

ALCOHOL AND TOBACCO COMMISSION

April 17, 2018

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

April 3, 2018

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

61½ renewals  
103 new/transfer  
23 catering  
1 1<sup>st</sup> year escrow  
11 2<sup>nd</sup> year escrow  
3 3<sup>rd</sup> year escrow  
5 4<sup>th</sup> year escrow  
3 5<sup>th</sup> year escrow  
2 new e-liquid  
38 new/renewal direct wine shipper  
18 new/renewal carrier

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

7. Applications for Discussion –

RR29-31784 Good Time Entertainment, LLC – reactivation request

DL45-29037 Gateway Triangle Corp. – 6<sup>th</sup> year escrow request

RR53-31583 Kilroy's on Kirkwood LLC – renewal LB voting 2-1 to approve

HD45-29941 Square Roots Cre LLC – new LB voting 3-0 to approve

8. Inactive Files –

10 permits not subject to auction

9. Old Business -

RR29-29535 Phat Investments LLC – 6<sup>th</sup> year escrow continued

Remove from probationary status – proof of treatment  
BR1792157 Brandon Lesse

10. New Business –

Probationary status employee permit –

BR1710509 Evan Bagley – 1 conviction

BR1713812 Anna Fidler – 1 conviction

BR1587148 Brian Swan – 1 conviction

BR1802774 Ethan Snapp – 1 conviction

BR1799723 Autum Alexander-Cavinder – 1 conviction

BR1712614 Kimberly Propes – 1 conviction

11. Policy Determinations –

Non-rule policy 23 – Escrow procedures

Non-rule policy 24 – Permit processing procedures

12. Announcements -

2018 Proposed Roundtable Dates:

Convenience Stores – May 15, 2018

Wholesalers – June 19, 2018

Vintner's Conference – July 17, 2018

Retailers – August 21, 2018

Non-Package Store Dealers – September 18, 2018

Artisan Distillery – October 16, 2018

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

APRIL 17, 2018

**CALL TO ORDER/NOTING OF QUORUM**

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Krauss, Commissioner Maginn and Commissioner Grubb. Prosecutor Harrison, Executive Secretary Allen, Communications Director Devlin and Industry Liaison Stewart were also in attendance.

David Rothenberg, Cody Eckert, Marc Carmichael, Greg Genrich, Alex Intermill, Jenny Drewry, Jake German, Brooke Burtnett, Davey Neal and Mark Webb were present as observers.

**DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the April 3, 2018 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison noted there were 51 Parties' Agreed Dispositions submitted, totaling \$24,100.00 in fines.

Vice Chairman Krauss moved to approve the Dispositions submitted for the April 17, 2018 meeting, except for permit #RR45-32580, complaint #EX16007034. There are 15 violations on this complaint. The Vice Chairman requested the prosecutor re-evaluate the offer. Commissioner Maginn seconded. The motion was unanimously approved.

**HEARING JUDGE'S RECOMMENDATIONS**

No Hearing Judge's Recommendations

**CONSIDERATION OF APPLICATIONS**

Executive Secretary Allen stated the renewal for permit #RR29-32411 is on the agenda for approval today, however, there is a request for escrow, but we are waiting for information on that request. She recommended the Commission continue this until May 1, 2018, so the renewal and 1<sup>st</sup> year escrow can be approved simultaneously.

Vice Chairman Krauss moved to uphold the recommendation. Commissioner Maginn seconded. He motion was unanimously approved.

Executive Secretary Allen also recommended permit #DL49-31093, which is on the renewal list for today, be approved for 1<sup>st</sup> year escrow along with the renewal.

By consent of the Commission, the recommendation was approved

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 e-liquid permits. 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 new and renewal carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

Six hundred eleven (611) renewals approved, one hundred three (103) new and/or transfer applications approved, twenty-three (23) permits approved for catering, eleven (11) permits approved for first year escrow; eleven (11) permits approved for second year escrow, three (3) permits approved for third year escrow, five (5) permits approved for fourth year escrow, three (3) permits approved for fifth year escrow, two (2) new e-liquid permits approved, thirty-eight (38) new and/or renewal direct wine shipper permits approved, and eighteen (18) new and/or renewal carrier permits approved.

#### **RENEWAL LETTERS AND WAIVERS OF FEES**

Vice Chairman Krauss 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**

RR29-31784 GOOD TIME ENTERTAINMENT, LLC – Executive Secretary Allen noted the most current renewal was approved, but not issued because the Retail Merchant Certificate (RMC) was not submitted. Permittee was sent notice that they had 35 days to file the requested documentation or the

permit would be made dead. A consent to transfer was received from a buyer, but permittee still had not submitted a RMC, or renewals. Therefore, the permit was made dead. The buyer is requesting the Commission reactivate the permit so that it can be transferred. They have renewals ready, if the reactivation is granted. The Executive Secretary recommended a 30 day timeframe for renewals, RMC and transfer to be filed.

Commissioner Maginn moved to reactivate the permit for a 30 day period to allow for renewals, RMC and transfer to be filed. Commissioner Grubb seconded. The motion was unanimously approved.

DL45-29037 GATEWAY TRIANGLE CORP. – Chairman Cook noted this is a 6<sup>th</sup> year escrow request.

Executive Secretary Allen recommended the Commission continue this until May 1, 2018.

Commissioner Maginn moved to uphold the recommendation. Commissioner Grubb seconded. The motion was unanimously approved.

RR53-31583 KILROY'S ON KIRKWOOD LLC – Chairman Cook noted this is a renewal with the local board voting 2-1 to approve.

Commissioner Maginn reviewed the documents and report from Excise Officer Gibson regarding the hearing. The recording was not available. There were remonstrators present, who presented information regarding numerous police runs to the establishment---that number running in line with other establishments in the area. The remonstrators feel that there is overserving and issues with serving minors. Also, there was mention of unacceptable wordage used in promotional advertising. The owner was present and stated that things have improved since the ownership change in 2015.

Vice Chairman Krauss stated he agreed with the report. He also noted that good faith attempts are made improve the situation at the establishment but then it wanes. His hope is that there will be improvements made with staying power.

Chairman Cook made Officer Gibson's report part of the record. After reading that and reviewing the police runs, he cautioned all of the bars in Bloomington to be aware that a record is being made that there is a considerable overserving occurring there.

Commissioner Maginn moved to uphold the local board's recommendation to approve the renewal for one year. Commissioner Grubb seconded. The motion was unanimously approved.

HD45-29941 SQUARE ROOTS CRE LLC – Chairman Cook noted this is a new application with the local board voting 3-0 to approve.

Vice Chairman Krauss stated there was a remonstrator present, representing himself and 13 other establishments in the area. The concern being an oversaturation of alcohol establishments in the area. After some discussion, the applicant informed the board/remonstrators that this would be a family establishment that closes at 11 p.m. on weekdays and 1 a.m. on the weekends. The remonstrator seemed to be more comfortable after the discussion.

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

## INACTIVE FILES

Vice Chairman Krauss moved to make ten (10) permits inactive. All ten permits are not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

## OLD BUSINESS

RR29-29535 PHAT INVESTMENTS LLC – Executive Secretary Allen stated this is a 6<sup>th</sup> year escrow request that has been continued several times, waiting for documentation showing a reasonable effort being made to put the permit into use. She still has not received a detailed franchise agreement, lease or zoning approval, and, therefore, does not feel this is a permit that will be put to use any time soon.

Chairman Cook noted the permittee sent an email regarding the request. He said the landlord appears to have made promises that probably cannot be kept and the construction of the building has not begun at this time.

Vice Chairman Krauss moved to deny the request for 6<sup>th</sup> year escrow. Commissioner Maginn seconded. The motion was unanimously approved.

REMOVAL FROM PROBATIONARY STATUS – Commissioner Grubb moved to remove the following permittee from probationary status. The permittee provided proof of completing an alcohol treatment program. Commissioner Maginn seconded. The motion was unanimously approved.

BR1792157 Brandon Lesse

## 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 2, 2018 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

BR1710509 Evan Bagley; BR1713812 Anna Fidler; BR1587148 Brian Swann; BR1802774 Ethan Snapp; BR1799723 Autum Alexander-Cavinder; BR1712614 Kimberly Propes

## POLICY DETERMINATIONS

NON-RULE POLICY 23 – Commissioner Maginn made two changes from the original policy presented at the last meeting. Under “Scope”, she added, “This new non-rule policy is applicable to all permits currently in, or entering escrow”. 7.1.6 will now read, “The first year of escrow will run concurrent with the most recent expiration date pursuant to 905 IAC 1-30-1.”

Commissioner Grubb asked for clarification of the start date for escrow, due to confusion in the past regarding this issue. Commissioner Maginn stated if a permit expires in August 2018 and they request escrow in April of 2018, the first year of escrow will run from April 2018 to August 2018.

Commissioner Maginn moved to approve the policy with the stated amendments. Vice Chairman Krauss seconded. The motion was unanimously approved.

NON-RULE POLICY 24 – Executive Secretary Allen noted one comment submitted for 7.1.2.1.5 regarding providing a consent to transfer only for transfer of ownership, not location. That change was made and is part of the current non-rule policy.

Commissioner Maginn moved to approve the policy as submitted. Commissioner Grubb seconded. The motion was unanimously approved.

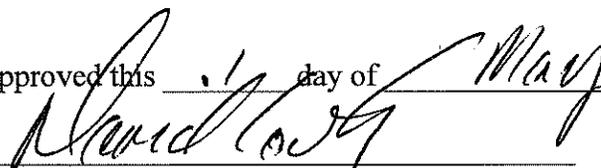
**ANNOUNCEMENTS**

2018 ROUND TABLE DISCUSSIONS – Chairman Cook stated roundtable discussions regarding different areas of the alcohol industry will be held throughout 2018. The discussions will be held in our hearing room.

- Convenience Stores – May 15, 2018
- Wholesalers – June 19, 2018
- Vintner’s Conference – July 17, 2018
- Retailers – August 21, 2018
- Non-Package Store Dealers – September 18, 2018
- Artisan Distillery – October 16, 2018

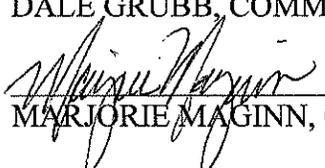
**ADJOURNMENT**

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

Approved this 15 day of May, 2018.  
  
\_\_\_\_\_  
DAVID COOK, CHAIRMAN

  
\_\_\_\_\_  
JOHN KRAUSS, VICE CHAIRMAN

  
\_\_\_\_\_  
DALE GRUBB, COMMISSIONER

  
\_\_\_\_\_  
MARJORIE MAGINN, COMMISSIONER