

ALCOHOL AND TOBACCO COMMISSION

September 17, 2019

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

September 4, 2019

3. Prosecutor's Recommendations –

PAD Forms

6 Month Letter – Employee Permits

Revocation of Employee Permits – no proof of alcohol treatment

4. Hearing Judge's Recommendations –

RH49-30117 Midland Hotel Group, d/b/a Delta by Marriott

5. Consideration of Applications -

497 renewals  
84 new/transfers  
10 catering  
1 new e-liquid  
12 new/renewal carriers  
5 new/renewal direct wine shippers

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

7. Applications for Discussion –

RR32-19642 Johnson & Redick, LLC - renewal with the local board voting 4-0 to deny.  
This was continued from 8/20/19.

DL43-31685 E & S Express, Inc. – transfer with LB voting 4-0 to deny

Rr40-27846 Phat Guys Entertainment – non-payment of fees

8. Inactive Files –

1 permit subject to auction  
3 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

Non-Rule Policy #26

12. Announcements -

October Commission Meeting – 2<sup>nd</sup> meeting will be Wednesday, October 16<sup>th</sup>

Round Table Dates: artisan distilleries 9/17

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

SEPTEMBER 17, 2019

**CALL TO ORDER/NOTING OF QUORUM**

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Krauss, Commissioner Maginn and Commissioner Grubb. Executive Secretary Allen, Commission Counsel Hyer and Prosecutor Harrison were in attendance.

Jenny Drewry, Katie Beth Maddox, Ron Breymier, Justin Hage, Sarah Quinn, Carmen Pratts Porter, Brooke Burtnett, Davey Neal, Jeff McKean, Mark Webb, Matt Brase, Greg Genrich and Brad Baughn were present as observers.

**DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the September 4, 2019 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison noted there are 51 Parties' Agreed Dispositions, totaling \$18,650.00 in fines, for the Commission's approval.

The Prosecutor highlighted a few dispositions: RR45-02338, high and fine reputation, public nuisance, no employee permits, \$3,500.00 fine; RR45-03913, 3<sup>rd</sup> service to minor, \$2,000.00 fine; DL24-30289, 3<sup>rd</sup> service to minor, \$1,500.00 and falsification of records, permit must be transferred, file within 45 days; DL06-31456, falsification of records, must transfer permit, file within 45 days.

Vice Chairman Krauss moved to approve the PAD forms submitted by the Prosecutor. Commissioner Maginn seconded. The motion was unanimously approved.

EMPLOYEE PERMITS – 6 MONTH LETTERS - Prosecutor Harrison recommended the Commission, pursuant to IC 7.1-3-18-9.5, 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.

Commissioner Maginn moved to uphold the Prosecutor's recommendation. Commissioner Grubb seconded. The motion was unanimously approved.

BR1860407 Janise Cox and BR1691767 Kendra McAtee

REVOCAION OF EMPLOYEE PERMITS – Prosecutor Harrison recommended the Commission revoke the following employee permits. The permittees failed to provide proof of alcohol treatment, as required.

Commissioner Grubb moved to uphold the Prosecutor's recommendation to revoke the employee permits. Commissioner Maginn seconded. The motion was unanimously approved.

BR1826881 Eric Dobrinski; BR1817438 Stephany Anne Clark; BR1826272 Joseph Michael Wicks; BR1735528 Julie Netherton

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

RH49-30117 MIDLAND HOTEL GROUP – Hearing Judge Allen noted this matter was scheduled for local board hearing in April, May, June, July and August and failed to appear at all of the hearings. Therefore, the local board denied the application and the Commission upheld that denial. An appeal was timely filed. The applicant requested the application be remanded to the local board, stating an employee (who is no longer employed by applicant) failed to notify the applicant of the local board hearing dates and that is why they failed to appear. Hearing Judge Allen recommended the Commission grant the remand.

Vice Chairman Krauss moved to uphold the Hearing Judge's recommendation to remand the new application. Commissioner Grubb seconded. The motion was unanimously approved.

### **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 said staff with the authority of the Commission, and hereby move for approval of same, pending any escrow hearings, 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 application for changes in location, 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 escrow, if needed, 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 one new e-liquid application. 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 direct wine shipper renewal permits. Commissioner Maginn seconded. The motion was unanimously approved.

## **RENEWAL LETTERS AND WAIVERS OF FEES**

Vice Chairman Krauss moved to approve the renewal and fee waived letters of extension that were issued for the preceding weeks. Commissioner Maginn seconded. The motion was unanimously approved.

## **APPLICATIONS FOR DISCUSSION**

RR32-19642 JOHNSON & REDICK, LLC – Chairman Cook noted this is a renewal with the local board voting 4-0 to deny. This matter has been continued a number times. The permittee was put on the PACE program/deferral by the Prosecutor and the Commission approved that action, prior to the local board vote.

Commissioner Maginn moved to overturn the local board's recommendation and approve the permit, due to the agreed disposition regarding the PACE Program/deferral. Commissioner Grubb seconded.

Vice Chairman Krauss stated even though there is an agreed disposition, he felt it is apparent that the permit is not wanted by the community and problems have arisen at the establishment. The Vice Chairman voted to uphold the local board's recommendation to deny.

Chairman Cook stated he feels the vote of the local board was an abuse of their discretion, because the deferral is not a finding by the Commission, so the violation is still open and the renewal should not have been heard by the local board.

Commissioner Maginn, Commissioner Grubb and Chairman Cook voted to overturn the local board's recommendation and approve the renewal. Vice Chairman Krauss voted to uphold the recommendation. The vote was 3-1 to approve the renewal.

DL43-31685 E & S EXPRESS, INC. – Chairman Cook noted this is a transfer with the local board voting 4-0 to deny, for failing to appear at the local board hearing.

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

RR40-27846 PHAT GUYS ENTERTAINMENT – Chairman Cook noted this was placed on the agenda because permittee's check for payment of renewal fees was returned as insufficient funds. The Chairman noted the payment was brought into the ATC, yesterday, in the form of a cashier's check.

## **INACTIVE FILES**

Vice Chairman Krauss moved to make four (4) permits inactive. Three are not subject to auction and one is subject to auction. Commissioner Grubb seconded. The motion was unanimously approved.

## **OLD BUSINESS**

No Old Business

**NEW BUSINESS**

No New Business

**POLICY DETERMINATIONS**

NON-RULE POLICY #26 – Executive Secretary Allen noted she received one comment regarding this rule, but it does not require a change to the proposed policy.

Commissioner Grubb moved to approve Non-Rule Policy #26 as written. Commissioner Maginn seconded. The motion was unanimously approved.

**ANNOUNCEMENTS**

ATC PERMIT AUCTION – Chairman Cook stated the auction will be held on October 7, 2019 at 10 am. The list of available permits and instructions are on the website.

OCTOBER COMMISISON MEETING – Chairman Cook stated the 2<sup>nd</sup> meeting in October will be Wednesday, October 16<sup>th</sup>.

PROPOSED ROUNDTABLE MEETINGS 2019 – Chairman Cook stated the proposed schedule of the final roundtable meeting is as follows: artisan distilleries 9/17


**ADJOURNMENT**

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

Approved this 11 day of October, 2019.

  
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DAVID COOK, CHAIRMAN

  
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JOHN KRAUSS, VICE CHAIRMAN

  
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DALE GRUBB, COMMISSIONER

  
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MARJORIE MAGINN, COMMISSIONER