

ALCOHOL AND TOBACCO COMMISSION

September 8, 2021

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

August 17, 2021

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

TC13361001 Keystone Smoke and Vape, Inc. – Proposed Findings of Fact

5. Consideration of Applications -

540 renewals

46 new/transfers

13 catering

33 new/renewal carriers

18 new/renewal direct wine sellers

1 new e-liquid

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

7. Applications for Discussion –

RR45-34866 Galaxie Properties, LLC – renewal with LB voting 4-0 to deny, previously denied by commission, but rescinded to allow violation to be resolved

RR49-37482 Hookah Pyramid – Request ability to file transfer

RR49-06236 1711 Corp. – clarification of record

RR48-01351 Rose's Pub – clarification of record

DL43-32015 Hazera Begum – requesting ability to file transfer

RR52-37733 Two J's Entertainment LLC – new with the LB voting 2-1 to approve

DL72-32399 Martin and Bayley, Inc. – new with LB voting 4-0 to deny

RR41-37810 Todd Anthony, LLC – requesting catering hall designation

RR49-37831 Keetouch Ent. – requesting catering hall designation –

8. Inactive Files –

4 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Roundtable dates – 9/21 artisan distillers, 10/19 brewers, TBD farm wineries

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

SEPTEMBER 8, 2021

**CALL TO ORDER/NOTING OF QUORUM**

Chair Allen called the meeting to order and noted the quorum and the attendance. Vice Chairman Krauss, Commissioner Maginn, Commissioner Grubb, Commission Counsel Hyer, Prosecutor Harrison, Executive Secretary Kirkman, Sgt. Stewart, Officer Strouse and Officer Crider were present.

Davey Neal and Mark Webb were present as observers.

**DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the August 17, 2021 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Chair Allen stated Prosecutor Harrison submitted 86 Parties' Agreed Dispositions, with fines totaling \$46,100.00, for the Commission's approval.

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**

TC13361001 KEYSTONE SMOKE AND VAPE, INC. – Vice Chairman Krauss, Hearing Judge in this matter, submitted his Proposed Findings of Fact and Conclusions of Law revoking the tobacco certificate. The permittee was found to have sold tobacco to a minor.

Commissioner Maginn moved to uphold the Findings of the Hearing Judge to revoke the tobacco certificate. 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 the catering applications. Commissioner Maginn seconded. The motion was unanimously approved.

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

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

Commissioner Grubb moved to approve one new 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**

RR45-34866 GALAXIE PROPERTIES, LLC – Chair Allen noted this is a renewal with the local board voting 4-0 to deny. This was previously denied by the Commission, but that vote was rescinded to allow for a resolution of a pending violation. The violation is resolved, so the recommendation of denial by the local board is again before the Commission.

Commissioner Maginn stated the permittee resolved the violation from 2019 that was pending at the time of renewal. However, there is another pending violation. She sees no reason to overturn the local board's denial.

Commissioner Maginn moved to uphold the local board's denial of the renewal. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR49-37482 HOOKAH PYRAMID – Chair Allen noted this is a denial by the Commission. The permittee submitted a request to file a transfer.

Commissioner Maginn moved to allow six months to file the transfer. The permit should be put into escrow immediately. If the transfer is not on file in six months, the permit will revert to the Commission. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR49-06236 1711 CORP. – Chair Allen noted the Commission had a prior order and motion on this matter that needs to be clarified.

Commissioner Maginn moved to vacate prior denial of the transfer and deny the renewal, based on the Settlement Agreement. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR48-01351 ROSE'S PUB – Chair Allen noted there needs to be a clarification of the record.

Commissioner Maginn stated this permit was before the Commission in July. A renewal and transfer have been submitted; however, a court order was filed that awarded this permit to Shoestring Group, Inc. Two of the owners of that corporation are deceased and the matter is in probate.

Commissioner Maginn moved to hold the renewal in pending status awaiting the outcome of the appeal of the denial of the transfer and/or the probate matter on Shoestring Group, Inc. Vice Chairman Krauss seconded. The motion was unanimously approved.

DL43-32015 HAZERA BEGUM – Chair Allen noted clarification of the record is needed regarding this permit. There is a denied renewal that is under appeal and a transfer on file. A request was made to allow the transfer without resolving the violation.

Commissioner Maginn stated after the denial of the renewal, an appeal was filed and the permittee requested the ability to file a transfer of location and ownership of the permit. The Commission voted to allow that with the condition of settling the violation. Commissioner Maginn stated this permittee has had their tobacco certificate revoked for numerous instances of selling to minors and for continuing to sell after the certificate was revoked, which required a violation to be attached to the alcohol permit. The alcohol permit was denied by the local board and the Commission, and an appeal was filed. The violation is still pending on the alcohol permit.

Commissioner Maginn moved to deny the request to allow the transfer without resolution of the violation. The permittee has 90 days to resolve that violation, and allow can request more time, if needed, if it is shown they have been diligent in attempting to resolve it. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR52-37733 TWO J'S ENTERTAINMENT, LLC – Chair Allen noted this is a new application with the local board voting 2-1 to approve.

Commissioner Maginn stated there was one remonstrator, who does not want an alcohol establishment across the street from his property.

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

DL72-32399 MARTIN AND BAYLEY, INC. – Chair Allen noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated this location is in Scottsburg, in Scott County. The remonstrators have a history of not wanting any alcohol permits in grocery stores and none have been approved. The remonstrators have no issue with the business, they just do not want alcohol sold in grocery stores.

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

RR41-37810 TODD ANTHONY, LLC – Chair Allen noted this is a request for the permittee to be considered a catering hall.

Commissioner Maginn moved to approve the request for the permittee to be considered a catering hall. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR49-37831 KEETOUGH ENTERPRISES, LLC – Chair Allen noted this was added last minute for catering hall designation. By consent, the Commission added this request to the agenda.

Commissioner Maginn moved to approve the request for the permittee to be considered a catering hall. Vice Chairman Krauss seconded. The motion was unanimously approved.

### **INACTIVE FILES**

Vice Chairman Krauss moved to make four (4) permits dead that are not subject to auction. Commissioner Grubb seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

No New Business

### **POLICY DETERMINATIONS**

No Policy Determinations

### **ANNOUNCEMENTS**

ROUNDTABLE DISCUSSIONS – Chair Allen noted the dates for roundtable discussions: 8/17 retailers, 9/21 artisan distillers, 10/19 brewers

A virtual link will be sent closer to the date of the discussion.

### **ADJOURNMENT**

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

Approved this 21<sup>st</sup> day of September, 2021.

  
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JESSICA ALLEN, CHAIR

  
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JOHN KRAUSS, VICE CHAIRMAN

*DG*

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DALE GRUBB, COMMISSIONER

*Marjorie Maginn*

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MARJORIE MAGINN, COMMISSIONER