

ALCOHOL AND TOBACCO COMMISSION

October 16, 2019

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

October 1, 2019

3. Prosecutor's Recommendations –

PAD Forms

6 Month Letter – Employee Permits

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

470 renewals

81 new/transfer

10 catering

5 new/renewal direct wine shippers

22 new/renewal carriers

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

7. Applications for Discussion –

RR33-30103 Adhoyee LLC – Requesting conversion due to annexation

RR25-35572 RDG604, LLC – denied escrow – FTA at escrow hearings

RR49-33560 Frontera Mexican Foods, Inc. - denied escrow – FTA at escrow hearings

RR64-10577 B E Gilbert, Inc. - denied escrow – FTA at escrow hearings

RR53-10239 Walnut Greeks, LLC – requesting catering hall designation

8. Inactive Files –

4 permits not subject to auction

9. Old Business -

Readoption of Rules – LSA Doc #19-418

10. New Business –

11. Policy Determinations –

12. Announcements -

Expired permits to be made dead if not renewed. Letters were sent.

Auction – Carmel permits – October 25, 2019, ATC Hearing Room

November Commission meeting – November 6, 2019

Commission hearing - Monday 11/25 9 AM to noon in Hearing Room - to receive testimony relating to sale of distribution rights and whether such practice violates prohibited interest provisions and/or is inimical to the provisions of Title 7.1

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

OCTOBER 16, 2019

CALL TO ORDER/NOTING OF QUORUM

Vice Chairman Krauss called the meeting to order and noted the quorum and the attendance. Present were Commissioner Maginn and Commissioner Grubb. Industry Liaison Stewart and Prosecutor Harrison were in attendance.

Andrew Alvarez, Sarah Quinn, David Rothenberg, Mark Webb, and Brooke Burnett were present as observers.

DISPOSITION OF MINUTES

Commissioner Maginn moved to approve the minutes from the October 1, 2019 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison noted there are 84 Parties' Agreed Dispositions, totaling \$26,000.00 in fines, for the Commission's approval.

The Prosecutor highlighted a few dispositions: BR1871505, BR1650742, BR1854973, 2 OWI convictions, no longer qualified, revocation; RR14-02529, illegal gambling, high and fine reputation, determination of character and fitness, \$3,000.00 fine; DL72-04833, remove from list, permittee would like to negotiate with prosecutor; RR45-05898, bootlegging/retail to retail, \$1,000.00 fine, this is the 12th violation for this permittee. The Prosecutor passed his concern regarding permittee's ability to follow the law on to Excise District 1, so they are aware. RR32-31214, 2nd service to minor, \$1,000.00 fine; RR42-34083 1st service to minor, no employee permit, hindrance, \$1,050.00 fine; RR49-97230, 3rd service to minor, \$2,000.00 fine, also noting any further service to minor will result in suspension; TC02838001, 9th sale of single cigarettes violations, seven day suspension, notified permittee that any further sales of single cigarettes will result in possible revocation of permit.

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

EMPLOYEE PERMITS – 6 MONTH LETTERS - 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.

VB1742604 Matthew Stewart; BR1892759 Stanita Antrobus; BR1865459 Katherine Winn; BR1855847 Shane Hein; BR1874784 Isaac White; BR1896375 Mitchell Perez; BR1759999 Nicole Maio; BR1631067 Tyris Varga; BR1893623 Breiann Darwish; BR1902997 Eric Shane Smith; BR1915862 Kristi Dickison; BR1901569 Kyleigh Davis; VB1738535 Darren Bleeke

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

HEARING JUDGE'S RECOMMENDATIONS

No Hearing Judge's Recommendations

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 said staff with the authority of the Commission, and hereby move for approval of same, pending any escrow hearings, 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 application for changes in location, 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 escrow, if needed, 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 the new and renewal carrier permits. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the direct wine shipper new and renewal permits. Commissioner Maginn seconded. The motion was unanimously approved.

RENEWAL LETTERS AND WAIVERS OF FEES

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

APPLICATIONS FOR DISCUSSION

RR33-30103 ADHOYEE, LLC – Vice Chairman Krauss noted Executive Secretary Allen provided a memo regarding this permittee's request for conversion due to annexation. The Executive Secretary recommended approval of the conversion pursuant to IC 7.1-3-22-3(b).

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

RR25-35572 RDG604, LLC – Vice Chairman Krauss noted this permit was scheduled for and failed to appear at two escrow hearings. The Commission voted to deny escrow.

Commissioner Grubb moved to revoke the permit.

Prosecutor Harrison stated a memo from Executive Secretary Allen said that following the second escrow hearing, the permittee communicated to Commission Counsel Hyer that the permittee mistakenly went to the location of the county alcoholic beverage board for the escrow hearing. Therefore, the Executive Secretary recommended this permit be rescheduled for the November 13th escrow hearing.

Commissioner Grubb revoked his 1st motion and moved to reschedule for the November 13th escrow hearing. Commissioner Maginn seconded.

Before completion of the vote, it was discovered that the permittee was present at the meeting. The Commission gave the permittee an escrow request form to fill out so they could review it and vote on the escrow approval, since the permittee was present and, therefore, would not have to come back on November 13th.

After review, Commissioner Maginn moved to approve the escrow request for 24 months. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-33560 FRONTERA MEXICAN FOODS, INC. and RR64-10577 BE GILBERT, INC. – Vice Chairman Krauss noted both of these permits were scheduled for and failed to appear at two escrow hearings. The Commission voted to deny escrow.

Prosecutor Harrison stated he had a memo from Executive Secretary Allen recommending these permits be scheduled for an Order to Show Cause hearing for the permittees to show why the permits should not be revoked.

Commissioner Maginn moved to schedule order to show cause hearings. Commissioner Grubb seconded. The motion was unanimously approved.

RR53-10239 WALNUT GREEKS, LLC – Vice Chairman Krauss noted permittee is requesting to be designated as a catering hall.

Prosecutor Harrison noted Executive Secretary Allen provided an email recommending this permit be designated as a catering hall, pursuant to IC 7.1-3-20-24.

Commissioner Grubb moved to uphold the Executive Secretary's recommendation. Commissioner Maginn seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make four (4) permits inactive. All four are not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

READOPTION OF RULES – LSA DOC#19-418 – Commissioner Grubb moved to adopt LSA Doc#19-418. Commissioner Maginn seconded. The motion was unanimously approved.

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

EXPIRED PERMIT LIST – Vice Chairman Krauss stated letters have been mailed to permittees who have permits that are approaching, or are beyond the allowable time for a permit to be held by the Commission while expired. If renewals are not submitted, the permits will revert to the Commission.

AUCTION – CARMEL PERMITS – Chairman Cook stated the auction for the Carmel permits will be held on October 25, 2019 at 10 am.

NOVEMBER COMMISSION MEETING – Vice Chairman Krauss noted the first meeting in November will be Wednesday, November 6th, due to Election Day.

COMMISSION HEARING – MONDAY, NOVEMBER 25TH AT 9 AM – Vice Chairman Krauss stated there will be a hearing to receive testimony relating to the sale of distribution rights and whether such practice violates prohibited interest provisions and/or is inimical to the provisions of Title 7.1.

ADJOURNMENT

Commissioner Grubb moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.


Approved this 4th day of November, 2019.



DAVID COOK, CHAIRMAN



JOHN KRAUSS, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER

MARJORIE MAGINN, COMMISSIONER