

ALCOHOL AND TOBACCO COMMISSION

May 5, 2020

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

March 3, 2020

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

RR49-28239 Don Marcos, Inc. – remand

BR1762987 Jane Grace – Proposed Findings of Fact

Applicant #3237728 Rose Cook – Proposed Findings of Fact

RR45-35645 Midway Beverages, LLC – Proposed Findings of Fact

Default Judgments -

5. Consideration of Applications -

1160 renewals

86 new/transfers

35 catering

18 new/renewal carriers

106 new/renewal direct wine shippers

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

7. Applications for Discussion –

RR02-36209 KLM Hospitality, LLC – requesting catering hall designation

RC76-02316 Clear Lake Yacht Club, Inc. - annexation

RR71-03567 Linn Corporation – renewal with LB voting 3-0 to approve for 1 yr. (remonstrators)

DL49-05958 Ekjyot – renewal with LB voting 2-2

RR49-32962 Winedine LLC – renewal with LB voting 4-0 to deny (failure to appear)

DL49-30349 Paragon Supermarket Inc. – renewal with LB voting 4-0 to deny (failure to appear)

RR92-36257 South State Pizza and Grill, LLC - remand

8. Inactive Files –

1 permit subject to auction
5 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Updated Application Forms – Application for New or Transfer Permit – Manufacturer or Wholesaler Permit; Application for New or Transfer Permit – Retailer or Dealer; Application for Renewal of Wholesaler or Manufacturer Alcoholic Beverage Permit; Application for Renewal of Retailer or Dealer Alcoholic Beverage Permit

Round Table Dates – 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

MAY 5, 2020

CALL TO ORDER/NOTING OF QUORUM

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present remotely were Vice Chairman Krauss, Commissioner Maginn and Commissioner Grubb. Prosecutor Harrison, Industry Liaison Stewart, Executive Secretary Allen and Commission Counsel Hyer were remotely in attendance.

By consent, the Commission, regarding items on the agenda that require signatures, gave permission for the Chairman to sign and for Kim Chew to initial for the other commissioners.

DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the March 3, 2020 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Harrison noted there are 107 Parties' Agreed Dispositions, totaling \$61,750.00 in fines, for the Commission's approval.

The Prosecutor submitted to the commission a summary of Noteworthy Violations, which was made part of the record by consent.

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

RR49-28239 DON MARCOS, INC. – Chairman Cook noted the renewal was denied by the Commission for failure to appear at local board hearings. Permittee appealed the denial. Hearing Judge Allen recommended the renewal be remanded to local board for one more opportunity to appear.

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

BR1762987 JANE GRACE – Chairman Cook noted this permittee has two unrelated convictions for OWI, in the past 10 years. The renewal was denied and an appeal was filed. Hearing Judge Allen submitted Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

Vice Chairman Krauss moved to uphold the Hearing Judge's recommendation to deny the renewal. Commissioner Maginn seconded. The motion was unanimously approved.

APPLICANT #3237728 ROSE COOK - Chairman Cook noted the applicant was denied because she had a conviction for OWI. The applicant received an additional OWI conviction since the denial. Hearing Judge Allen submitted Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

Vice Chairman Krauss moved to uphold the Hearing Judge's recommendation to deny the new permit. Commissioner Maginn seconded. The motion was unanimously approved.

RR45-35645 MIDWAY BEVERAGES, LLC – Chairman Cook noted the applicant failed to appear for two escrow hearings and was denied. Applicant filed an appeal. Hearing Judge Allen submitted Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

Vice Chairman Krauss moved to uphold the Hearing Judge's recommendation to approve the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

DEFAULT JUDGMENTS EMPLOYEE PERMITS – Chairman Cook noted that the following employee permit holders have two OWI convictions in the last ten years. All were scheduled for Order to Show Cause Hearings and none appeared. The Hearing Judge recommended the Commission revoke the permits because they no longer meet the qualifications to hold the permit.

BR1645764 Krystal Overton; BR1861428 Roger James Clawson; BR1836555 Michael Bunting II; BR1879607 Cory Michael Dillman; BR1880056 Angela Burkhart; BR1889190 Steven Ray Miller; BR1865133 William Murray Tiplick; BR1782694 Kimberly Thomas

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

DEFAULT JUDGMENTS REVOCATION OF TOBACCO CERTIFICATES – Chairman Cook noted the following tobacco certificate holders have a history of violations. Both were scheduled for a prehearing conference and an Order to Show Cause hearing, but did not appear. Hearing Judge Allen submitted Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

TC01887002 KTKSB Enterprises, LLC and TC02838001 WYS Grant Mobile, Inc.

Vice Chairman Krauss moved to uphold the Hearing Judge's recommendation to revoke the certificates. Motion seconded by Commissioner Maginn. The motion was unanimously approved.

DEFAULT JUDGMENTS TOBACCO CERTIFICATES – Chairman Cook noted the following tobacco certificate holders were cited for violations. Both were scheduled for a prehearing conference and an Order to Show Cause hearing, but did not appear. Hearing Judge Allen submitted Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

TC13635001 Plus One Liquids, Inc. and TC14020001 Indi Fuel Mart

Vice Chairman Krauss moved to uphold the Hearing Judge's recommendation for a fine of \$500.00 to be paid within 30 days of the adoption of the Findings. Commissioner Maginn 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

RR02-36209 KLM HOSPITALITY, LLC – Chairman Cook noted the applicant requested to have a catering hall designation.

Commissioner Maginn moved to approve the request. Vice Chairman Krauss seconded. The motion was unanimously approved.

RC76-02316 CLEAR LAKE YACHT CLUB, INC. – Chairman Cook noted the location of this permit is inside the city limits. Permittee requests conversion of the permit type.

Commissioner Maginn moved to approve the conversion. Commissioner Grubb seconded. The motion was unanimously approved.

RR71-03567 LINN CORPORATION – Chairman Cook noted this is a renewal with the local board voting 3-0 to approve for one year. There were remonstrators present.

Commissioner Maginn stated the remonstrators were concerned about the lights from the location being too bright and the music too loud. City officials were also present in favor, stating the permittee is a very good operator of this business.

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

DL49-05958 EKJYOT – Chairman Cook noted this is a renewal with the local board voting 2-2.

Commissioner Maginn stated the permit was remanded previously, so the local board could address the violations, which were still not addressed after the remand. The two votes against were because of the character of the permittee due to non-compliance with an agreement between him and the neighborhood.

Commissioner Maginn moved to approve the permit for one year. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-32962 WINEDINE, LLC – Chairman Cook noted this is a renewal with the local board voting 4-0 to deny for failure to appear at the local board hearing. The Chairman stated the Commission received a letter from the preparer requesting one more opportunity to appear.

Commissioner Maginn moved to remand the renewal to the local board. Commissioner Grubb seconded. The motion was unanimously approved.

DL49-30349 PARAGON SUPERMARKET INC. – Chairman Cook noted this is a renewal with the local board voting 4-0 to deny for failure to appear at the local board hearing.

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

RR92-36257 SOUTH STATE PIZZA AND GRILL, LLC – Chairman Cook noted this is a new application that was approved by the local board. However, after that recommendation of approval, the Commission was made aware of the applicant's criminal convictions that were not disclosed on the application.

Commissioner Maginn moved to remand this application to the local board, so they can be made aware of the criminal convictions and inquire as to why the information was omitted from the application. Vice Chairman Krauss seconded. The motion was unanimously approved.

INACTIVE FILES

Vice Chairman Krauss moved to make six (6) permits inactive. Five 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

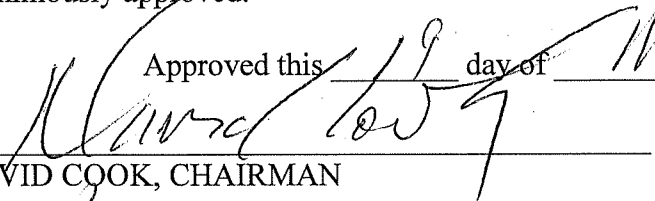
UPDATED APPLICATION FORMS – Chairman Cook noted there are updated forms available for the following: Application for New or Transfer Permit – Manufacturer or Wholesaler Permit; Application for New or Transfer Permit – Retailer or Dealer; Application for Renewal of Wholesaler or Manufacturer Alcoholic Beverage Permit; Application for Renewal of Retailer or Dealer Alcoholic Beverage Permit

ROUND TABLE DISCUSSIONS - Wholesalers - TBD; Vintner’s Conference - TBD; Retailers - 7/21; Non-Package Store Dealers - 8/18; Artisan Distillery - 9/15

ADJOURNMENT

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

Approved this 19 day of May, 2020.



DAVID COOK, CHAIRMAN



JOHN KRAUSS, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER