

ALCOHOL AND TOBACCO COMMISSION

November 15, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

November 1, 2016

3. Prosecutor's Recommendations –

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PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

526 Renewals

59 New/Transfers

1 Catering

1 1<sup>st</sup> Year Escrow

6 2<sup>nd</sup> Year Escrow

2 3<sup>rd</sup> Year Escrow

4 4<sup>th</sup> Year Escrow

2 5<sup>th</sup> Year Escrow

1 8<sup>th</sup> Year Escrow

2 New/Renewal Direct Wine Shippers

15 New/Renewal Carriers

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

7. Applications for Discussion –

DL49-28598 Georgetown Holding, LLC

RR34-11177 Rock Bottom Saloon, LLC – Renewal with LB voting 3-1 to deny

RR49-05552 Buckingham Properties, LLC – Requesting reactivation

RR71-32541 Horseshoe Grill & Bar, LLC – Transfer with LB voting 3-0 to deny

RR71-30956 Mishawaka Grill, LLC – Renewal with LB voting 3-0 to deny

DL72-30806 LLB2 Food Mart, LLC – New with the LB voting 2-1 to deny

RR29-32736 Bring It On, LLC – New with LB voting 3-0 to deny

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8. Inactive Files –

2 Permits Not Subject to Auction

9. Old Business -

10. New Business –

Probationary Employee permittee –

BR1660559 Amber Parish –

11. Policy Determinations –

12. Announcements -

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 15, 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. Prosecutor Mader, Commission Counsel Allen, Executive Secretary Rothenberg, Superintendent Strittmatter and Master Officer Bedwell were also in attendance.

Brooke Burtnett, Dan DeRoziere, Mark Webb, Greg Genrich, Schuyler Culver, Aaron Grant, Matt Brase, Bart Herriman, Diane Masariu, Katie Maddox and Lisa McKinney were present as observers.

#### DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the November 1, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 29 Parties' Agreed Dispositions that were submitted, totaling \$8,400.00 in fines.

Commissioner Grubb moved to approve the Dispositions that were submitted for the November 15, 2016 meeting. Commissioner Maginn 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 direct wine shipper permits. Commissioner Maginn seconded. The motion was unanimously approved.

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

Five hundred twenty-six (526) renewals approved, fifty-nine (59) new and/or transfer applications approved, one (1) permit approved for catering, seven (7) permits approved for first year escrow, six (6) permits approved for second year escrow, two (2) permits approved for third year escrow, four (4) permits approved for fourth year escrow, two (2) permits approved for fifth year escrow, two (2) new and renewal direct wine shipper permits approved and fifteen (15) new and renewal carrier permits approved.

8<sup>th</sup> YEAR ESCROW RR53-19479 – Executive Secretary Rothenberg stated this permit was scheduled to be made inactive, however, the permittee was never sent the 35 day notification of that action, if the permit was not renewed. It appears this permit has slipped through the cracks because this will be the 8<sup>th</sup> year of escrow. The permittee’s attorney was told if the permit was to remain active, renewals needed to be filed within 35 days. Renewals and a transfer were filed. The transfer was approved today. The Executive Secretary recommended the Commission approve the escrow.

Commissioner Grubb moved to approve the 8<sup>th</sup> year escrow request. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Maginn also stated she wanted to make clear that this is not precedent setting and that it is just something that the agency missed.

#### **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**

DL49-28598 GEORGETOWN HOLDING, LLC – Commissioner Maginn stated the renewals have been filed and fees paid.

Commissioner Maginn moved to reactivate this permit and return it to active status. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR34-11177 ROCK BOTTOM SALOON, LLC – Chairman Cook noted this is a renewal with the local board voting 3-1 to deny. It was continued from the last meeting. The permit is subject to a possible sale.

Chairman Cook stated there is still an issue pending with regard to the Department of Revenue. The Chairman recommended this be set out to the December 20<sup>th</sup> meeting and if the matter is not cleared up by that time, the Commission will take action on the local board recommendation.

Commissioner Maginn moved to continue this to the December 20, 2016 meeting. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR49-05552 BUCKINGHAM PROPERTIES, LLC – Commission Counsel Allen stated this permit was placed in escrow in 2011. The permit was made dead at what was thought to be the end of the fifth year of escrow, however, there is a question as to what the actual date is. The permittee has requested the permit be reinstated for purposes of transferring to a completely different owner. Counsel Allen recommended the Commission reactivate this permit, but revisit this matter at the December 20<sup>th</sup> meeting, to make sure the transfer has been filed

Commissioner Maginn moved to reactivate this permit and to make sure the transfer is filed by the December 20<sup>th</sup> meeting. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR71-32541 HORSESHOE GRILL & BAR, LLC – Chairman Cook noted this is a transfer with the local board voting 3-0 to deny.

Commissioner Maginn stated she reviewed the local board record and found that the applicant has health issues that may make him unfit to hold this permit. The local board suggested the application be withdrawn, but that has not happened. It has been continued for several months.

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

RR71-30956 MISHAWAKA GRILL, LLC – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny, for failure to appear before the local board.

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

DL72-30806 LL B 2 FOOD MART, LLC – Chairman Cook noted this is a new application with the local board voting 2-1 to deny. The Chairman made all exhibits part of the record.

Commissioner Maginn stated she reviewed the local board record and noted there were several remonstrators present, who submitted petitions with over 400 signatures, stating there is no desire for this permit at the location.

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

RR29-32736 BRING IT ON, LLC – Chairman Cook noted this is a new application with the local board voting 3-0 to deny, based on failure to submit required documentation by the applicant. The documents have now been submitted. The Chairman recommended the application be remanded to the local board.

Vice Chairman Coleman moved to remand this application to the local board. Commissioner Maginn seconded. The motion was unanimously approved.

### INACTIVE FILES

Commissioner Grubb moved to make two (2) permits inactive. Both 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 May 16, 2017 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

BR1660559 Amber Parish

### POLICY DETERMINATIONS

No Policy Determinations

### ANNOUNCEMENTS

2016 ALCOHOL AND TOBACCO COMMISSION AUCTION – Chairman Cook stated the successful bidders at the auction must submit the application and bid money by December 2, 2016.

NCSLA REGIONAL 2017 MEETING – Chairman Cook stated the 2017 regional meeting of the National Conference of the State Liquor Administrators is going to be held here in October. Executive Secretary Rothenberg is heading the organizational committee, assisted by the Chairman. They would like to assemble an agenda committee to be composed of industry members. More information will be forthcoming in January.

### ADJOURNMENT

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

Approved this 6 day of December, 2016.

*David Cook*

DAVID COOK, CHAIRMAN

*David H. Coleman*

DAVID COLEMAN, VICE CHAIRMAN

*Dale Grubb*

DALE GRUBB, COMMISSIONER

*Marjorie Maginn*

MARJORIE MAGINN, COMMISSIONER