

ALCOHOL AND TOBACCO COMMISSION

September 15, 2020

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

September 1, 2020

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

571 renewals

64 new/transfers

6 catering

7 new/renewal direct wine shippers

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

7. Applications for Discussion –

DL10-32083 Old Salem Liquor, LLC – transfer with LB voting 2-1 to deny (cont. from 8/18)

CH25-30083 Empeiria 110, LLC – Escrow denial – received final and issued

RR53-84394 JI Enterprises, Inc. – renewal with LB voting 4-0 to deny (FTA)

RR53-36198 JI Family Inc. – transfer with LB voting 4-0 to deny (FTA)

RR49-33394 RDGEMS, Inc. – renewal with LB voting 3-0 to approve. Remonstrators

RR75-33239 The Honey Hole – renewal with LB voting 3-1 to approve for 1 yr.

MM44-30456 Lonestar Hoosier Winery – new with LB voting 2-0 to approve.

RR79-36690 Cracker Barrel – new with LB voting 4-0 to approve

8. Inactive Files –

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Round Table Dates – Artisan Distillery - TBD; Wholesalers - TBD; Vintner's Conference - TBD

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

SEPTEMBER 15, 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, Executive Secretary Allen, and Commission Counsel Hyer were present remotely.

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

**DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the September 1, 2020 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Chairman Cook stated Prosecutor Harrison submitted 16 Parties' Agreed Dispositions, totaling \$13,045.00 in fines, for the Commission's approval.

The Prosecutor submitted 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**

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 the catering applications. 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**

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

### **APPLICATIONS FOR DISCUSSION**

DL10-32083 OLD SALEM LIQUOR, LLC – Chairman Cook noted this is a transfer with the local board voting 2-1 to deny. This matter was continued from 8/18/20 and 9/1/20. There are concerns as to whether this is an arm's length transaction.

Commissioner Maginn noted this permit has been in escrow since it was purchased at auction. Per statute and the Governor's Executive Order, this permit must be transferred or put into use by September 30, 2020. At the last meeting, the Commission requested documentation from the parties to help determine the validity of the transfer. The purchase order was submitted stating after ATC approval, the purchase would take place, however, there is no date where it was signed, no money has exchanged hands and no bank records were provided to show a purchase has taken place.

Regarding possible speculation, the remonstrator's attorney provided emails between the remonstrator and the permittee for a purchase price of \$75,000, which appears to be more than they had in it.

Vice Chairman Krauss stated after reviewing all of the documentation, he is not convinced as to the specifics of the arms-length transaction or any evidence of it.

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

CH25-30083 EMPEIRIA 110, LLC – Chairman Cook noted this permit was denied at the last meeting, due to the denial of escrow. Prior to the denial, the final inspection was completed, and the permit was issued. The Commission was not aware the final had taken place before the denial. The Chairman recommended the Commission rescind the denial and approve the permit.

Commissioner Maginn moved to rescind the denial and approve the permit. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR53-84394 JI ENTERPRISES, INC. and RR53-36198 JI FAMILY, INC. – Chairman Cook noted these applications were both denied by the local board for failure to appear at the local board hearing. The applicant contacted the Chairman and requested an additional opportunity to go before the local board.

Commissioner Maginn moved to remand the applications to the local board for one more chance to be heard. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR49-33394 RDGEMS, INC. – Chairman Cook noted this is a renewal with the local board voting 3-0 to approve.

Commissioner Maginn stated there were illegal gambling issues at this establishment. The owner stated she was not aware of this. The violations have been cleared. The business is not in operation and the owner would like to put the permit in escrow.

Commissioner Maginn moved to uphold the local board's recommendation to approve the renewal. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR75-33239 THE HONEY HOLE – Chairman Cook noted this is a renewal with the local board voting 3-1 to approve for one-year.

Commissioner Maginn stated the location of this permit is Bass Lake. The main issue regarding this permit is loud music. There have been numerous police runs regarding the noise level, but there is no noise ordinance in the area. Also, there is an issue with the food sales not meeting the required amount for this type of permit. The figures were improving, however, with the current pandemic situation, the figures for this year may not show an accurate account of the business, so they will not be considered. The owner stated that during the situation with the virus, people have continued to patronize the business without the live bands and the DJ, so if this is no longer something they provide, it may help with the noise problem.

Vice Chairman Krauss stated there has been no interaction with the Excise police concerning this establishment. The Vice Chairman encouraged the remonstrators to contact Excise and maybe they can be of assistance concerning the issues between the parties.

Chairman Cook stated the record of runs for noise were numerous and obviously disruptive and irritating to the community. He feels that it gives the appearance of someone not being a good neighbor and if this behavior doesn't improve, he will not be willing to vote to approve the permit next year.

Commissioner Maginn moved to uphold the local board and approve the renewal for one-year. Vice Chairman Krauss seconded. The motion was unanimously approved.

MM44-30456 LONESTAR HOOSIER WINERY - Chairman Cook noted this is a new application with the local board voting 3-0 to approve. He stated farm wineries typically do not go before the local board, however, there was a substantial remonstrance, so he felt it would be appropriate for the local board to hear this matter.

Commissioner Maginn stated the owner of this business hopes this will bring tourism into the community. One issue that was mentioned was the applicant previously produced wine and sold without a permit and was given a cease and desist notification by Excise. She immediately stopped. Petitions were submitted for and against the business. Remonstrators were concerned about a school being in proximity and providing additional alcohol access for kids.

Chairman Cook stated there was also a question regarding zoning. Someone representing zoning was present and stated that this location is not properly zoned for this type of business, but a variance could be applied for, for this purpose. Our zoning statute, IC 7.1-3-1-5.5, only requires appropriate zoning for counties with consolidated cities. LaGrange County does not have consolidated cities, so the zoning variance is not required.

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

RR79-36690 CRACKER BARREL – Chairman Cook noted this is a new application with the local board voting 4-0 to approve.

Commissioner Maginn stated the Excise local board officer received documents from someone who wanted to remonstrate against this permit; however, the person did not appear for the meeting. Cracker Barrel submitted their sample menu, alcohol serving policy and affidavits of support from their employees.

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

**INACTIVE FILES**

No Inactive Files

**OLD BUSINESS**

No Old Business

**NEW BUSINESS**

No New Business

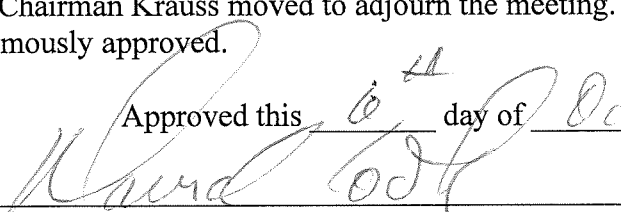
**ANNOUNCEMENTS**

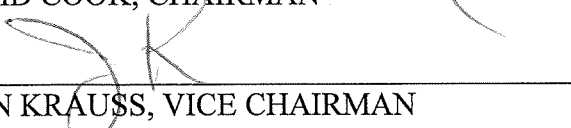
ROUND TABLE DISCUSSIONS – Chairman Cook canceled round table discussions for 2020.

**ADJOURNMENT**

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

Approved this 6<sup>th</sup> day of October, 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