

ALCOHOL AND TOBACCO COMMISSION

June 23, 2015

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

June 2, 2015

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

854 Renewals

81 ~~80~~ New/Transfers

23 Catering

1 1<sup>st</sup> Year Escrow

5 2<sup>nd</sup> Year Escrow

7 3<sup>rd</sup> Year Escrow

5 4<sup>th</sup> Year Escrow

1 5<sup>th</sup> Year Escrow

37 New/Renewal Carrier

23 New/Renewal Direct Wine Shipper

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

7. Applications for Discussion –

RR45-29938 Wail Odtallah – Renewal with the local board voting 3-0 to disapprove.

RR46-06543 1103-05, Inc. – Renewal with the local board voting 4-0 to disapprove.

DL82-30281 Shaan Liquor, Inc. – Transfer with the local board voting 3-0 to disapprove.

RR64-31493 Pavilion Partners, LLC – New application with the local board voting 2-2.

RR29-91227 Events to Remember, LLC – Conversion from 209 to 210 due to annexation.

8. Inactive Files –

25 Permits Not Subject to Auction

3 Permits Subject to Auction

9. Old Business -

10. New Business -

Revocation of Employee Permits

11. Policy Determinations –

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JUNE 23, 2015

**CALL TO ORDER/NOTING OF QUORUM**

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Coleman, Commissioner Grubb and Commissioner Maginn. Commission Counsel Allen, Prosecutor Mader, Master Officer Bedwell and Superintendent Strittmatter were also in attendance.

Jenny Drewry, Marc Carmichael, Melissa Coxey, Anne Ricchiuto, Norman Hellmers, Patricia Hellmers, Bart Herriman, Jim Zink, Jeff McKean, Stephanie Bexue, Anthony Mitson, Diane Masariu, Mark Webb and Greg Genrich were present as observers.

**DISPOSITION OF MINUTES**

Vice Chairman Coleman moved to approve the minutes from the June 2, 2015 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 162 Parties' Agreed Dispositions that were submitted, totaling approximately \$67,500.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the June 23, 2015 meeting. Vice Chairman Coleman 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, either with or without a quorum at the local board meeting, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. 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 applications for changes in location or ownership or both of existing permits, pending final floor plan inspection by the Indiana State Excise Police, which were either recommended for approval by local boards or where a quorum was not present, and reviewed by at least two Commissioners. Commission 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 and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new and renewal carrier permits. Commissioner Maginn seconded. Chairman Cook voted to approve. Vice Chairman Coleman voted to deny carrier permit for EF Transit, Inc., permit #C1644297, but approved all others. Motion passed.

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

Eight hundred fifty-four (854) renewals approved, eighty-one (81) new and/or transfer applications approved, twenty-three (23) permits approved for catering, one (1) permit approved for first year escrow, five (5) permits approved for second year escrow, seven (7) permits approved for third year escrow, five (5) permits approved for fourth year escrow, one (1) permit approved for fifth year escrow, three (3) new carrier permits approved, thirty-four (34) renewal carrier permits approved and twenty-three (23) direct shipper wine new and renewal permits approved.

#### **RENEWAL LETTERS AND WAIVER OF FEES**

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

#### **APPLICATIONS FOR DISCUSSION**

Chairman Cook stated rumors are going around that there has been improper influence, in some way with the Commission, regarding at least one of the permits on the agenda today. The Chairman reminded the commissioners of their responsibility to recuse themselves in the event they feel there has been improper influence, or if they are unqualified to vote on a particular matter.

RR45-29938 WAIL ODTALLAH – Commission Counsel Allen noted she has not had time to review the record of the local board and recommended the Commission continue this matter until July 7, 2015.

Commissioner Grubb moved to continue this matter. Commissioner Maginn seconded. The motion was unanimously approved.

RR46-06543 1103-05, INC. – Commission Counsel Allen stated this is a renewal with the local board voting 4-0 to disapprove.

Commissioner Maginn stated that in reviewing the record, she noted the police chief reported shootings and stabbings occurring at the establishment.

Chairman Cook he was very impressed by the police chief, who noted over 70 calls for service of a violent nature at the business.

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

DL82-30281 SHAAN LIQUOR, INC. – Commission Counsel Allen noted this is a transfer application with the local board voting 3-0 to disapprove. Applicant failed to appear before the local board.

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

RR64-31493 PAVILION PARTNERS, LLC – See transcript for discussion. Matter was continued until the July 21, 2015 meeting.

RR29-91227 EVENTS TO REMEMBER, LLC – Commission Counsel Allen stated the permittee requests the permit be converted from a type 209 permit to a type 210 permit, due to annexation.

Vice Chairman Coleman moved to approve the conversion. Commissioner Maginn seconded. The motion was unanimously approved.

#### **INACTIVE FILES**

Commissioner Grubb moved to make twenty-eight (28) permits inactive. Twenty-five permits are not subject to auction and three permits are subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

#### **OLD BUSINESS**

No Old Business

#### **NEW BUSINESS**

#### REVOCAION OF EMPLOYEE PERMITS

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Mattie K. Kearney, permit #BR1724356. Ms. Kearney will not be eligible to hold an employee permit until September 23, 2016.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Maginn seconded. The motion was unanimously approved.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Gary R. Nobbe, permit #BR1673094. Mr. Nobbe will not be eligible to hold an employee permit until April 30, 2018.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Maginn seconded. The motion was unanimously approved.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Derek J. Himes, permit #BR1801990. Mr. Himes will not be eligible to hold an employee permit until July 30, 2017.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Maginn seconded. The motion was unanimously approved.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Dillon M. Mills, permit #BR1806206. Mr. Mills will not be eligible to hold an employee permit until December 20, 2018.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Maginn seconded. The motion was unanimously approved.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Nicole R. Arthur, permit #BR1729008. Ms. Arthur will not be eligible to hold an employee permit until December 5, 2018.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Maginn seconded. The motion was unanimously approved.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Richard R. Kingery, permit #BR1784895. Mr. Kingery will not be eligible to hold an employee permit until May 27, 2016.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Maginn seconded. The motion was unanimously approved.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Caryn L. Hilderbrand, permit #BR1694148. Ms. Hilderbrand will not be eligible to hold an employee permit until December 1, 2015.

Commissioner Grubb moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Maginn seconded. The motion was unanimously approved.

HUMAN TRAFFICKING SIGNAGE – The Commission, by consensus, approved the signage to be posted regarding the new legislation on human trafficking.

## **POLICY DETERMINATIONS**

No Policy Determinations

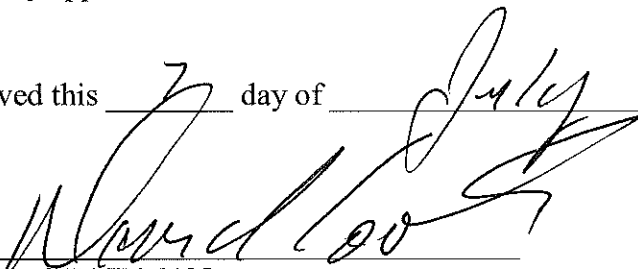
## **ANNOUNCEMENTS**

NEW LEGISLATION – Commission Counsel Allen stated there is a memorandum available regarding procedures for obtaining letters of authority. Also, information regarding other new legislation will be available on the website very soon.

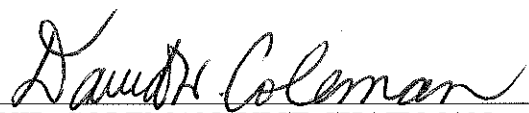
**ADJOURNMENT**

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

Approved this 7 day of July, 2015.



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DAVID COOK, CHAIRMAN



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DAVID COLEMAN, VICE CHAIRMAN



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DALE GRUBB, COMMISSIONER



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MARJORIE MAGINN, COMMISSIONER

1 Chairman Cook RR64-31493 Pavilion Partners, LLC.

2 Jessica Allen I believe at this time there was additional information that the

3 commissioners wanted to review prior to making a decision on this

4 permit.

5 Cook What I want to say about this is first of all there has been considerable

6 activity, as far as remonstrance against the permit, as far as emails to

7 the commission. Those emails began on June 16<sup>th</sup>, I think, or last

8 Monday. To this date, I have 34. I've listed them by name, as well as

9 their location, if they gave it. Some of them didn't have it in their

10 emails. I've given a copy of that list to all the commissioners, that

11 approved and agreed that this is the list that we were given. I copied off

12 each and every one of these emails, along with this list and copies of the

13 emails. I'm going to make part of the record, right now. I was gone all

14 last week at different conferences and seminars and was only able to

15 review all of these emails by my cell phone and when we got here in the

16 office. The actual physical file, I think, that has been compiled on this

17 was not available to us until just this morning. Is that correct?

18 Commissioner Maginn That is correct.

19 Cook In addition to that, I'm aware of...I listened to the entire record at the

20 local board and was curious about what the DNR contract was with

21 Pavilion Partners, Inc. I was able to get that online last night. That's

22 got some 95 pages, of which I feel compelled to review and gather more

23 information. So, I...since this is an issue which there is a considerable

24 amount of interest in and has a considerable amount of impact on this

25 local community and, there has been considerable voiced dissent  
26 against it, I think this commission should be as fully informed as it  
27 possibly can be before it makes a decision in light of the fact that it was  
28 a 2-2 tie at the local board. One of the "no" votes was, as I recall,  
29 entered because that particular board member wanted additional  
30 information and his motion to continue to get that additional  
31 information was denied. So, my recommendation would be and I  
32 would call for a motion to continue this for a period of 30 days, until  
33 our July 21<sup>st</sup> meeting. Is that what it is? In order for the commission to  
34 be able to fully inform itself about this project and the floor plans that  
35 were submitted. There were some floor plans that were included as part  
36 of this 95 page contract that I couldn't kind of figure out just right out  
37 looking at them. So, of course, there's all of the lawyer's talk in these  
38 contracts, so I'd like to be able to kind of really understand exactly what  
39 the agreement is between Pavilion Partners---understanding we are not  
40 a policy making organization. Many of the remonstrance dealt with  
41 some issues that were really, in fact, policy making concerns of which  
42 this commission is not at liberty to be involved in. However, I think  
43 that it's important that we fully inform ourselves so that we make the  
44 appropriate decision. I would call for that motion, or if any other  
45 discussion...anybody want to talk and say anything?

46 Commissioner Grubb So moved.

47 Maginn Second.



48 Cook All right. It's been moved and seconded then that we continue the  
49 Pavilion Partners, LLC's application until the July 21<sup>st</sup> meeting, 2015,  
50 in order to develop more information. Any further discussion?

51 Maginn Just to reiterate that I had requested the file. We are in the process of  
52 making the files electronic. It hasn't been scanned, as of yet. I wasn't  
53 able to get a copy of the file until this morning. The contract is very  
54 significant---40 pages, plus other attachments to it. I've not had a  
55 chance to review the entire file. And, there is a question, too, about the  
56 statutory change---the 100 feet within the pavilion facility that alcohol  
57 can be served. I'm just not clear on what that means and how it's  
58 administered. It's the Alcohol and Tobacco Commission that issues the  
59 permit for that 100 feet, or the Department of Natural Resources, or  
60 how that actually works for that 100 feet? I want to look into that a  
61 little bit more.

62 Cook As I scanned that contract, I saw that some of those things that were  
63 addressed in there and I think that we need to understand those in much  
64 better details. So, do we have a second?

65 Maginn I seconded.

66 Cook So, any further discussion, then? All in favor of tabling this until July  
67 21, 2015 meeting, say, aye.

68 Maginn Aye.

69 Grubb Aye.

70 Vice Chairman Coleman Aye.

71 Cook

Aye. Opposed say, no. Motion carries. The matter will be rescheduled

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for July 21, 2015.