

ALCOHOL AND TOBACCO COMMISSION

April 18, 2017

10:00 A.M.

1. Call to Order and Noting of Quorum --

2. Disposition of Minutes

April 4, 2017

3. Prosecutor's Recommendations --

PAD Forms

4. Hearing Judge's Recommendations --

RR45-14427 Franco's of Highland, Inc. -- Proposed Findings of Fact and Conclusions of Law

5. Consideration of Applications -

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

7. Applications for Discussion --

DL56-30944 Two Patel, Inc. -- Transfer with LB voting 3-0 to deny

RR45-20785 Rivers Edge Bar & Grill, Inc. -- Renewal with LB voting 4-0 to approve

8. Inactive Files --

15 permits not subject to auction

9. Old Business -

10. New Business --

Probationary status of Employee permits --

BR1772348 Kelsea Baker -- 1 conviction

BR1785273 Brandi Bare -- 2 convictions

11. Policy Determinations --

Readoption of 905 IAC 1-42 - Non-probationary Enforcement Officer; Discharge, Demotion, or Suspension.

12. Announcements -

ATC Spring Auction -- May 17, 2017  
Auction list available early April  
Pre-bid applications due May 2

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

APRIL 18, 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. Executive Secretary Rothenberg, Prosecutor Mader and Industry Liaison Stewart were also in attendance.

Sarah Stegmeyer, Schuyler Culver, Dan DeRoziere, Matt Brase, Brooke Burtnett, Davey Neal, Mark Webb, and Jenny Drewry were present as observers.

**DISPOSITION OF MINUTES**

Vice Chairman Coleman moved to approve the minutes from the April 4, 2017 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 50 Parties' Agreed Dispositions that were submitted, totaling \$17,700.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the April 18, 2017 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

**HEARING JUDGE'S RECOMMENDATIONS**

RR45-14427 FRANCO'S OF HIGHLAND, INC. – Chairman Cook stated he is postponing the vote on this matter until June 6, 2017. The Commission would like time to review the appeal record before taking a vote. Also, the Chairman noted that an Extension will be granted to the permittee.

**CONSIDERATION OF APPLICATIONS**

Chairman Cook made a statement concerning the issuance of "RR" renewal permits. A transcript of that statement is attached.

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 carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

Twenty-five (25) new and/or transfer applications approved, eighteen (18) permits approved for catering, five (5) permits approved for first year escrow, sixteen (16) permit approved for second year escrow, one (1) permit approved for third year escrow, one (1) permit approved for fourth year escrow, two (2) permits approved for fifth year escrow, and thirteen (13) new and renewal carrier permits approved.

### **RENEWAL LETTERS AND WAIVERS 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**

DL56-30944 TWO PATEL, INC. – Chairman Cook noted this is a transfer application with the local board voting 3-0 to deny.

Vice Chairman Coleman stated there are two owners of this corporation. The 60% owner lives in Illinois and the 40% owner lives in Indiana. This corporation is not eligible to hold this permit.

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

RR45-20785 RIVERS EDGE BAR & GRILL, INC. – Chairman Cook noted this is a renewal with the local board voting 4-0 to approve.

Chairman Cook stated he reviewed the recording of the local board hearing. This permittee has not met the food sales' figures for a number of years. He is now deceased, but his daughter would like to take over the business. The family requested time to try to come into compliance with the food sales.

Commissioner Maginn stated the daughter is going to make changes to the menu to help get the business into compliance.

Commissioner Maginn moved to uphold the local board's recommendation to renew for one year. Vice Chairman Coleman seconded. The motion was unanimously approved.

### **INACTIVE FILES**

Commissioner Grubb moved to make fifteen (15) permits inactive. All fifteen 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 October 3, 2017 meeting. Vice Chairman Coleman seconded. The motion was unanimously approved.

BR1772348 Kelsea Baker

REVOCAION OF EMPLOYEE PERMIT – Commissioner Grubb moved to revoke the following permit, due to the fact that the employee has two convictions for OWI and will not be eligible for a permit until 7/1/18. Commissioner Maginn seconded. The motion was unanimously approved.

BR1785273 Brandi Bare

**POLICY DETERMINATIONS**

READOPTION OF 905 IAC 1-42 – Executive Secretary Rothenberg stated the rule expires this year. He recommended the Commission readopt the rule. It has been advertised and no one submitted any comments, or possible changes.

Vice Chairman Coleman moved to readopt the rule. Commissioner Maginn seconded. The motion was unanimously approved.

**ANNOUNCEMENTS**

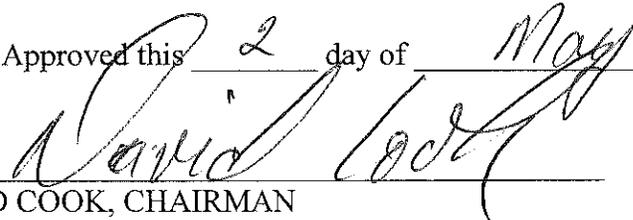
ATC SPRING PERMIT AUCTION – Chairman Cook stated the Commission will hold a spring permit auction on May 17, 2017. The auction list is available. Pre-bid applications due on May 2, 2017.

Executive Secretary Rothenberg stated the initial list had permits available in Hamilton County that should have been in Howard County. The list has been corrected.

**ADJOURNMENT**

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

Approved this 2 day of May, 2017.

  
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DAVID COOK, CHAIRMAN

*David H. Coleman*

DAVID COLEMAN, VICE CHAIRMAN

*Dale Grubb*

DALE GRUBB, COMMISSIONER

*Marjorie Maginn*

MARJORIE MAGINN, COMMISSIONER

1 Chairman Cook Consideration of applications – Before I do that, I want to indicate that  
2 those renewals that were held back on April 4, 2017, have now been  
3 thoroughly vetted and approved and have been placed back on the  
4 renewal calendar for today. So, those items, or those renewals that  
5 were postponed from the April 4<sup>th</sup> meeting, are on today for renewal.  
6 Those regularly set for today, the renewal permits that are set for this  
7 meeting, have been vetted throughout this time from the last meeting  
8 and are going to proceed as normal as approved. We have and are  
9 preparing a list of those permits that have been deemed to be required to  
10 have some closer scrutiny put to them in order that we can be  
11 transparent. Those permits are going to be listed on a list that will be  
12 available to whoever wants to see that by the end of the business day. I  
13 remind everybody that any permits that are being held back are going  
14 on the May 16, 2017 meeting, at the latest, to be resolved, as we do the  
15 vetting, then have an opportunity to see what, if any, law comes from  
16 the legislature in this session that would have impact on those permits.  
17 Then, we'll be able to do whatever is the appropriate thing to do with  
18 those, if the new law impacts those permits. With that, can I have a  
19 motion of the existing renewals listed for today?

20 Commissioner Maginn Yes. I move that we renew the permits that were held on the April 4,  
21 2016 date and we're approving those that are not going to be on this list  
22 to be held for the May 16, 2017. I move we approve those permits.

23 Vice Chairman Coleman Second.

24 Chairman Cook It's been moved and seconded then that the list of renewal applications  
25 that are on the April 18<sup>th</sup> list, which includes those that were held back  
26 from the April 4<sup>th</sup> meeting, be approved. Any further discussion? All  
27 in favor, say, aye.

28 Commissioner Maginn Aye.

29 Vice Chairman Coleman Aye.

30 Commissioner Grubb Aye.

31 Chairman Cook Aye. Opposed, say, no. Motion carries.