

ALCOHOL AND TOBACCO COMMISSION
JULY 19, 2022
10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

July 6, 2022

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

Applicant #3695184 Jacob Day – Proposed Findings of Fact

RR18-07268 J. R. Harty, Inc. – Proposed Findings of Fact

5. Consideration of Applications -

606 renewals
208 news/transfers
21 catering
23 new/renewal carriers
51 new/renewal direct wine sellers

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

7. Applications for Discussion –

RR49-38469 Andre's Bar & Grill LLC – new with LB voting 4-0 to deny

RR02-35811 DG Properties 22, LLC – escrow denial

8. Inactive Files –

1 permit not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Round Table Discussions –

Farm Wineries/Vintners – Tuesday, July 26th @ Daniel's Vineyard
Artisan Distillers – August 16 @ 1:30 p.m. via Microsoft Teams
Brewers – September 20 @ 1:30 p.m. via Microsoft Teams

Non-Package Store Dealers – October 4 @ 1:30 p.m. via Microsoft Teams
Package Stores – October 18 @ 1:30 p.m. via Microsoft Teams
Wholesalers – November 15 @ 1:30 p.m. via Microsoft Teams
Retailers – December 6 @ 1:30 p.m. via Microsoft Teams

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JULY 19, 2022

CALL TO ORDER/NOTING OF QUORUM

Vice Chairman Payne called the meeting to order and noted the quorum and the attendance. Commissioner Maginn, Commissioner Grubb, General Counsel Merritt, Executive Secretary Kirkman and Prosecutor Wignall were present.

DISPOSITION OF MINUTES

Commissioner Maginn moved to approve the minutes from the July 6, 2022 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Commissioner Maginn moved to approve the Parties' Agreed Dispositions, submitted by Prosecutor Wignall. There were 66 dispositions with fines totaling \$35,500.00. Commissioner Grubb seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

APPLICANT #3695184 JACOB DAY – Vice Chairman Payne noted this is a denial of an employee permit application.

Commissioner Maginn stated this applicant for an employee permit has been convicted of three OWIs within the last ten years. The applicant appealed the denial, and an appeal hearing was held. Five people testified for the applicant in this matter.

Commissioner Maginn submitted her Proposed Findings of Fact and Conclusions of Law upholding the denial of the application, stating that the law requires a ten-year waiting period from the date of the first OWI, which was in 2018, which makes the applicant eligible in 2028. Commissioner Grubb seconded. The motion was unanimously approved.

R18-07268 J. R. HARTY, INC. – Vice Chairman Payne noted the local board recommended denial of this renewal, and the Commission upheld the denial. An appeal and a request to file for transfer of ownership were filed with the Commission. The Commission denied the request to file a transfer. An appeal hearing was held. Chair Allen sat as hearing judge in this matter. The Proposed Findings of Fact and Conclusions of Law were submitted for recommendation to the Commission.

Commissioner Maginn stated this establishment has had numerous police runs, a couple of shootings and someone representing the business who does not have a Manager's Questionnaire on file, who has a felony conviction. There were ten remonstrators at the local board hearing.

Commissioner Maginn moved to uphold the Hearing Judge's recommendation to uphold the denial to renew and transfer the ownership. Commissioner Grubb seconded. The motion was unanimously approved.

Commissioner Maginn noted objections to the Proposed Findings of Fact and Conclusions of Law were filed by the permit holder and made part of the record.

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 applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal direct wine seller applications. 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. Commissioner Grubb seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR49-38469 ANDRE'S BAR & GRILL LLC – Vice Chairman Payne noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated there were remonstrators present at the local board hearing, one being Lieutenant Carter with IMPD. He presented flyers from promoters for events held at this location, but no temporary permit applications were filed. Other remonstrators complained about noise and trash. The applicant was asked why events were held without an alcoholic beverage permit and she stated she thought because an application was filed, and an orange sign posted that made it legal. Also, her husband had alcohol present that was not legal to sell in Indiana. The commissioner stated the importance of knowing the alcoholic beverage laws.

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

RR02-35811 DG PROPERTIES 22, LLC – Vice Chairman Payne noted this is a permit that was denied escrow and now the life of the permit is before the Commission.

Commissioner Maginn stated this permit was denied escrow for failure to appear at a required escrow hearing. The permittee had two opportunities to appear. The permittee submitted a letter stating the reason for not appearing was because a transfer was on file, so he did not think his appearance was required, even though the Commission’s notice states permittees are required to appear. The Commissioner noted that is important to open mail from the Commission and to call if there are questions about procedures.

Commissioner Maginn moved to allow one more opportunity for the permittee to appear at the July 26, 2022 escrow hearing. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make one permit dead that is not subject to auction. Commissioner Maginn 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- Round table discussions dates are set.

Farm Wineries/Vintners – Tuesday, July 26th @ Daniel’s Vineyard
Artisan Distillers – August 16 @ 1:30 p.m. via Microsoft Teams
Brewers – September 20 @ 1:30 p.m. via Microsoft Teams
Non-Package Store Dealers – October 4 @ 1:30 p.m. via Microsoft Teams
Package Stores – October 18 @ 1:30 p.m. via Microsoft Teams
Wholesalers – November 15 @ 1:30 p.m. via Microsoft Teams
Retailers – December 6 @ 1:30 p.m. via Microsoft Teams

ADJOURNMENT


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

Approved this 2nd day of AUGUST, 2022.

JESSICA ALLEN, CHAIR



JIM PAYNE, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER