

ALCOHOL AND TOBACCO COMMISSION

December 16, 2014

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

December 9, 2014

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

DL18-27519 Sunny & Jugad Food Mart, Inc. – Proposed Findings of Fact and Conclusions of Law

5. Consideration of Applications -

585 Renewals
37 New/Transfers
11 Catering
11 1st Year Escrow
7 2nd Year Escrow
6 3rd Year Escrow
2 4th Year Escrow
1 6th Year Escrow

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

7. Applications for Discussion –

RR82-31015 TooHot Entertainment LLC – New application with the local board voting 3-1 to disapprove.

RR32-30925 By Grace Eateries, LLC – New application with the local board voting 2-0 to disapprove with 1 member abstaining and 1 member absent.

RR32-30883 Club Icyes, LLC – Did not appear

RR43-02891 Night Shift of North Webster, Inc. -- Renewal with local board voting 4-0 to disapprove.

DL29-30159 Hageman Business Group, LLC – Did not appear

RR49-30958 Taqueria Mi Lindo Veracruz, LLC – Continued from last meeting

RC79-04080 Lafayette Country Club, Inc. – Requesting conversion from 211-3 to a 209

8. Inactive Files –

3 Permits Not Subject to Auction
1 Permit Subject to Auction

9. Old Business -

10. New Business -

Revocation of Employee Permits

11. Policy Determinations –

12. Announcements -

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

DECEMBER 16, 2014

CALL TO ORDER/NOTING OF QUORUM

Chairman Johnson called the meeting to order and noted the quorum and the attendance. Present were Commissioner Coxey and Commissioner Grubb. Also in attendance were Executive Secretary Rothenberg, Commission Counsel Allen, Prosecutor Mader, Master Officer Bedwell, and Superintendent Strittmatter.

Deb Scott, Alex Intermill, Greg Genrich, Mark Webb, Diane Masariu, Jeff McKean, Davey Neal and Bart Herriman were present as observers.

DISPOSITION OF MINUTES

Commissioner Grubb moved to approve the minutes from the December 9, 2014 meeting. Commissioner Coxey seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 205 Parties' Agreed Dispositions that were submitted, totaling \$70,675.00 in fines.

Commissioner Grubb moved to approve the Dispositions that were submitted for the December 16, 2014 meeting. Commissioner Coxey seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

DL18-27519 SUNNY & JUGAD FOOD MART, INC. – Hearing Judge Rothenberg stated the local board recommended denial of the renewal of this permit. The Commission upheld the recommendation. The permittee filed an appeal and the matter was scheduled for hearing.

The Hearing Judge noted the last renewal was also denied and appealed. After that appeal hearing, the renewal was granted. No violations have occurred since the last renewal.

Commissioner Grubb moved to uphold the Hearing Judge's recommendation and approve the renewal. Commissioner Coxey seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Coxey 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.

Commissioner Coxey 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 for approval 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.

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

Commissioner Coxey 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 eighty-five (585) renewals approved, thirty-seven (37) new and/or transfer applications approved, eleven (11) permits approved for catering, eleven (11) permits approved for first year escrow, seven (7) permits approved for second year escrow, six (6) permits approved for third year escrow, two (2) permits approved for fourth year escrow and one (1) permit approved for sixth 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. Commissioner Coxey seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR82-21015 TOO HOT ENTERTAINMENT, LLC – Commissioner Coxey noted this is a new application with the local board voting 3-1 to disapprove.

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

RR32-30925 BY GRACE EATERIES, LLC – Commissioner Coxey noted this is a new permit application with the local board voting 2-0 to disapprove, one member was absent and one member abstained from voting.

Commissioner Coxey moved to disapprove the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR32-30883 CLUB ICYES, LLC – Commissioner Coxey noted this is a new application. The applicant did not appear at the local board meeting.

Commissioner Coxey moved to deny the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR43-02891 NIGHT SHIFT OF NORTH WEBSTER, INC. – Commissioner Grubb noted this is a renewal application with the local board voting 4-0 to disapprove, due the character of the owner.

Commissioner Grubb stated the permittee was cited with several violations over the last year. Part of the settlement agreement with the prosecutor was that the permit was to be transferred to a new owner.

Commissioner Grubb moved to overturn the local board and approve the renewal, so the permit can be transferred. Commissioner Coxey seconded. The motion was unanimously approved.

DL29-30159 HAGEMAN BUSINESS GROUP, LLC – Commissioner Coxey noted this is a transfer of ownership application. The applicant did not appear at the local board meeting.

Commissioner Coxey moved to disapprove the transfer. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-30958 TAQUERIA MI LINDO VERACRUZ, LLC – Commissioner Coxey noted this is an application for a new permit with the local board voting 3-1 to disapprove.

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

RC79-04080 LAFAYETTE COUNTRY CLUB, INC. – Commissioner Coxey stated the permittee made a request to convert this type 211-3 permit to a type 209 permit.

Commissioner Coxey moved to approve the conversion of the permit. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make four (4) permits inactive. Three permits are not subject to auction and one permit is subject to auction. Commissioner Coxey seconded. The motion was unanimously approved.

OLD BUSINESS

RR29-30981 FOUR DAY RAY BREWING, LLC – Commission Counsel Allen stated the Commission received correspondence from the city of Fishers regarding the location of this pending application. The city owns the land where the applicant wants to put this permit. Fishers is in negotiations with this applicant to purchase the land, so they do not want to delay the processing of this permit. The local board voted 4-0 to recommend approval of the new permit.

Commissioner Coxey moved to uphold the local board's recommendation and approve the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR02-19942 CBDD, LLC – Commission Counsel Allen stated this permittee is requesting conversion from a type 209 permit to a type 210 permit because the location has been annexed into the city limits. The original Notice of Annexation was March 15, 1993 and the permit was obtained on December 31, 2002.

Counsel Allen recommended the Commission deny the request because it does not meet the requirements of IC 7.1-3-22-3(b).

Commissioner Grubb moved to continue this matter to further review the statute. Commissioner Coxey seconded. The motion was unanimously approved.

RR41-23178 BMS OF INDIANA, LLC – Commission Counsel Allen stated this is a similar conversion due to annexation. She recommended the Commission continue this matter.

Commissioner Grubb moved to continue this. 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: Dale M. Rowe, permit #BR1764277. Mr. Rowe will not be eligible to hold an employee permit until September 16, 2017.

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: Jay R. Baker, permit #BR1728797. Mr. Baker will not be eligible to hold an employee permit until November 05, 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. Commissioner Coxey seconded. The motion was unanimously approved.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

Prosecutor Mader welcomed back N. Davey Neal, who was a previous executive secretary of the Commission. He works for Clark Quinn.

ADJOURNMENT

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

Approved this 6th day of January, 2015.



DAVID JOHNSON, CHAIRMAN



DALE GRUBB, COMMISSIONER



MELISSA COXEY, COMMISSIONER

