

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MAY 8, 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. Commission Counsel Hyer and Prosecutor Harrison were also in attendance.

Greg Genrich, Katie Beth Maddox, Brooke Burnett, Mark Webb, Matt Brase, Matt Bell, Scott Carr, Jim Purucker, Tom Moore, Sarah Quinn, Carmen Pratts Porter, Davey Neal and David Rothenberg were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the April 16, 2019 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison submitted 93 Parties' Agreed Dispositions, totaling \$32,075.00 in fines, for the Commission's approval.

The Prosecutor highlighted a few of the dispositions: DL69-04296, 3rd service to minor, \$1,000.00 fine; RR49-11398, service to minor, deferral – minor had fake, out of state ID of good quality. Excise will work with permittee to help train employees on checking out of state IDs.

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

BR1893558 HUNTER DAVENPORT – Prosecutor Harrison recommended the Commission, pursuant to IC 7.1-3-18-9.5, order this 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.

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

HEARING JUDGE'S RECOMMENDATIONS

BR1877569 AARON MUNDY – Commission Counsel Hyer noted this employee was convicted of an OWI, while holding an employee permit. The permittee was sent notice of violation and was scheduled for a pre-hearing conference, but failed to appear. Permittee was scheduled for an Order to Show Cause hearing. Permittee failed to appear. The Hearing Judge recommended the Commission revoke the employee permit.

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

BR1685077 JOHN MCCAMMON – Commission Counsel Hyer noted this employee was convicted of an OWI, while holding an employee permit. The permittee was sent notice of violation and was scheduled for a pre-hearing conference, but failed to appear. Permittee was scheduled for an Order to Show Cause hearing. Permittee failed to appear. The Hearing Judge recommended the Commission revoke the employee permit.

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

BR1769884 JENNY OGDEN – Commission Counsel Hyer noted this permittee was denied renewal, due to OWI convictions. Renewal fee was refunded. The permittee timely filed an appeal and the matter was set for hearing. At the time of the hearing, permittee was not eligible to hold the permit; however, the permittee became eligible on April 30, 2019. The Hearing Judge recommended the permittee reapply and submit renewal fee.

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

DL82-02997 WILLIAM B. SHEPHERD – Chairman Cook noted the Findings of Fact and Conclusions of Law were continued to this meeting, denying the extension of escrow.

Commissioner Maginn moved to deny the Findings of Fact and Conclusions of Law. Commissioner Grubb seconded. The motion was unanimously approved.

Chairman Cook noted he submitted revised Findings of Fact and Conclusions of Law calling for approval of additional escrow and immediate transfer of the permit. All paperwork has been submitted.

Vice Chairman Krauss moved to adopt the revised Findings of Fact and Conclusions of Law. Commissioner Maginn seconded. The motion was unanimously approved.

RR49-28688 TIENDA MORELOS STORES, INC. – Commissioner Maginn moved to continue this matter until May 26th, due to changes in escrow that stem from House Enrolled Act 1518. She would like to further review the matter. Vice Chairman Krauss 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, 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 direct wine shipper renewal 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.

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

RR02-01550 SUNSET CATERING INCORPORATED – Chairman Cook noted the Commission received a request for reinstatement of this permit.

Commission Counsel Hyer stated this permit expired in July 2016. Notice was mailed to permittee stating permit would be made dead if not renewed. Renewals were not submitted and the permit was made dead on April 16, 2019. The Commission was notified that the permittee is over 70 and uses the profits from this permit as a supplement to social security and veteran's benefits. The Hearing Judge recommended the Commission reinstate the permit.

Chairman Cook took note that this matter falls under House Enrolled Act 1518.

Commissioner Maginn moved to reinstate the permit. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR49-27622 WINE AND CANVAS DEVELOPMENT, LLC – Chairman Cook noted the Commission received a request for reinstate of this permit.

Commission Counsel Hyer stated this permit was recently made inactive because the permittee failed to provide escrow documents to the Commission. Renewals are on file. Counsel said this matter falls under House Enrolled Act 1518.

Commissioner Maginn moved to reinstate the permit. Commissioner Grubb seconded. The motion was unanimously approved.

DL34-30298 SB FOOD MART, INC. – Chairman Cook noted this is a renewal with the local board voting 2-1 to approve for one year.

Commissioner Maginn stated the permittee had several violations over the last couple of years, including failure to card, marijuana, and bottles of e-liquid that were not properly labeled. She stated the permittee has cooperated with Excise over this period of time.

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.

INACTIVE FILES

Vice Chairman Krauss moved to make eighty-six (86) permits inactive. Fourteen permits are subject to auction and seventy-two permits are not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

NON-RULE POLICY #27 – GROUP PURCHASING AGREEMENTS – Chairman Cook noted there are copies of proposed non-rule policy #27 regarding group purchasing agreements available for review.

ANNOUNCEMENTS

ESCROW PROCEDURES - Chairman Cook noted there will be a meeting regarding the changes to escrow, pursuant to House Enrolled Act 1518, after the wholesaler roundtable discussion on May 21st. Copies of the information sheet and form are available for review.

PROPOSED ROUNDTABLE MEETINGS 2019 – Chairman Cook stated the proposed schedule of roundtable meetings is as follows: 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 27th day of March, 2019.

David Cook
DAVID COOK, CHAIRMAN

John Krauss
JOHN KRAUSS, VICE CHAIRMAN

Dale Grubb
DALE GRUBB, COMMISSIONER

Marjorie Maginn
MARJORIE MAGINN, COMMISSIONER

ALCOHOL AND TOBACCO COMMISSION

May 8, 2019

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

April 16, 2019

3. Prosecutor's Recommendations –

PAD Forms

BR1893558 Hunter Davenport – 6 month letter

4. Hearing Judge's Recommendations –

BR1877569 Aaron Mundy – Findings of Fact and Conclusions of Law

BR1685077 John McCammon – Findings of Fact and Conclusions of Law

RR49-28688 Tienda Morelos Stores, Inc. – Findings of Fact and Conclusions of Law

BR1769884 Jenny Ogden – Findings of Fact and Conclusions of Law

DL82-02977 William B Shephard – Findings of Fact and Conclusions of Law

5. Consideration of Applications -

Renewals, new/transfers, catering, escrow, direct wine shippers, carriers, e-liquid

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

7. Applications for Discussion –

RR02-01550 Sunset Catering Incorporated – revive permit

RR49-27622 Wine and Canvas Development, LLC – revive permit

DL34-30298 SB Food Mart, Inc. – renewal LB voting 2-1 to approve

8. Inactive Files –

14 permits subject to auction

72 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

Non-Rule Policy #27 – Group Purchasing Agreements

12. Announcements -

Escrow Procedures – after wholesale round table on May 21

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

13. Adjournment