

ALCOHOL AND TOBACCO COMMISSION

June 20, 2017

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

June 6, 2017

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

RR45-14427 Franco's of Highland, Inc. – Proposed Findings of Fact

RR45-32669 The Man Cave Niteclub, LLC – Proposed Findings of Fact

5. Consideration of Applications -

601 renewals
41 new/transfers
11 catering
4 1st year escrow
4 2nd year escrow
4 3rd year escrow
1 4th year escrow
55 new/renewal direct wine shippers
7 new/renewal carrier
26 new e-liquid

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

7. Applications for Discussion –

RR49-28421 PNC Bancorp, LLC – Renewal with LB voting 4-0 to disapprove

DL53-30862 Kishu, Inc., d/b/a Lakeside Market

DL45-30967 3 Singh, Inc. – New with LB voting 3-1 to deny.

DL45-30958 SSS Petroleum, Inc. – New with LB voting 2-2.

8. Inactive Files –

3 permits not subject to auction

9. Old Business -

10. New Business –

Probationary status of employee permits –
BR1844260 Thomas Kyong Lark Hong – 1 conviction

11. Policy Determinations –

12. Announcements -

Next meeting – Wednesday, July 5, 2017

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JUNE 20, 2017

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. Commission Counsel Allen, Executive Secretary Rothenberg, Prosecutor Mader, Corporal Lynch and Industry Liaison Stewart were also in attendance.

Jeff McKean, Katie Maddox, Diane Masariu, Greg Genrich, Marc Carmichael, Don Schilz, Matt Brase, Brooke Burtnett, Greg Emig, Garry Brammer, Mark Webb, and Davey Neal, were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the June 6, 2017 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 31 Parties' Agreed Dispositions that were submitted, totaling \$12,600.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the June 20, 2017 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR45-14427 FRANCO'S OF HIGHLAND, INC. – Chairman Cook stated this matter was continued from the last meeting, regarding Proposed Findings of Fact and Conclusions of Law.

Vice Chairman Coleman stated he stated the establishment still offers drink specials after being asked not to have them.

Chairman Cook stated this establishment has a history of violent police runs including, batteries, mass gatherings in the parking lot, stabbings, indecent exposure and murder. Also, the Highland Police Department and the permittee came to an agreement of changes to be made that may help with problem areas, such as, more lighting and security in the parking lot and no drink specials. The Chairman feels the permittee has only come into partial compliance with the agreement.

Vice Chairman Coleman moved not to adopt the Proposed Findings of Fact and Conclusions of Law, but to uphold the local board's recommendation to deny the permit. In a roll call vote, Vice Chairman Coleman, Commissioner Maginn, Commissioner Grubb and Chairman Cook all voted to approve the motion to deny the permit.

RR45-32669 THE MAN CAVE NITECLUB, LLC – Chairman Cook opened up the floor for discussion regarding the Hearing Judge’s Proposed Findings of Fact and Conclusions of Law.

Vice Chairman Coleman stated he had mixed feelings regarding this matter, but moved to uphold the Hearing Judge’s recommendation to approve the renewal. No second. Motion failed.

Commissioner Maginn stated remonstrators appeared at the local board meeting and also the appeal hearing. The Commissioner feels the community does not desire the services, and, therefore moved not to adopt the Hearing Judge’s recommendation, but uphold the local board’s recommendation to deny the renewal. No second. Motion failed.

Commissioner Grubb moved to uphold the Hearing Judge’s recommendation to approve the renewal. In a roll call vote, Commissioner Grubb, Vice Chairman Coleman and Chairman Cook voted to approve the motion. Commissioner Maginn voted no.

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 renewal direct wine shipper permits. 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.

Commissioner Grubb moved to approve the new e-liquid permit applications. Commissioner Maginn seconded. The motion was unanimously approved.

Six hundred one (601) renewals approved, forty-one (41) new and/or transfer applications approved, eleven (11) permits approved for catering, four (4) permits approved for first year escrow, four (4)

permits approved for second year escrow, four (4) permits approved for third year escrow, one (1) permit approved for fourth year escrow, fifty-five (55) new and renewal direct wine shipper permits approved, seven (7) new and renewal carrier permits approved, and twenty-six (26) new e-liquid permits approved.

RENEWAL LETTERS AND WAIVERS 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

RR49-28421 PNC BANCORP, LLC – Chairman Cook noted this is a renewal with the local board voting 4-0 to disapprove.

Commissioner Maginn stated the permittee was put on a one-year renewal last year due to problems at the establishment. The problems have continued including a stabbing and shots fired in the parking lot.

Chairman Cook indicated that one of the conditions of the one-year renewal was for the permittee to communicate with IMPD regarding any problems and to implement recommendations from them that might help with the operations of the business. That has not happened.

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

DL53-30862 KISHU, INC. – Chairman Cook noted this was denied by the Commission at the June 6, 2017 meeting, due to the permit location being within 200 feet of a church.

Executive Secretary Rothenberg stated the permittee received notice of the denial and the option for an appeal. The permittee requested that he be allowed to transfer the permit to the previous location, in lieu of an appeal. Permit will not be active at the current location.

Vice Chairman Coleman moved to reinstate the permit for purposes of transferring it to the previous location, it will not be active at the current location, and to revisit it at the August 15, 2017 meeting to make sure a transfer has been filed. Commissioner Maginn seconded. The motion was unanimously approved.

DL45-30967 3 SINGH, INC. – Chairman Cook noted this is a new application with the local board voting 3-1 to deny.

Commissioner Maginn stated remonstrators were present at the local board meeting. The local board cited services are not desired and establishment will have negative impact on other businesses as the reasons for the recommended denial.

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

DL45-30958 SSS PETROLEUM, INC. – Chairman Cook noted this is a new application with the local board voting 2-2.

Vice Chairman Coleman stated after reviewing the record, he feels there is no need for the permit, it will have a negative impact on the area and the applicant does not have high reputation.

Chairman Cook also reviewed the record and agreed with the Vice Chairman, except he found no evidence of poor reputation of the applicant.

Vice Chairman Coleman moved to deny the new permit. Commissioner Maginn seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make three (3) permits inactive. All three permits are not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

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 holder(s) 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 to reschedule for the December 5, 2017 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

BR1844260 Thomas Kyong Lark Hong

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

The next Commission meeting will be Wednesday, July 5, 2017, at 10 a.m.

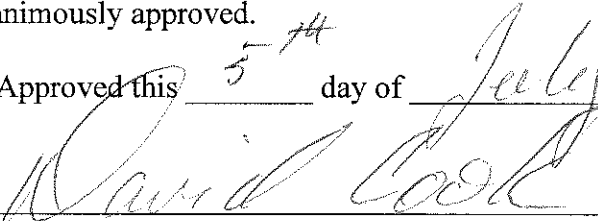
CLARIFICATION REGARDING NEW LAW FOR CARRY OUT – Commission Counsel Allen stated the new carry-out form should be submitted at the next renewal time. Permittees still have their carry-out privileges until they renew.

NEW WEBSITE LAYOUT CHANGING – Executive Secretary Rothenberg noted there will be changes to the layout of the website in the near future, so it may be down intermittently. There is no need to contact us regarding this, just please be patient during this time.

ADJOURNMENT

Vice Chairman Coleman moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Approved this 5th day of July, 2017.



DAVID COOK, CHAIRMAN



DAVID COLEMAN, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER