

ALCOHOL AND TOBACCO COMMISSION

October 6, 2020

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

September 15, 2020

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

521 renewals

56 new/transfers

15 catering

38 new/renewal carriers

9 new/renewal direct wine shippers

1 new e-liquid

1 transfer e-liquid

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

7. Applications for Discussion –

RR20-36402 2930 Elkhart Mancinos LLC – new with LB voting 3-0 to deny (FTA)

RR14-02529 The Tuxedo Bar, Inc. – renewal with LB voting 2-1 to approve

RR07-36729 B & E Management, LLC – new with LB voting 2-2

RR82-36340 La Catrina, Inc.; RR18-31222 Shoestring Group, Inc.; RR64-36455 Fuel “High Octane Food”, LLC – denied escrow

8. Inactive Files –

~~440 permits not subject to auction~~

~~81 permits subject to auction~~

9. Old Business -

10. New Business –

Readoption of Rules – LSA Document #20-447

11. Policy Determinations –

12. Announcements -

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

OCTOBER 6, 2020

**CALL TO ORDER/NOTING OF QUORUM**

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

By consent, the Commission, regarding items on the agenda that require signatures, gave permission for Kim Chew to initial approval for the commissioners.

**DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the September 15, 2020 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Chairman Cook stated Prosecutor Harrison submitted 23 Parties' Agreed Dispositions, totaling \$11,600.00 in fines, for the Commission's approval.

The Prosecutor submitted a summary of Noteworthy Violations, which was made part of the record by consent.

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

Commissioner Grubb moved to approve the carrier applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal direct wine shipper permits. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve a new and a transfer application for an e-liquid permit. 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 issued the preceding weeks. Commissioner Maginn seconded. The motion was unanimously approved.

### **APPLICATIONS FOR DISCUSSION**

RR20-36402 ELKHART MANCINOS, LLC – Chairman Cook noted this is a new application with the local board voting 3-0 to deny, for failure 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.

RR14-02529 THE TUXEDO BAR, INC. – Chairman Cook noted this is a renewal with the local board voting 2-1 to approve.

Vice Chairman Krauss stated the owner of this permit was charged and convicted of a level 6 felony due to illegal gambling. Even though the gambling is now legal, he has reservations with this permittee's reputation.

Commissioner Maginn stated the permittee has been running illegal gambling for over 20 years in this establishment and across state lines. She questions his high and fine reputation.

Chairman Cook noted he also has reservations about the permittee's reputation and stated he doesn't agree with the local board's 2-1 vote, but will honor it.

Vice Chairman Krauss moved to approve the renewal for 1 year. Commissioner Grubb seconded. Chairman Cook approved the motion. Commissioner Maginn denied the motion. The motion was approved 3-1.

RR07-36729 B & E MANAGEMENT, LLC – Chairman Cook noted this is a new application with the local board voting 2-2.

Commissioner Maginn stated there were no remonstrators present at the hearing. There has been an alcohol establishment at this location for some time. There was discussion about a fight that occurred a year and a half ago at the location, which is in a remote area, so it took law enforcement a while to respond. The local board discussed the need for the new applicant to get with local law enforcement to have a plan in the event there are future issues.

Commissioner Maginn moved to approve a one-year permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR82-36340 LA CATRINA, INC.; RR18-31222 SHOESTRING GROUP, INC.; RR64-36455 FUEL "HIGH OCTANE FOOD", LLC – Chairman Cook noted all three of these permittees were denied escrow and now consideration of the application is before the Commission.

Commissioner Maginn moved to deny the permits. Commissioner Grubb seconded. The motion was unanimously approved.

### **INACTIVE FILES**

Chairman Cook stated the Commission received complaints from the industry regarding the permits on the inactive list. They did not feel there was sufficient time given to review the list. The Chairman feels that the industry sometimes takes advantage of the Commission's desire to further Indiana business and maintain regulatory integrity. He specifically said that the Commission has followed all statutory requirements for notice and has done nothing to support not following through with making these permits dead. Very often permittees do not keep us informed of changes in addresses or contact information. The Commission does not have statutory authority to ignore deadlines. Chairman Cook stressed the need for the industry to be more responsible and respectful of deadlines.

Chairman Cook moved to continue consideration of the inactive files until October 20, 2020. Vice Chairman Krauss reluctantly seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

READOPTION OF RULES -LSA DOC #20-447 – Vice Chairman Krauss moved to readopt the rules as posted. Commissioner Maginn seconded. The motion was unanimously approved.

### **ANNOUNCEMENTS**

2020 ATC PERMIT AUCTION – Chairman Cook stated the auction scheduled to be held on November 23, 2020 will be rescheduled.

### **ADJOURNMENT**

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

Approved this 20<sup>th</sup> day of October, 2020.

*David Cook*

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DAVID COOK, CHAIRMAN

*JK*

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JOHN KRAUSS, VICE CHAIRMAN

*DG*

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DALE GRUBB, COMMISSIONER

*MM*

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MARJORIE MAGINN, COMMISSIONER