

ALCOHOL AND TOBACCO COMMISSION

March 19, 2019

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

March 5, 2019

3. Prosecutor's Recommendations –

PAD Forms

6 Month Letters (Employee permits)

RR49-33455 Brown & Allen - Revocation

4. Hearing Judge's Recommendations –

BR1820654 Dustin Lockard – Findings of Fact and Conclusions of Law

RR15-02108 D & L Consulting, LLC – Findings of Fact and Conclusions of Law

5. Consideration of Applications -

559 renewals

91 new/transfers

6 catering

20 1<sup>st</sup> year escrow

13 2<sup>nd</sup> year escrow

4 3<sup>rd</sup> year escrow

1 4<sup>th</sup> year escrow

1 5<sup>th</sup> year escrow

32 new/renewal carriers

15 new/renewal direct wine shippers

2 new e-liquid

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

7. Applications for Discussion –

RR45-01157 Zanzibar Lounge, Inc. – renewal with LB voting 3-0 to deny

RR45-18940 Juliana Dye – renewal with LB voting 3-0 to deny

RR45-31888 Dapan Entertainment – renewal with LB voting 2-1 to approve

RR49-35088 Imperial Music Hall, LLC – transfer with LB voting 4-0 to deny

RR65-30996 Festers Sports Bar & Grille – renewal fee returned NSF

RR53-31583 Kilroy's on Kirkwood - remand

8. Inactive Files –

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Round Table Dates: package stores 3/19; convenience stores 4/16; wholesalers 5/21; vintners 6/18; retailers 7/16; non-package store dealers 8/20; artisan distilleries 9/17

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MARCH 19, 2019

**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. Executive Secretary Allen, Commission Counsel Hyer, Industry Liaison Stewart and Prosecutor Harrison were also in attendance.

Justin Hage, Greg Genrich, Jenny Drewry, Dyna Martinez, Mark Webb, Sarah Quinn, Katie Beth Maddox, Carmen Pratts Porter, George Douglas, Davey Neal and David Rothenberg were present as observers.

**DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the March 5, 2019 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison submitted 88 Parties' Agreed Dispositions, totaling \$26,025.00 in fines for the Commission's approval.

The Prosecutor highlighted a few of the dispositions: DL49-07484, 2<sup>nd</sup> service to minor, employee permit issues, \$900.00 fine; RR49-28239, 2<sup>nd</sup> service to minor, employee permit issues, \$1,000.00 fine; DL34-30298, 3<sup>rd</sup> service to minor in 3 years, \$500.00 fine and a 3 day suspension.

Vice Chairman Krauss moved to approve the PAD forms submitted by the Prosecutor. Commissioner Maginn seconded. The motion was unanimously approved.

SIX MONTH LETTERS - EMPLOYEE PERMITS – Prosecutor Harrison recommended the Commission, pursuant to IC 7.1-3-18-9.5, 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.

BR1744809 Teri Lord; BR1539489 Patty Bruce; BR1826881 Eric Dobrinski; VB1731913 Richard Earl Voss; BR1817438 Stephany Anne Clark; BR1826272 Joseph Michael Wicks; BR1735528 Julie Netherton

Vice Chairman Krauss moved to uphold the Prosecutor's recommendation. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-33455 BROWN & ALLEN INVESTMENTS LLC – Prosecutor Harrison noted the Commission ordered revocation of this permit on February 5, 2019, however, due to pending arbitration proceedings, the Commission stayed the revocation. Since that date, the Commission received notification that the

arbitration proceedings have been withdrawn. Prosecutor Harrison recommended the Commission reinstate the Final Order revoking the permit.

Vice Chairman Krauss moved to uphold the recommendation of the Prosecutor to reinstate the revocation. Commissioner Maginn seconded. The motion was unanimously approved.

### **HEARING JUDGE'S RECOMMENDATIONS**

BR1820654 DUSTIN LOCKARD– Hearing Judge Allen noted this permittee filed for renewal, however, he has two convictions for OWI. The renewal was denied and the permittee filed an appeal. Pursuant to IC 7.1-3-18-9(g), an applicant for an employee permit is not eligible to hold a permit if they have had two unrelated convictions for OWI until two years after completing probation for the second conviction. No information was provided at the appeal hearing that would reduce the eligibility date. Hearing Judge Allen recommended the Commission uphold the denial and refund the \$45.00 application fee.

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

RR15-02108 D & L CONSULTING, LLC – Hearing Judge Allen noted this permit has been in escrow for more than 5 years. The Commission allowed the permittee until 12/31/2018 to become active. Permittee did not comply. The Commission ordered permittee to appear at a hearing to show cause why the permit should not be revoked. Permittee did not appear. The Hearing Judge recommended the permit be revoked.

Commissioner Maginn moved to uphold the recommendation of the Hearing Judge to revoke the permit. Commissioner Grubb seconded. The motion was unanimously approved.

### **CONSIDERATION OF APPLICATIONS**

By consensus, the Commission removed permit #DL82-02647 from the list of renewals.

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

Five hundred fifty-eight (558) renewals approved, ninety-one (91) new and/or transfer applications approved, six (6) permits approved for catering, twenty (20) permits approved for first year escrow; thirteen (13) permits approved for second year escrow, four (4) permits approved for third year escrow, one (1) permit approved for fourth year escrow, one (1) permit approved for fifth year escrow, thirty-two (32) new and renewal carrier permits approved, fifteen (15) new/renewal direct wine shipper permits approved, two (2) new e-liquid permits approved.

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

Vice Chairman Krauss moved to approve the renewal and fee waived letters of extension that were issued for the preceding weeks. Commissioner Maginn seconded. The motion was unanimously approved.

#### **APPLICATIONS FOR DISCUSSION**

RR45-01157 ZANZIBAR LOUNGE, INC. – Chairman Cook noted this is a renewal application with the local board voting 3-0 to deny the renewal.

Commissioner Maginn noted the permittee failed to appear before the local board as required, due to violations.

Commissioner Maginn moved to uphold the recommendation of the local board and deny the renewal. Motion seconded by Vice Chairman Krauss. Motion was unanimously approved.

RR45-18940 JULIANA DYE – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny.

Commissioner Maginn stated this permittee holds a permit that requires \$100,000.00 in food sales per year. The figures that were provided are questionable.

Vice Chairman Krauss stated that some of the figures provided by the permittee at the local board meeting were for days that the business was not open.

Commissioner Maginn moved to continue this for a month and require the permittee to provide food invoices and tax reports that are submitted to Department of Revenue. Commissioner Grubb seconded. The motion was unanimously approved.

Chairman Cook stated he will send the permittee a letter stating what needs to be submitted to the Commission regarding the renewal.

RR45-31888 DAPAN ENTERTAINMENT – Chairman Cook noted this is a renewal with the local board voting 2-1 to approve.

Commissioner Maginn stated the owner of the permit and the owner of the building are married, but going through a divorce. The wife is the permit holder. The judge has ordered the husband to run the business during the divorce proceedings. The goal is to sell the permit and the building.

Chairman Cook stated he contacted the husband's attorney to discuss the status of the divorce. She noted there are currently two prospects for possible transfer. Also, the husband submitted renewals with his information because of the court ruling. The Chairman does not feel there was any intent to defraud the Commission.

Commissioner Maginn moved to uphold the local board's recommendation to approve the permit, but for only one year. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR49-35088 IMPERIAL MUSIC HALL, LLC – Chairman Cook noted this is a transfer application with the local board voting 4-0 to deny.

Commissioner Maginn stated both of the stockholders have experience holding an alcohol permit. This business would be a music venue for under and over 21 year olds, with capacity being 1800. The Commissioner felt the security plan was lacking for a venue this size. IDs would be checked at the door and wristbands used for those over 21, but no checking at the bar. It would not be open every day. Several remonstrators were present, including IMPD, neighborhood groups, businesses, Chamber of Commerce, airport authority and others, who stated they do not desire the services and feel this business would have a negative impact on the community and local businesses.

Vice Chairman Krauss stated IMPD submitted information regarding the Illinois business that is owned by one of the stockholders that gave them concern about this application.

Chairman Cook stated information was provided at the meeting regarding prior problems with this particular location. The local board and the Commission are not considering those issues in this determination. The Chairman also stated a petition was presented with signatures from local businesses and individuals who were in favor of the permit being granted.

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

After the meeting, by consensus, the Commission admitted a letter from Ice Miller LLP, regarding the transfer of this permit, into the record.

RR65-30996 FESTERS SPORTS BAR & GRILLE - Chairman Cook noted the renewal fee for this permit was returned as insufficient funds (NSF).

Commissioner Maginn stated as of this date, the permittee has not submitted the replacement renewal fee. Two notices have been sent to the permittee requesting payment.

Commissioner Maginn moved to revoke the permit for non-payment of fees. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR53-31583 KILROY'S ON KIRKWOOD – Chairman Cook noted this permit was approved for a one-year renewal in 2018. It was mistakenly placed on the automatic renewal list for the March 5, 2019 meeting and was approved. The local board notified the Commission of the error. The Chairman recommended the Commission stay the approval and remand the renewal to the local board.

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

#### **INACTIVE FILES**

No Inactive Files

#### **OLD BUSINESS**

No Old Business

#### **NEW BUSINESS**

No New Business

#### **POLICY DETERMINATIONS**

No Policy Determinations

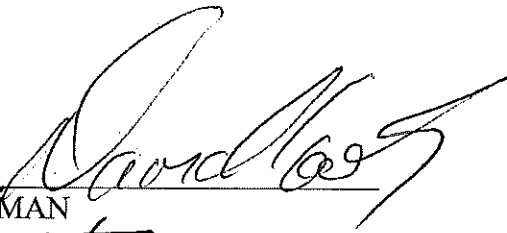
#### **ANNOUNCEMENTS**

PROPOSED ROUNDTABLE MEETINGS 2019 – Chairman Cook stated the proposed schedule of roundtable meetings is as follows: package stores 3/19; convenience stores 4/16; wholesalers 5/21; vintners 6/18; retailers 7/16; non-package store dealers 8/20; artisan distilleries 9/17

#### **ADJOURNMENT**

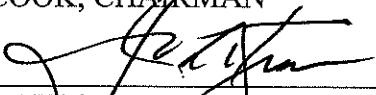
Vice Chairman Krauss moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Approved this 22 day of April, 2019.



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DAVID COOK, CHAIRMAN



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JOHN KRAUSS, VICE CHAIRMAN



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DALE GRUBB, COMMISSIONER

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MARJORIE MAGINN, COMMISSIONER