Genrich were present as observers.

#### **DISPOSITION OF MINUTES**

Commissioner Sturtz moved to approve the minutes that were submitted for the December 4, 2012 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

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

PARTIES' AGREED DISPOSITIONS – Hearing Judge Kowalski recommended the Commission approve the parties' agreed dispositions that were submitted for the December 18, 2012 meeting.

Vice Chairman Johnson moved to approve the parties' agreed dispositions 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, 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.

Three hundred sixty-nine (369) permits approved for renewal, sixty-two (62) new and/or transfer permits approved, five (5) permits approved for catering, four (4) permits approved for first year escrow, seven (7) permits approved for second year escrow, one (1) permit approved for third year escrow, one (1) permit 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**

RR45-06666 HUEHN TAVERNA, INC. – Commissioner Guthrie noted this is a type 210 renewal application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board feels the business has become a public nuisance.

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

RR46-19268 COME ON INN, LLC – 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 permittee has repeatedly failed to meet the required food sales' figures.

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

DL38-28931 JAY PETROLEUM, INC. – Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to zero (0) to approve.

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

RR65-29385 NU PEERLESS TOO, INC. – Commissioner Guthrie noted this is a new type 210 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board members cited no desire in the community for the services.

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

DL71-06587 K & B BEVERAGES, INC. – Commissioner Guthrie noted this is a type 217 renewal application with the local board voting three (3) to zero (0) to disapprove. This matter was continued from the last meeting.

Commissioner Guthrie stated the local board based their recommendation on failure of character and fitness of the permittee. The evidence presented shows there were several violations over the last few

years and confrontations between employees of the permittee and the Excise Police. For these reasons, the local board does not feel the permittee desires to uphold the rules and regulations of the Commission, or the laws of the State of Indiana.

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

DL45-29403 MEET, INC., D/B/A PRINCE GAS AND FOOD MART – Commissioner Guthrie noted this is a new type 115 application with the local board voting four (4) to zero (0) to disapprove.

Commissioner Guthrie stated the local board members cited no desire in the community for the services.

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

### **INACTIVE FILES**

INACTIVE FILES – Vice Chairman Johnson moved to make twelve (12) permits inactive. Ten permits are not subject to auction and two (2) permits are subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business.

### **NEW BUSINESS**

REVOCAION OF EMPLOYEE PERMITS – Commissioner Guthrie stated the following permittees were convicted of a disqualifying crime after their employee permits were issued: Stephanie L. Dunning, permit #BR1687645 and Falon L. Faulkenberg, permit #BR1671508.

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.

INDIANA STATE EXCISE POLICE SALARY MATRIX – Commissioner Guthrie moved to recommend the Commission transmit a notice to the State Budget Agency and the Governor regarding the Excise salary matrix mandated by IC 7.1-2-2-13, for the granting of a “catch-up” increase, due to the suspension during the recession of 2010. Commissioner Sturtz seconded. The motion was unanimously approved.

Superintendent Strittmatter thanked the Commission on behalf of the State Excise officers.

### **POLICY DETERMINATIONS**

No Policy Determinations

## ANNOUNCEMENTS

RESIGNATION OF COMMISSIONER FRANK GUTHRIE – Chairman Huskey stated Commissioner Guthrie resigned from his position as Commissioner, effective end of business today. The Chairman thanked Commissioner Guthrie for his service to this agency and the State of Indiana and stated what a pleasure it has been working with such a thoughtful person these past few years.

Vice Chairman Johnson made a presentation to Commissioner Guthrie to take with him to his next position as a memento of his time here at the Commission.

Commissioner Sturtz stated it has been a pleasure working with Commissioner Guthrie and that he will be missed.

## ADJOURNMENT

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

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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ALEX HUSKEY, CHAIRMAN

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DAVID JOHNSON, VICE CHAIR

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DALE STURTZ, COMMISSIONER