

ALCOHOL AND TOBACCO COMMISSION

February 18, 2020

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

February 4, 2020

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

DL06-05706 John Cunningham and Associates – Proposed Findings of Fact

5. Consideration of Applications -

663 renewals

74 new/transfers

13 catering

16 new/renewal carriers

6 new/renewal direct wine shippers

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

7. Applications for Discussion –

DL22-31796 Family Dollar #21143 – new with LB voting 4-0 to approve

RR19-36029 Old School Café and Grill – new with LB voting 3-0 to approve

RR22-35675 Mirinand More, LLC – new with LB voting 4-0 to deny

DL39-31992 Family Dollar – new with the LB voting 3-1 to deny

CH49-30065 Reyes Enterprises, LLC – new with LB voting 4-0 to deny

RR49-28239 Don Marcos Incorporated – renewal with LB voting 4-0 to deny

RR49-35972 LH3, LLC – transfer with LB voting 3-0 to deny

8. Inactive Files –

9 permits not subject to auction

1 permit subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Round Table Dates – Package Stores - 3/17; Convenience Stores - 4/21; Wholesalers - 5/19;  
Vintner's Conference - TBD; Retailers - 7/21; Non-Package Store Dealers - 8/18; Artisan Distillery -  
9/15

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 18, 2020

#### 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, Industry Liaison Stewart, Executive Secretary Allen and Commission Counsel Hyer were in attendance.

David Rothenberg, Carmen Batts-Porter, Greg Genrich, Tyler Starkey, George Douglas, Brooke Burtnett, Stan Zihlerl, Sarah Quinn, Davey Neal and Gretchen White were present as observers.

#### DISPOSITION OF MINUTES

Commissioner Grubb moved to approve the minutes from the February 4, 2020 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison noted there are 41 Parties' Agreed Dispositions, totaling \$21,200.00 in fines, for the Commission's approval.

The Prosecutor highlighted a few dispositions: RH53-14200, 3<sup>rd</sup> sale to minor, \$2,000 fine; RR53-18280, 3<sup>rd</sup> sale to minor, \$2,000.00 fine; RR20-34257, public nuisance (numerous police runs), \$1,000.00 fine (permit is being transferred); RR36-96375, 3<sup>rd</sup> sale to minor, \$2,000.00 fine; DL45-98008, 3<sup>rd</sup> sale to minor, \$2,000.00 fine.

Chairman Cook noted that he is not related to, or associated with, Kimberly Cook, who is on the list of dispositions approved at this meeting.

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

#### HEARING JUDGE'S RECOMMENDATIONS

DL06-05706 JOHN CUNNINGHAM & ASSOCIATES – Chairman Cook noted these are Proposed Findings of Fact and Conclusions of Law, and Objections that were submitted regarding an appeal of a violation on a package store permit, for failing to maintain qualifications to hold permit.

Commissioner Maginn pointed out that at the appeal hearing, several reasons were given that made this business appear not to be open and operating, such as, open by appointment only, no cash register, only open for a couple of hours a week, etc.

Chairman Cook also noted that if any revenue taken in at this location was supposedly run through the business next door. And, functionally, this permit has not been in use for over seven years.

Commissioner Maginn moved to uphold the Proposed Findings of Fact and Conclusions of Law submitted by Hearing Judge Hyer revoking the permit. 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 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 the catering applications. 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.

### **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**

DL22-31796 FAMILY DOLLAR #21143 – Chairman Cook noted this is a new application with the local board voting 4-0 to approve.

Commissioner Maginn stated there were remonstrators present at the local board hearing.

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

RR19-36029 OLD SCHOOL CAFÉ AND GRILL – Chairman Cook noted this is a new application with the local board voting 3-0 to approve.

Vice Chairman Krauss stated there was a question regarding whether or not the location of this permit is in an historic district. Proof was provided at the local board meeting proving that it is.

Vice Chairman Krauss moved to approve the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR22-35675 MIRINAND MORE, LLC – Chairman Cook noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated the local board denied this new permit for failure of the applicant to appear, as required.

Commissioner Maginn moved to uphold the recommendation and deny the permit. Vice Chairman Krauss seconded. The motion was unanimously approved.

DL39-31992 FAMILY DOLLAR – Chairman Cook noted this is a new application with the local board voting 3-1 to deny.

Chairman Cook stated one remonstrator spoke at the local board hearing. He is a competitor, who did not feel he would be able to compete with prices at the new establishment. No evidence was presented to show that there would be a negative impact. The local board voted to deny based on negative impact on businesses in the community.

Commissioner Maginn noted that the remonstrator's only issue was due to competition.

Commissioner Grubb moved to overturn the local board's recommendation and approve the permit. Commissioner Maginn seconded. The motion was unanimously approved.

CH49-30065 REYES ENTERPRISES, LLC – Chairman Cook noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated the local board denied this new permit for failure of the applicant to appear, as required.

Commissioner Maginn moved to uphold the local board's recommendation to deny the permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-28239 DON MARCOS INCORPORATED – Chairman Cook noted this is a renewal with the local board voting 4-0 to deny.

Commissioner Maginn stated the local board denied the renewal for failure of the permittee to appear, as required.

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

RR49-35972 LH3, LLC – Chairman Cook noted this is a transfer application with the local board voting 3-0 to deny.

Commissioner Maginn stated the local board voted to deny the transfer for failure of the applicant to appear, as required.

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

**INACTIVE FILES**

Vice Chairman Krauss moved to make ten (10) permits inactive. Nine are not subject to auction and one is subject to auction. Commissioner Grubb seconded. The motion was unanimously approved.

**OLD BUSINESS**

No Old Business

**NEW BUSINESS**

No New Business

**POLICY DETERMINATIONS**

No Policy Determinations

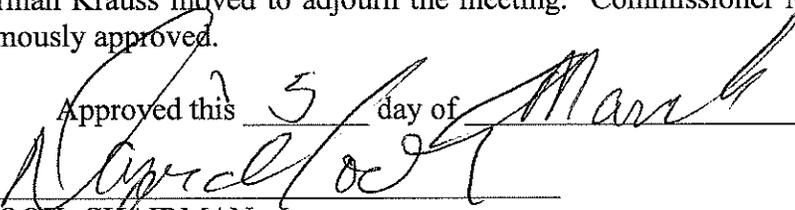
**ANNOUNCEMENTS**

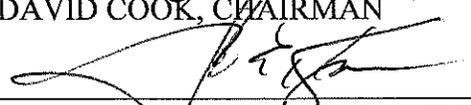
ROUND TABLE DISCUSSIONS - Package Stores - 3/17; Convenience Stores - 4/21; Wholesalers - 5/19; Vintner's Conference - TBD; Retailers - 7/21; Non-Package Store Dealers - 8/18; Artisan Distillery - 9/15

**ADJOURNMENT**

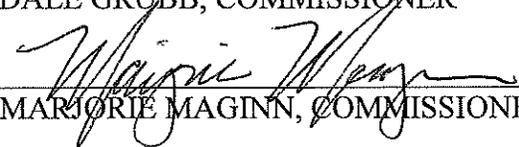
Vice Chairman Krauss moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Approved this 5 day of March, 2020.

  
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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