

ALCOHOL AND TOBACCO COMMISSION

January 4, 2017

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

December 20, 2016

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

RR71-30956 Mishawaka Grill, LLC – Recommending remand

5. Consideration of Applications -

494 renewals  
56 new/transfers  
4 catering  
11 1<sup>st</sup> year escrow  
2 2<sup>nd</sup> year escrow  
3 3<sup>rd</sup> year escrow  
3 4<sup>th</sup> year escrow  
1 5<sup>th</sup> year escrow  
1 6<sup>th</sup> year escrow (until 2-1-17)  
12 new/renewal carriers

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

7. Applications for Discussion –

RR70-32841 Sakura Y&J Japanese Restaurant, Inc. – New with LB voting 4-0 to approve.

8. Inactive Files –

1 permit subject to auction  
1 permit not subject to auction

9. Old Business -

Revocation of Employee permits – No proof of alcohol treatment program

BR1747334 Shelby T Owens  
BR1749549 Ciara Burchett  
BR1748449 Kristina Mulry  
BR1838794 Jeshod T Hughes

10. New Business –

Probation of Employee permits –

BR1829055 Mary Wolff – 1 conviction  
BR1763229 Nathaniel D Addington – 1 conviction

11. Policy Determinations –

12. Announcements -

NCSLA Regional Conference Committee – January 17, 2017 at 1:30

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

JANUARY 4, 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. Prosecutor Mader, Commission Counsel Allen, Executive Secretary Rothenberg and Superintendent Strittmatter, were also in attendance.

Brooke Burtnett, Jane Gentry, Diane Masariu, Marc Carmichael, Matt Brase, Katie Maddox and Tony Mitson were present as observers.

#### DISPOSITION OF MINUTES

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

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 52 Parties' Agreed Dispositions that were submitted, totaling \$19,275.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the January 4, 2017 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

RR71-30956 Mishawaka Grill, LLC – Executive Secretary Rothenberg noted this renewal was originally scheduled in March 2016 because the permittee had a violation in the renewal period. The local board finally recommended denial of the renewal in October, due to the permittee not appearing, which falls under IC 7.1-3-23-5. Over the course of this time, there were continuances for no quorum along with the non-appearance by the permittee. The permittee filed a request for hearing. The Executive Secretary recommended the Commission remand this to the local board for reconsideration. The remand order clarifies to the permittee that he must comply with statute regarding appearing before the local board after a violation.

Vice Chairman Coleman moved to uphold the Hearing Judge's recommendation to remand the renewal to the local board. Commissioner Maginn 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 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 (with 1 approval for 6<sup>th</sup> year until February 1 2017), 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 carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

Four hundred ninety-four (494) renewals approved, fifty-six (56) new and/or transfer applications approved, four (4) permits approved for catering, eleven (11) permits approved for first year escrow, two (2) permits approved for second year escrow, three (3) permits approved for third year escrow, three (3) permits approved for fourth year escrow, one (1) permit approved for fifth year escrow, one (1) permit approved for sixth year escrow, and twelve (12) new and renewal carrier permits approved.

#### **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**

RR70-32841 SAKURA Y&J JAPANESE RESTAURANT, INC. – Chairman Cook noted this is a new application with the local board voting 4-0 to approve.

Chairman Cook stated there were four remonstrators present at the meeting. None of them provided evidence showing the community did not desire the services, a negative impact on other businesses or poor character of the owners. On the other hand, the Economic Director of Rush County did provide a letter of support for the business.

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

## INACTIVE FILES

Commissioner Grubb moved to make two (2) permits inactive. One permit is not subject to auction and one permit is subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

## OLD BUSINESS

REVOCATION OF EMPLOYEE PERMITS FOR NON-PROOF OF TREATMENT PROGRAM – Commissioner Grubb moved to revoke the following employee permits for not providing proof of completing an alcohol treatment program. Commissioner Maginn seconded. The motion was unanimously approved.

BR174334 Shelby T Owens; BR1749549 Ciara Burchett; BR1748449 Kristina Mulry; BR1838794 Jeshod T Hughes

## 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 July 5, 2017 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

BR1829055 Mary Wolff and BR1763229 Nathaniel D Addington

## POLICY DETERMINATIONS

No Policy Determinations

## ANNOUNCEMENTS

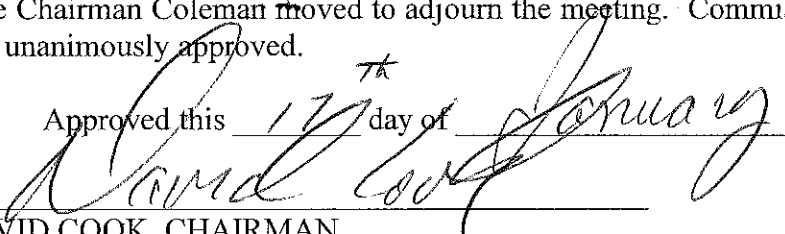
NCSLA REGIONAL CONFERENCE COMMITTEE MEETING – Chairman Cook stated the meeting will be held January 17, 2017 at 1:30.

Executive Secretary Rothenberg stated that everyone is welcome. It is a brainstorming session to narrow down what topics will be presented at the conference in October.

## ADJOURNMENT

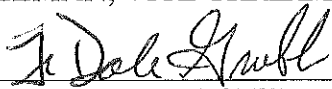
Vice Chairman Coleman moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Approved this 17<sup>th</sup> day of January, 2017.

  
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DAVID COOK, CHAIRMAN

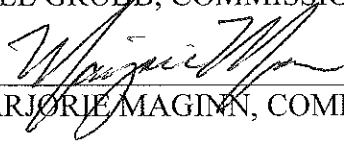
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DAVID COLEMAN, VICE CHAIRMAN



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DALE GRUBB, COMMISSIONER



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MARJORIE MAGINN, COMMISSIONER