

MINUTES

ALCOHOL AND TOBACCO COMMISSION

SEPTEMBER 3, 2013

CALL TO ORDER/NOTING OF QUORUM

Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson and Commissioner Grubb. Also in attendance were Staff Attorney Coxey, Prosecutor Drewry, Superintendent Strittmatter and Officer Bedwell.

Diane Masariu, Jim Purucker, Bart Herriman and Connie Vickery were present as observers.

DISPOSITION OF MINUTES

Commissioner Grubb moved to approve the minutes that were submitted for the August 20, 2013 meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Staff Attorney Coxey recommended approval of the parties' agreed disposition forms (PAD) that were submitted for the September 3, 2013 meeting.

Commissioner Grubb moved to approve the PAD forms that were submitted. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR28-29585 OLE MEXICO BAR & GRILL – Hearing Judge Coxey stated this new permit application was denied due to failure to appear at the local board meeting as required. The local board was continued two times and the applicant did not appear. An appeal was filed and an appeal hearing was held. At that hearing, the applicant stated he was out of town for the first meeting and there was confusion regarding the location and date of the other meetings. The Hearing Judge recommended the Commission remand this new application to the local board for reconsideration.

Commissioner Grubb moved to uphold the Hearing Judge's recommendation to remand the new application. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL47-29562 D & SS COUNTRY STORE, INC. – Hearing Judge Coxey stated the new application was recommended to be denied by the local board and that recommendation was upheld by the Commission. Applicant filed a notice of appeal and an appeal hearing was held. The Applicant did not appear at the appeal hearing to present any evidence in support of his character and reputation. One remonstrator did appear and presented evidence of criminal convictions of the Applicant. The Hearing Judge submitted her Proposed Findings of Fact and Conclusions of Law for consideration by the Commission.

Commissioner Grubb moved to uphold the Findings of the Hearing Judge to deny the new permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Vice Chairman Johnson 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 Grubb seconded. The motion was unanimously approved.

Vice Chairman Johnson 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, which have been recommended by local boards and reviewed by at least two Commissioners. Commissioner Grubb seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permit applications for catering. Commissioner Grubb seconded. The motion was unanimously approved.

Vice Chairman Johnson 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 Grubb seconded. The motion was unanimously approved.

Three hundred eighty-nine (389) renewals approved, forty (40) new and/or transfer applications approved, eleven (11) catering applications approved, five (5) permits approved for first year escrow and one (1) permit approved for third year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

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

APPLICATIONS FOR DISCUSSION

RR49-00319 G & W PARTNERS, LLC – Vice Chairman Johnson noted this is a renewal with the local board voting four (4) to zero (0) to disapprove.

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

DL13-29912 DOLGENCORP, LLC – Vice Chairman Johnson noted this is a new application with the local board voting three (3) to one (1) to disapprove.

Vice Chairman Johnson moved to uphold the local board's recommendation and deny the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR42-18914 PAUL E CARY & SHELLY CARY – Vice Chairman Johnson noted this is a renewal with the local board voting three (3) to zero (0) to disapprove.

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

INACTIVE FILES

INACTIVE FILES – Commissioner Grubb moved to make thirty-five (35) permits inactive. Six (6) permits are subject to auction and twenty-nine (29) permits are not subject to auction. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR45-21745 & RR45-21746 EL TAMBIEN LLC – Vice Chairman Johnson stated the local board recommended approval of this permit renewal in February 2012; however, the application is not complete. This office has made numerous attempts to notify the permittee regarding the missing items, but the permittee has not submitted those items. Also, the permit has been in escrow and the 5th year of escrow expired in February 2012.

Vice Chairman Johnson moved to deny the request for renewal/escrow due to the above stated reasons. Commissioner Grubb seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

REVOCATION OF EMPLOYEE PERMITS

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Samantha White, permit #BR1649164. Ms. White is on probation for one year and will not be eligible to hold an employee permit until August 26, 2014.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Matthew T. Wickwire, permit #BR1751841. Mr. Wickwire is on probation for one year and will not be eligible to hold an employee permit until August 27, 2014.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Cory A. Kassis, permit #BR1642349. Mr. Kassis will not be eligible to hold an employee permit until August 14, 2014.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: David C. Muller, permit #BR1741011. Mr. Muller is on probation for one year and will not be eligible to hold an employee permit until August 21, 2014.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Monica A. Riechel, permit #BR1599379. Ms. Riechel will not be eligible to hold an employee permit until August 19, 2016.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Zachary T. Maciejewski, permit #BR1750759. Mr. Maciejewski is on probation for one year and will not be eligible to hold an employee permit until August 12, 2016.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

EXCISE RECRUIT GRADUATION – Superintendent Strittmatter stated the Indiana State Excise Police has four new officers who graduated from recruit school on August 30, 2013. Joe Formato, Alex Vargo and Brad Whittaker are assigned to District #1 and Dylan Irwin is assigned to District #5. The Superintendent wished them well and welcomed them to the Agency.

ADJOURNMENT

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

Approved this _____ day of _____, 2013.

ALEX HUSKEY, CHAIRMAN

DAVID JOHNSON, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER