

ALCOHOL AND TOBACCO COMMISSION

April 5, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

March 15, 2016

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

977 Renewals

52 New/Transfers

14 Catering

3 1st Year Escrow

2 2nd Year Escrow

3 3rd Year Escrow

1 4th Year Escrow

2 5th Year Escrow

14 New/Renewal Carriers

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

7. Applications for Discussion –

RR57-32036 Amechevole, Inc. – Continued from 3-15-16. New with LB voting 3-0 to deny

RR03-28173 Chipotle Mexican Grill of Colorado, LLC – Continued from 3-15-16. Renewal with LB voting to deny

RR30-32189 5 Branches, LLC – Continued from 3-15-16. New with LB voting 4-0 to approve

DL34-30696 Kashi, LLC – Transfer of ownership with LB voting 3-0 to deny

RR49-12232 Agualinda Enterprises, Inc. – Renewal with LB voting 4-0 to deny

DL49-30664 Three Mile Properties, Inc. – Transfer ownership and location with LB voting 4-0 to deny

RR49-26676 Shadow 2 Incorporated – Renewal with LB voting 2-2

RR20-06295 Big Easy Bar & Grill, Inc. – Renewal with LB voting 3-0 to deny

8. Inactive Files –

1 Permit Subject to Auction

10 Permits Not Subject to Auction

MINUTES

ALCOHOL AND TOBACCO COMMISSION

APRIL 5, 2016

CALL TO ORDER/NOTING OF QUORUM

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Coleman, Commissioner Maginn and Commissioner Grubb. Executive Secretary Rothenberg, Commission Counsel Allen, Prosecutor Mader, Master Officer Bedwell and Superintendent Strittmatter were also in attendance.

Michael Leppert, Marc Carmichael, Aaron Grant, Schuyler Culver, Diane Masariu, Jackie Dold, Brooke Burnett, Bart Herriman, Greg Genrich, and Davey Neal were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the March 15, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 34 Parties' Agreed Dispositions that were submitted, totaling approximately \$10,325.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the April 5, 2016 meeting. Vice Chairman Coleman 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.

Nine hundred seventy-seven (977) renewals approved, fifty-two (52) new and/or transfer applications approved, fourteen (14) permits approved for catering, three (3) permits approved for first year escrow, two (2) permits approved for second year escrow, three (3) 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 renewal carrier permits approved.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Coleman 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

RR57-32036 AMECHEVOLE, INC. – Chairman Cook noted this is a new application with the local board voting 3-0 to deny.

Commissioner Maginn stated the applicant's check for the permit fee was received and has cleared.

Vice Chairman Coleman moved to overturn the local board and approve the new permit. Commissioner Maginn seconded. The motion was unanimously approved.

RR03-28173 CHIPOTLE MEXICAN GRILL OF COLORADO, LLC – Chairman Cook noted this is a renewal with the local board voting to deny, because the permittee did not appear as required because the permittee received a violation during the renewal period.

Commissioner Maginn stated the permittee received a violation in the last year. They paid the fine. However, the permittee thought if the fine was paid, it was not necessary for them to appear at the local board meeting.

Commissioner Maginn moved to remand the renewal to the local board so the violation can be heard. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR30-32189 5 BRANCHES, LLC – Chairman Cook noted this is a new application with the local board voting 4-0 to approve.

Executive Secretary Rothenberg stated the questions regarding ownership of this permit have been answered and everything seems to be in order. He recommended the Commission approve the new permit.

Vice Chairman Coleman moved to uphold the Executive Secretary's recommendation and approve the new permit. Commissioner Maginn seconded. The motion was unanimously approved.

DL34-30696 KASHI, LLC – Chairman Cook noted this is a transfer of ownership with the local board voting 3-0 to deny.

Chairman Cook stated the renewal of this permit came before the Commission in January, after a denial by the local board citing public nuisance as the reason. The business was selling baggies with possible drug paraphernalia inside. The permittee also has another business that was in good standing at that time. The Commission overturned the local board's recommendation and approved the renewal for one year.

This is a transfer of ownership to the person who was manager at the time of the renewal. The business has not had any new violations.

Commissioner Maginn moved to overturn the local board and approve the permit for one year. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR49-12232 AGUALINDA ENTERPRISES, INC.- Chairman Cook noted this is a renewal with the local board voting 4-0 to deny.

Vice Chairman Coleman stated he reviewed the local board information and noted that the renewal of this permit was denied last year, but overturned after the appeal hearing. No new violations have occurred at the premises.

Commissioner Maginn also reviewed the file and noted that she was a little concerned about the previous violations, but none have occurred in this renewal period.

Chairman Cook reviewed the local board hearing and also the appeal hearing file. Remonstrator Sergeant Carter, who is with IMPD, stated that an agreement was made at the appeal hearing with the permittee that no promoters would be used in the future, but they were used. The Chairman found no such agreement in the record.

Vice Chairman Coleman moved to overturn the local board and approve the renewal. Commissioner Maginn seconded. The motion was unanimously approved.

DL49-30664 THREE MILE PROPERTIES, INC.- Chairman Cook noted this is a transfer of ownership and location with the local board voting 4-0 to deny.

Commissioner Maginn stated the applicant purchased six acres of property that has been zoned commercially for decades. The location is near a school and neighborhoods that do not want the services at the location. The applicant has another business that is in good standing. The Commissioner also stated that the applicant made a very good local board presentation with a lot of information and

petition with approximately 1000 signatures. She stated the remonstrators also presented petitions with approximately 1000 signatures.

Chairman Cook stated that the petitions submitted by the applicant appeared to be the ones used for his other location. The Chairman also stated there was much opposition to having the sale of alcohol at this location and even though it is zoned commercially, there is a question of whether or not this is actually a residential district.

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

RR49-26676 SHADOW 2 INCORPORATE - Chairman Cook noted this is a renewal with the local board voting 2-2.

Commissioner Maginn stated this permittee has had numerous issues in the past, including the hiring of minors, drugs, loitering minors, etc. The permittee obtained a new and better security plan and things cleaned up. However, in the past year police runs, drug issues, and fights have increased substantially.

Commissioner Maginn moved to approve the renewal for one year, due to the fact that the Excise member of the local board voted to approve the permit. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR20-06295 BIG EASY BAR & GRILL, INC. - Chairman Cook noted this is a renewal with the local board voting 3-0 to deny.

Commissioner Maginn stated this permittee has had violations previously, but the last one included a fight, pepper spray, shots fired with four people being injured, and 47 casings found in the parking lot, which resulted in their lease being terminated. The renewals were filed after the termination of the lease, but still showed the lease being valid.

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

INACTIVE FILES

Commissioner Grubb moved to make eleven permits inactive. There is one permit subject to auction and ten permits not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

There is no Old Business

NEW BUSINESS

PROBATIONARY EMPLOYEE PERMITS - Commissioner Grubb moved, pursuant to IC 7.1-3-18-9.5, to order the following employee permit holders 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 that these permittees be rescheduled for the October 4, 2016 meeting, if compliance has not been met. Commissioner Maginn seconded. The motion was unanimously approved.

Andrew Spear, BR1705578; Tracy Jenkins, BR1519806; Stephanie McClain, BR1792863

Gail Coble, BR1629456 has already completed the alcohol evaluation and treatment program.

Commissioner Grubb moved to revoke the following employee permit that does not fall under IC 7.1-3-18-9.5. Commissioner Maginn seconded. The motion was unanimously approved.

Christopher Herbert, BR1542925

REINSTATEMENT OF EMPLOYEE PERMIT – Commissioner Grubb moved to reinstate the employee permit for Steven Ippolito, BR1631841. The Commission revoked this permit in error. The permittee has not been convicted of two DUIs. Commissioner Maginn seconded. The motion was unanimously approved.

POLICY DETERMINATIONS

READOPTION OF RULES – Vice Chairman Coleman moved to readopt the following rules, including all subsections: 905 IAC 1-11.1; 905 IAC 1-35.1; 905 IAC 1-44; 905 IAC 1-46; 905 IAC 1-47; 905 IAC 1-53. Commissioner Maginn seconded. The motion was unanimously approved.

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

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

Approved this 19 day of April, 2016.

DAVID COOK, CHAIRMAN

David H. Coleman

DAVID COLEMAN, VICE CHAIRMAN

Dale Grubb

DALE GRUBB, COMMISSIONER

Marjorie Maginn

MARJORIE MAGINN, COMMISSIONER