

MINUTES

ALCOHOL AND TOBACCO COMMISSION

May 7, 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, Staff Attorney Allen, Captain McMahan and Officer Bedwell.

Marc Carmichael, Connie Vickery, Lisa McKinney, Chip Garver, Jenny Drewry, Trevor Vance, Matt Brase, Bart Herriman, Alex Intermill, and Mark Webb were present as observers.

DISPOSITION OF MINUTES

Commissioner Grubb moved to approve the minutes for the April 15, 2014 meeting. Commissioner Coxey seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the Parties' Agreed Dispositions that were submitted. He also stated that there has been some confusion with the Offers regarding deferrals, so the form is being changed.

Commissioner Grubb moved to approve the PAD forms that were submitted for the May 7, 2014 meeting. Commissioner Coxey seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR31-30109 Angela Kling, LLC – Hearing Judge Rothenberg stated this is an appeal from the Harrison County Local Board recommendation to deny this new three-way permit. This permittee currently has a two-way permit. The Hearing Judge now submits his Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Coxey moved to uphold the recommendation of the Hearing Judge and approve the new permit. Commissioner Grubb 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 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.

Five hundred sixteen (516) renewals approved, thirty-six (36) new and/or transfer applications approved, eight (8) permits approved for catering, eleven (11) permits approved for first year escrow, ten (10) permits approved for second year escrow, thirteen (13) permits approved for third year escrow, one (1) permit approved for fourth year escrow and one (1) permit approved for fifth year escrow.

W 57-29165 VINO INDIANA LLC - Commissioner Coxey moved to approve this new wholesaler application. Vice Chairman Johnson seconded. The motion was unanimously approved.

RENEWAL LETTERS AND WAIVER OF FEES

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

APPLICATIONS FOR DISCUSSION

RR49-21321 A & C RESTARUANTS, LLC – Commission Counsel Allen stated the renewal of this permit was labeled as approved by the local board in error. She recommended the Commission remand this renewal to the local board for reinvestigation.

Vice Chairman Johnson stated the permittee needs to respond to a request by the ATC processor regarding missing items and also needs to provide current food sales' figures.

Commissioner Coxey moved to remand the renewal to the local board, but the Commission will not vote until the file is complete. Commissioner Grubb seconded. The motion was unanimously approved.

RR52-03803 P & J ENTERPRISES, INC. – Commission Counsel Allen stated renewals were filed with incorrect/missing ownership information and the signature of a manager, instead of an owner. Excise Officer Peek requested the renewal be remanded to the local board.

Commissioner Coxey moved to remand the renewal to the local board for purposes of rectifying the issues with the renewal. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

No Inactive Files

OLD BUSINESS

RR91-18901 SAYLER'S BAR AND GRILL – Commissioner Coxey stated the Commission requested updated food sales' figures for this permittee and they have been submitted. The figures do show that the sales are sufficient, at this time, to qualify for this permit.

Commissioner Coxey moved to approve the renewal for a 12 month period to allow them one more year to provide additional food sales' figures. Commissioner Grubb seconded. Vice Chairman Johnson and Chairman Huskey voted to deny the motion.

Commissioner Grubb moved to amend the motion to require food sales' figures to be submitted in six months to make sure they are still on track. 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: Joanne K. Smith, permit #BR1608963. Ms. Smith will not be eligible to hold an employee permit until February 26, 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. 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: Crystal G. Brown, permit #BR1612371. Ms. Brown will not be eligible to hold an employee permit until April 15, 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. 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: Jordan M. Sampson, permit #BR1769079. Ms. Sampson will not be eligible to hold an employee permit until April 28, 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. Vice Chairman Johnson seconded. The motion was unanimously approved.

EXCISE ANNUAL REPORT – Chairman Huskey stated the report is not ready to be presented at this time, but will be at the next meeting.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

WH49-29931 SPIRITED SALES – Executive Secretary Rothenberg stated the hearing is going to be rescheduled in this matter to June 24, 2014. The witness lists and other evidentiary information should be filed by June 10, 2014.

Vice Chairman Johnson stated that this hearing will be before the full Commission, except for Commissioner Coxey, who recused herself.

ADJOURNMENT

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

Approved this 20th day of May, 2014.

ALEX HUSKEY, CHAIRMAN

David R. Johnson

DAVID JOHNSON, VICE CHAIRMAN

Dale Grubb

DALE GRUBB, COMMISSIONER

Melissa Coxey

MELISSA COXEY, COMMISSIONER