

MINUTES

ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 18, 2014

**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, Commissioner Coxey and Commissioner Grubb. Also in attendance were Executive Secretary Rothenberg, Prosecutor Mader, Superintendent Strittmatter and Officer Bedwell.

Jenny Drewry, Murray Clark, Mike Maxwell, Marc Carmichael, Rob Hedges, Matt Brase, Connie Vickery, Alex Intermill, and Mark Webb were present as observers.

**DISPOSITION OF MINUTES**

Commissioner Grubb moved to approve the minutes for the February 4, 2014 meeting. Commissioner Coxey seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Commissioner Grubb moved to approve the PAD forms that were submitted for the February 18, 2014 meeting. Commissioner Coxey seconded. The motion was unanimously approved.

**HEARING JUDGE'S RECOMMENDATIONS**

Executive Secretary Rothenberg stated with the help of Commissioner Coxey, the Findings of Fact and Conclusions of Law regarding the appeals that have been pending for an extended period of time will be completed and mailed in the near future.

**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 were either recommended by local boards or where a quorum was not present, 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.

Vice Chairman Johnson stated he would like the opportunity to review RR28-03271 and DL28-22594. There was no quorum at the local board and no indication as to what was to be voted on at that meeting.

Five hundred fifty-one (551) renewals approved, fifty-five (55) new and/or transfer applications approved, five (5) permits approved for catering, one (1) permit approved for second year escrow, four (4) permits approved for third year escrow, one (1) permit approved for fourth year escrow and three (3) permits approved for fifth 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**

DL18-28214 S & G PETROLEUM, INC. – Commissioner Coxey noted this is a renewal application with the local board voting 4-0 to disapprove.

Commissioner Coxey stated representatives of the Delaware County Prosecutor's Office presented evidence of criminal activity conducted by the permit holder.

Commissioner Coxey moved to uphold the local board and deny the renewal. Commissioner Grubb seconded. The motion was unanimously approved.

RR46-30261 (RR46-23277) BCCS, CORP. – Commissioner Coxey noted this is a new application for a type 210-1 permit.

Commissioner Coxey moved to deny the new application because the location of the business is in a city that has a population of over 25,000. Commissioner Grubb seconded. The motion was unanimously approved.

WH49-29931 SPIRITED SALES, LLC – Vice Chairman Johnson noted additional paperwork, in the form of a memorandum, was filed regarding this application last week.

Vice Chairman Johnson moved to continue this matter in order to have more time to investigate the ownership issues raised in the memorandum. Commissioner Grubb seconded. The motion was unanimously approved.

### **INACTIVE FILES**

No Inactive Files

## **OLD BUSINESS**

REQUEST FOR EXTENSION OF FIFTH YEAR ESCROW – Vice Chairman Johnson stated the same issue keeps coming up regarding the extension of the fifth year of escrow and the inconsistency of how this has been handled by the Commission.

The Vice Chairman noted he currently has seven requests for an extension of the fifth year of escrow on his desk. The permit numbers are as follows: RR45-22890, RR45-09442, RR49-09161, RR89-07036, RR49-13919, RR45-23064, and RR45-20178.

Vice Chairman Johnson moved to approve these requests for extension of the fifth year of escrow subject to the following conditions: 1) The extension period for escrow will expire on 1/5/15, with no additional request by the permit holder considered; 2) The permit holder will be allowed to transfer the permit from escrow to a new holder, however, the transferor will not be allowed to profit from the transfer if he obtained the permit at auction; 3) The permit holder will be allowed to transfer the permit from escrow to a new holder, however the transferor will not be allowed to profit from the transfer if the holder has never operated the permit; 4) All renewals must be filed and all fees and taxes paid in full. Vice Chairman Johnson further moved that any permit in escrow, in addition to the seven listed above, that have a fifth year expiration date between now and 1/5/15, be allowed to extend the escrow period beyond the fifth year until 1/5/15, subject to the same conditions listed above. Commissioner Coxey seconded. The motion was unanimously approved.

## **NEW BUSINESS**

### REVOCAION OF EMPLOYEE PERMITS

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Garrett L. Mathis, permit #BR1766683. Mr. Mathis will not be eligible to hold an employee permit until February 13, 2015.

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. Commissioner Coxey seconded. The motion was unanimously approved.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Morgan E. Bower, permit #BR1760324. Ms. Bower will not be eligible to hold an employee permit until August 2, 2018.

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. Commissioner Coxey seconded. The motion was unanimously approved.

## **POLICY DETERMINATIONS**

LETTER OF EXTENSION VERSUS REISSUE OF NEW PERMITS – Executive Secretary Rothenberg stated it has come to his attention that in order to get new/transfer permits sooner, people are submitting a Reissue Request, along with the \$10.00 fee, instead of waiting the 7-10 days for their permits.

The Executive Secretary recommended the Commission grant Extensions instead of Reissues on permits that haven't been issued yet. The permittee would be required to pay the \$50.00.

Vice Chairman Johnson asked if this would be a situation of approving a permit before the Commission votes. Executive Secretary Rothenberg stated that it is a way of getting around waiting the 7-10 days for the permit after the Commission votes.

Commissioner Coxey stated that after the permit is approved, it is not extending the permit. She also stated that it is her argument that a permit becomes effective once the Commission votes, not when the actual permit arrives at the establishment. The Commissioner noted the Letters of Authority that used to be issued would cover businesses that needed product delivered before the permit was received.

Chairman Huskey stated Letters of Authority can still be requested after the Commission vote.

Commissioner Grubb moved to no longer allow Reissues in these instances. Vice Chairman Johnson seconded. Chairman Huskey voted to approve the motion. Commissioner Coxey voted against the motion.

Chairman Huskey tabled the discussion regarding how to proceed with this issue until the next meeting.

## **ANNOUNCEMENTS**

EXCISE POLICE CERTIFICATION OF COMMENDATION – Superintendent Strittmatter stated the Indiana State Excise Police continues to recruit quality individuals to attend our recruit school and become Excise officers. Two Excise officers, Jessica Lovell and Brant Mendenhall, who have only been officers for a little over a year have completed two significant and high profile investigations in the last year. The Superintendent presented each officer with a Certificate of Commendation for their outstanding service to this agency and to the people of Indiana.

Chairman Huskey thanked the officers and congratulated them on their award.

INTRODUCTION OF NEW PROSECUTOR – Chairman Huskey introduced the new prosecutor, Mark Mader, who comes to this agency from the Attorney General's Office.

Prosecutor Mader stated he looked forward to working with the agency and the Excise Police. He feels confident that he can get things moving very rapidly regarding the backlog of pending cases.

## **ADJOURNMENT**

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

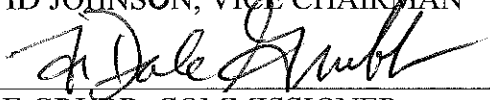
Approved this 4<sup>th</sup> day of March, 2014.



ALEX HUSKEY, CHAIRMAN



DAVID JOHNSON, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MELISSA COXEY, COMMISSIONER