

ALCOHOL AND TOBACCO COMMISSION

May 17, 2016

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes

May 4, 2016

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

685 Renewals

66 New/Transfers

14 Catering

7 1<sup>st</sup> Year Escrow

14 2<sup>nd</sup> Year Escrow

3 3<sup>rd</sup> Year Escrow

4 4<sup>th</sup> Year Escrow

3 5<sup>th</sup> Year Escrow

18 New/Renewal Carriers

49 New/Renewal Direct Wine Shippers

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

7. Applications for Discussion –

RR18-32224 The Silo LLC – Transfer of ownership and location with LB voting 2-2

RR32-32358 Cartel Brewing – New application with LB voting 2-1 to deny

DL43-30715 Dolgencorp, LLC – New application with LB voting 3-1 to deny

DL46-22820 DWT, Inc. – Renewal with LB voting 4-0 to deny

DL49-30657 Drew Pearson Enterprises, Inc. – Transfer with LB voting 4-0 to deny

WH49-29980 & WH49-22981 MKM Beverage

DL29-30474 21<sup>st</sup> Amendment, Inc. – Transfer of location with LB voting 3-1 to approve

8. Inactive Files –

3 Permits Not Subject to Auction

9. Old Business -

10. New Business –

Probationary Employee Permit/Revocation

Matthew L Bradley, BR1688662 – 1 conviction

Mandy Charo, BR1446461 – 1 conviction

Aaron Wilkerson, BR176696 – 1 conviction

Jody A Barrett, BR1436505 – 1 conviction

Megan Giffin, BR1787576 – 1 conviction

Dustin K Grogan, BR1588923 – 1 conviction

Stephanie McClain, BR1792863; Jill Damron, BR1490327 – proof of alcohol treatment provided

11. Policy Determinations –

12. Announcements -

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

MAY 17, 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, Prosecutor Mader and Master Officer Bedwell were also in attendance.

Katie Bissmeyer, Matt Pheffer, Brad Meyer, Jake Dunnuck, Matt Brase, Tony Mitson, Daniel DeRoziere, Wayne Ellison, Peter Rusthoven, Jenny Drewry, Diane Masariu, Davey Neal, Chip Garver, Marc Carmichael, Alex Intermill, Bart Herriman, and Schuyler Culver were present as observers.

#### DISPOSITION OF MINUTES

Vice Chairman Coleman moved to approve the minutes from the May 4, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

#### PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Mader recommended the Commission approve the 101 Parties' Agreed Dispositions that were submitted, totaling approximately \$44,125.00 in fines.

Commissioner Maginn moved to approve the Dispositions that were submitted for the May 17, 2016 meeting. Commissioner Grubb 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.

Six hundred eighty-five (685) renewals approved, sixty-six (66) new and/or transfer applications approved, fourteen (14) permits approved for catering, seven (7) permits approved for first year escrow, fourteen (14) permits approved for second year escrow, three (3) permits approved for third year escrow, four (4) permits approved for fourth year escrow, three (3) permits approved for fifth year escrow, eighteen (18) new and renewal carrier permits approved, and forty-nine (49) 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**

RR18-32224 THE SILO LLC – Chairman Cook noted this is a transfer of ownership and location application with the local board voting 2-2.

Commissioner Maginn stated she reviewed the record and found there to be no reason for the transfer, which appears to be an organizational transfer, not to be issued. There have been no ATC violations. An insufficient funds check was written, but later paid.

Chairman Cook also reviewed the record and found there to be evidence of the owner's good character, with his charitable donations, but no evidence of poor character. There appears to be an issue between the seller and the purchaser with regard to payment of fees, but the Chairman stated it is not the job of the Commission to interfere in these matters. No petition to withdrawal consent has been submitted to the Commission.

Commissioner Maginn moved to approve the transfers. Vice Chairman Coleman seconded. The motion was unanimously approved.

RR32-32358 CARTEL BREWING – Chairman Cook noted this is a new application with the local board voting 2-1 to deny.

Vice Chairman Coleman stated this permittee has a small brewery permit and has now applied for serving location. The applicant was directly advised by Excise that he could not operate at this other location until the permit was approved. However, contrary to what was told to the applicant, he began serving without permit approval.

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

DL43-30715 DOLGENCORP, LLC – Chairman Cook noted this is a new application with the local board voting 3-1 to deny.

Chairman Cook stated there was no evidence presented to support the denial of this permit. No remonstrators were present. The local board does not like alcohol sold at convenience stores/gas stations.

Commissioner Maginn stated there was no statutory reason given to deny.

Commissioner Maginn moved to overturn the local board and approve the new permit. Vice Chairman Coleman seconded. The motion was unanimously approved.

DL46-22820 DWT, INC. – Chairman Cook stated this is a renewal with the local board voting 4-0 to deny.

Executive Secretary Rothenberg stated the permittee did not appear at the local board meeting. There is a pending violation that has not been cleared and Excise noted there is a sign on the business that says it is closed.

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

DL49-30657 DREW PEARSON ENTERPRISES, INC. – Chairman Cook noted this is a transfer with the local board voting 4-0 to deny.

Executive Secretary Rothenberg stated this transfer was filed prior to the legislative session and prior to statutes being passed that directly affect this transfer. Those statutes would make this transfer illegal.

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

WH49-29980 & WH49-29981 MKM BEVERAGE – The Commission approved the new permits. See transcript for narrative.

DL29-30474 21<sup>ST</sup> AMENDMENT, INC. – Chairman Cook noted this is a transfer of location with the local board voting 3-1 to approve.

Executive Secretary Rothenberg stated the permittee has an active permit at a location and another permit in escrow. The permittee requests the escrow permit be transferred to the active permit's location and the active permit be placed into escrow. This is not usually approved so permits will not be taken in

and out of escrow for the purposes of holding onto a permit longer than the five years possibly allowed for escrow.

The Executive Secretary recommended the Commission approve the transfer, but only for the balance of time the escrow permit has left in escrow.

Commissioner Maginn moved to uphold the local board and Executive Secretary's recommendation to approve the transfer for the remaining escrow period. Vice Chairman Coleman seconded. The motion was unanimously approved.

### **INACTIVE FILES**

Commissioner Grubb moved to make three non-auction permits inactive. Commissioner Maginn seconded. The motion was unanimously approved.

### **OLD BUSINESS**

There is no Old Business

### **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 November 15, 2016 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Matthew Bradley, BR1688662; Mandy Charo, BR1446461; Aaron Wilkerson, BR176696; Jody Barrett, BR1436505; Megan Griffin, BR1787576; Dustin Grogan, BR1588923

PROBATIONARY EMPLOYEE PERMITS – Commissioner Grubb stated the Commission received proof of completion of an alcohol treatment program for probationary employees Stephanie McClain, BR1792863 and Jill Damron, BR1490327.

### **POLICY DETERMINATIONS**

No Policy Determinations

### **ANNOUNCEMENTS**

WHOLESALE ROUND TABLE – Executive Secretary Rothenberg stated the wholesaler roundtable will be June 7, 2016, in the Conference Center.

### **ADJOURNMENT**

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

Approved this 17<sup>th</sup> day of June, 2016.

*David Cook*

DAVID COOK, CHAIRMAN

*David H. Coleman*

DAVID COLEMAN, VICE CHAIRMAN

*Fi Dale Grubb*

DALE GRUBB, COMMISSIONER

MARJORIE MAGINN, COMMISSIONER



1 Chairman Cook WH49-29980 and WH49-29981 MKM Beverage. These are actually  
2 new permits. Are they not, David?

3 David Rothenberg They are.

4 Cook Okay. I'll open this up for discussion. The reason I put this on for  
5 discussion was because I want to make a bit of a record. The major  
6 interested parties in MKM Beverage have family ties with Monarch  
7 Beverage and as a result of those family ties, the commission decided  
8 that we should look into possible prohibited interests. Those prohibited  
9 interests were examined by Executive Secretary Rothenberg, along with  
10 cooperation with the attorneys that were involved. After we completed  
11 that investigation, we came to the conclusion that there was no apparent  
12 prohibited interest. All the prohibited interests were speculative. But,  
13 still based upon the close family relationship, I asked that all of the  
14 individuals who were the interested parties in MKM Beverage sign  
15 affidavits about the prohibited interest issues. They have signed those  
16 affidavits. I have circulated those. I believe all the commissioners have  
17 seen those affidavits. I want to make those affidavits part of the record.  
18 So, with that, I find no reason that these permits should not be  
19 approved. Any further discussion or observation?

20 Vice Chairman Coleman I agree with all that and I move that we approve the permits in both  
21 these cases.

22 Commissioner Maginn Second.

23 Cook It's been moved and seconded as it relates to WH49-29980 and WH49-  
24 29981 MKM Beverage, that those applications be approved as



25 submitted, along with the affidavits. Any further discussion? All in  
26 favor say, aye.  
27 Coleman Aye.  
28 Maginn Aye.  
29 Commissioner Grubb Aye.  
30 Cook Aye. Opposed say, no. Motion carries.

