

ALCOHOL AND TOBACCO COMMISSION

February 16, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum –
2. Disposition of Minutes

February 2, 2016

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

744 Renewals
64 New/Transfers
11 Catering
2 1st Year Escrow
12 2nd Year Escrow
4 3rd Year Escrow
4 4th Year Escrow
4 5th Year Escrow
17 New/Renewal Carriers

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

7. Applications for Discussion –

RR34-11177 Rock Bottom LLC – Renewal with LB voting 3-0 to deny

RR49-28625 Moh, Inc. – Renewal with LB voting 3-0 to deny (continued from 2-2-16)

DL59-05696 Big Red Liquors – Reactivate

DL41-24004 Mac's Convenience Stores – Transfer of location with LB voting 4-0 to approve

RR49-21321 A & C Restaurants, LLC – Renewal with LB voting 4-0 to deny

RR46-32097 Mark Newkirk, Jr. – Transfer of ownership with LB voting 3-0 to deny

DL18-30559 Yorktown Food Mart, Inc. – New with LB voting 4-0 to deny

RR71-24957 ABCJ of Osceola, Inc. – Renewal with LB voting 3-0 to deny

8. Inactive Files –

20 Permits Not Subject to Auction
3 Permits Subject to Auction

9. Old Business -

Tier Roundtables

10. New Business -

Probation/Revocation of Employee Permits
Letitia Dowdell, BR1823145- 1 conviction

Probationary Employee Permits/Alcohol Evaluation Program – no proof sent
Terrill May, BR1805888
Jasmin Overman, BR1803218

11. Policy Determinations –

Non-rule Policy 17

12. Announcements -

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 16, 2016

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 Maginn and Commissioner Grubb. Executive Secretary Rothenberg, Commission Counsel Allen, Prosecutor Mader, Master Officer Bedwell and Corporal Lynch were also in attendance.

Brooke Burnett, Marc Carmichael, Matt Brase, Diane Masariu, Brian Paul, Greg Genrich, Tony Mitson, Schuyler Culver, Jenny Drewry, Bart Herriman, and Mark Webb were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the February 2, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 87 Parties' Agreed Dispositions that were submitted, totaling approximately \$33,450.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the February 16, 2016 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, which have been recommended by local boards and reviewed by our staff with the authority of the commission and hereby move for approval of same and the inclusion of these lists as part of the minutes. 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, which have been recommended by local boards and reviewed by at least two commissioners and hereby move for approval of same, pending final floor plan approval by the Indiana State Excise Police, and inclusion of these lists as part of the minutes. Commissioner 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 and hereby move for approval of same and the inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

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

Seven hundred forty-four (744) renewals approved, sixty-four (64) new and/or transfer applications approved, eleven (11) permits approved for catering, two (2) permits approved for first year escrow, twelve (12) permits approved for second year escrow, four (4) permits approved for third year escrow, four (4) permits approved for fourth year escrow, four (4) permits approved for fifth year escrow, and seventeen (17) new and renewal carrier permits approved.

RENEWAL LETTERS AND WAIVER OF FEES

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

APPLICATIONS FOR DISCUSSION

RR34-11177 ROCK BOTTOM LLC – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny.

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

RR49-28625 MOH, INC. – Chairman Cook noted this is a renewal with the local board voting 2-1 to deny.

Chairman Cook stated he reviewed the recordings of the 2015 and 2016 local board meetings. The violation in question was dealt with at the 2015 meeting where the renewal was approved.

Commissioner Maginn stated she also reviewed the recordings and came to the same conclusion.

Commissioner Maginn moved to overturn the local board's recommendation and approve the renewal for one year. Vice Chairman Coleman seconded. The motion was unanimously approved.

DL59-05696 BIG RED LIQUORS – Executive Secretary Rothenberg stated this permit was over the 5th year escrow with the construction of the building almost complete. The permittee was allowed a little extra time for escrow, however, the permit was inadvertently made inactive. The Executive Secretary recommended the Commission reactivate the permit.

Vice Chairman Coleman moved to reactivate this permit. Commissioner Maginn seconded. The motion was unanimously approved.

DL41-24004 MAC'S CONVENIENCE STORES – Chairman Cook noted this is a transfer of location with the local board voting 4-0 to approve.

Commissioner Maginn stated the Commission received numerous emails regarding this application. She also stated there were remonstrators present at the local board meeting and she felt their issues were considered by the local board.

Chairman Cook stated there were a considerable number of people present to remonstrate and several hundred people signing petitions against the transfer. He felt the local board took into consideration the issues that were presented.

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

RR49-21321 A & C RESTAURANTS, LLC – Chairman Cook noted this is a renewal with the local board voting 4-0 to deny.

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

RR46-32097 MARK NEWKIRK, JR. – Chairman Cook stated this is a transfer of ownership with the local board voting 3-0 to deny.

Commissioner Maginn stated there were numerous issues brought up at the local board meeting involving ownership of the building, the contract, payment for the transfer, etc.

Executive Secretary Rothenberg stated the renewal was denied a few months ago. An appeal was filed, but the permittee requested the opportunity to transfer the permit. The Executive Secretary noted that is not uncommon.

Vice Chairman Coleman stated his recollection from the local board recording was that Mr. Newkirk lied to Excise.

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

DL18-30559 YORKTOWN FOOD MART, INC. – Chairman Cook noted this is a new application with the local board voting 4-0 to deny.

Vice Chairman Coleman stated he listened to the local board recording and there were numerous allegations about employees not being legally admitted into this country and being paid cash, possible tax fraud and synthetic drugs being sold at the premises.

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

RR71-24957 ABCJ OF OSCEOLA, INC. – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny.

Commissioner Maginn stated she reviewed the local board recording and found that this permittee has had multiple violations for the same thing. The local board cited a blatant disregard for the law.

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

INACTIVE FILES

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

OLD BUSINESS

TIER ROUNDTABLE DISCUSSIONS – Executive Secretary Rothenberg stated in order to make these discussions manageable, he has broken them down into different groups. This is for the purpose of keeping the discussions common within that tier. He also stated that attorneys who represent these different tiers can come to any of the discussions, provided that everyone keep in mind that this is an open forum with the permittees and the Commission and not intended to be an attorney dominated discussion.

The first one will be held on March 5th in Fort Wayne, with the Brewer's Guild. The second one is May 3rd in this room, with the Artisan Distiller's Guild. The third one will be July 19th in Brown County, with the Farm Winery/Vintner's Association.

Executive Secretary Rothenberg stated future discussions will be announced at a later date.

NEW BUSINESS

PROBATION/REVOCAION OF EMPLOYEE PERMITS - Commissioner Grubb moved, pursuant to IC 7.1-3-18-9.5, to order the following employee permit holder(s) to complete an alcohol evaluation and treatment program within the next six months and provide proof of same to the Commission. The Commissioner further moved to rescheduled for the August 2, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Letitia Dowdell, BR1631841

PROBATIONARY EMPLOYEE PERMITS REVOKED – Commissioner Grubb moved to revoke the following permits because we have not received proof of completion of an alcohol evaluation program: Terrill May, BR1805888 and Jasmin Overman, BR1803218. Commissioner Maginn seconded. The motion was unanimously approved.

POLICY DETERMINATIONS

Non-rule Policy 17 – Commission Counsel Allen stated the Commission is looking to adopt this policy that allows a 15 day window for a wholesaler to deliver product to new permittees where the permits have been issued, but have not been received and are not posted on the wall. The Commission will vote on this policy at the March 1, 2016 meeting.

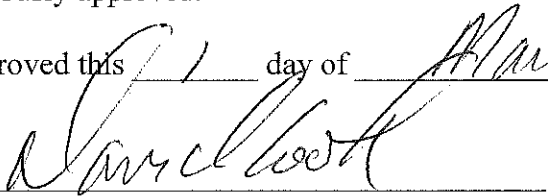
ANNOUNCEMENTS

No Announcements

ADJOURNMENT

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

Approved this 1 day of March, 2016.



DAVID COOK, CHAIRMAN



DAVID COLEMAN, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER

