

ALCOHOL AND TOBACCO COMMISSION

March 15, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

March 1, 2016

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

792 Renewals

85 New/Transfers

7 Catering

20 1st Year Escrow

16 2nd Year Escrow

2 3rd Year Escrow

3 4th Year Escrow

2 5th Year Escrow

13 New/Renewal Carriers

12 New/Renewal Direct Wine Shippers

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

7. Applications for Discussion –

DL50-30673 Dolgencorp, LLC – New with LB voting 2-1 to deny

RR57-32036 Amechevole, Inc. – New with LB voting 3-0 to deny

RR32-01070 R & M Industrial Supply, Inc. – Renewal with LB voting 3-0 to deny

RR54-28019 Video Y Discoteca El Charro, Inc. – Renewal with LB voting 4-0 to deny

RR03-28173 Chipotle Mexican Grill of Colorado, LLC – Renewal with LB voting to deny

RR29-30354 JAJ, LLC – Renewal with LB voting 3-0 to deny

RR30-32189 5 Branches, LLC – New with LB voting 4-0 to approve

8. Inactive Files –

12 Permits Subject to Auction

27 Permits Not Subject to Auction

9. Old Business -

10. New Business -

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MARCH 15, 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 Superintendent Strittmatter were also in attendance.

Melissa Coxey, Jenny Drewry, Diane Masariu, Lisa McKinney, Angela Krahulik, Jackie Dold, Brooke Burnett, Katie Maddox, Bart Herriman, Alex Intermill, Jeff McKean, and Mark Webb were present as observers.

DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the March 1, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 50 Parties' Agreed Dispositions that were submitted, totaling approximately \$15,400.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the March 15, 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.

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

Seven hundred ninety-two (792) renewals approved, eighty-five (85) new and/or transfer applications approved, seven (7) permits approved for catering, twenty (20) permits approved for first year escrow, sixteen (16) permits approved for second year escrow, two (2) permits approved for third year escrow, three (3) permits approved for fourth year escrow, two (2) permits approved for fifth year escrow, thirteen (13) new and renewal carrier permits approved and twelve (12) new and renewal direct wine shipper 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

DL50-30673 DOLGENCORP, LLC – Chairman Cook noted this is a new application with the local board voting 2-1 to deny.

Commissioner Maginn stated she reviewed the record. This is the applicant's second attempt at obtaining a permit at this location. The Commissioner stated there were four remonstrators present, one being a competitor, which she discounted his testimony. The remonstrators stated this is close to a dangerous intersection where deaths have occurred. No petitions were filed by the remonstrators. Commissioner Maginn also noted that in a town of a little more than 500, there are already four places in town that sell alcohol.

Commissioner Maginn stated that the applicant has a remarkable alcohol training program. The district manager testified that the stores in this area have not been cited for any alcohol violations.

Vice Chairman Coleman stated he felt the local board was arbitrary in their recommendation to the Commission.

Commissioner Grubb moved to overturn the local board and approve the new application, even though Commissioner Maginn made a good point regarding saturation. He stated he wanted to defer to the Excise officer's recommendation. Vice Chairman Coleman seconded. Chairman Cook voted to

approve the motion and Commissioner Maginn voted against the motion. The motion was approved 3-1.

RR57-32036 AMECHEVOLE, INC. – Chairman Cook noted this is a new application with the local board voting 3-0 to deny.

Commissioner Maginn stated the applicant's check for the permit did not clear and as of the date of the local board meeting, payment had not been made.

Kim Chew stated that a check was received in this office the day after the local board recommended denial of the new permit.

Commissioner Maginn moved to continue this until the April 5, 2016 meeting to make sure the funds have cleared. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR32-01070 R & M INDUSTRIAL SUPPLY, INC. – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny.

Vice Chairman Coleman stated this permittee has had three violations for furnishing alcohol to a minor.

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

RR54-28019 VIDEO Y DISCOTECA EL CHARRO, INC. – Chairman Cook noted this is a renewal with the local board voting 4-0 to deny.

Commissioner Maginn stated this permittee has violations and criminal convictions for fraudulent unemployment benefits and tax return issues.

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

RR03-28173 CHIPOTLE MEXICAN GRILL OF COLORADO, LLC – Chairman Cook noted this is a renewal with the local board voting to deny.

Commissioner Maginn stated the Commission received additional information regarding this renewal, so she would like to continue this until the April 5, 2016 meeting.

Commissioner Maginn moved to continue this matter until April 5, 2016. Commissioner Grubb seconded. The motion was unanimously approved.

RR29-30354 JAJ, LLC – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny.

Permittee did not appear at the local board meeting.

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

RR30-32189 5 BRANCHES, LLC – Chairman Cook noted this is a new application with the local board voting 4-0 to approve.

Executive Secretary Rothenberg recommended the Commission continue this matter until the April 5, 2016 meeting. He stated there are questions regarding ownership of this permit.

Commissioner Grubb moved to uphold the Executive Secretary’s recommendation to continue this matter. Commissioner Maginn seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make 39 permits inactive. There are 12 permits are subject to auction and 27 permits not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

OLD BUSINESS

There is no Old Business

NEW BUSINESS

PROBATIONARY EMPLOYEE PERMITS – Commissioner Grubb stated the Commission received proof of completion of an alcohol treatment program for probationary employee Amber Hornberger, BR1709866. Ms. Hornberger is no longer on probationary status.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

E-LIQUID RULE – Commissioner Maginn asked for an update on the rules for the new e-liquid law passed by the General Assembly, but not yet signed by the Governor.

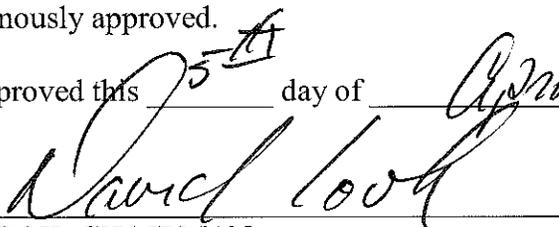
Executive Secretary Rothenberg stated the rules are being written, but are not ready at this time.

Chairman Cook stated this matter will be discussed at the April 5, 2016 meeting.

ADJOURNMENT

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

Approved this 5th day of April, 2016.



DAVID COOK, CHAIRMAN

David H. Coleman

DAVID COLEMAN, VICE CHAIRMAN

Dale Grubb

DALE GRUBB, COMMISSIONER

Marjorie Maginn

MARJORIE MAGINN, COMMISSIONER