

ALCOHOL AND TOBACCO COMMISSION

July 7, 2020

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

June 16, 2020

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

604 renewals

34 new/transfers

7 catering

85 new/renewal direct wine shippers

61 new/renewal carriers

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

7. Applications for Discussion –

DL53-32075 Bhawani, Inc. – transfer with LB voting 2-1 to approve

RR84-01565 Wabash Valley Hospitality, Inc. – renewal with LB voting 2-2

GR64-30871 Steel Barrel, Inc. – gaming renewal, owner qualifications

DL49-30349 Paragon Supermarkets, Inc. – remand

RH20-30141 Sunny, Inc. – reconsider denial

RR45-34866 Galaxie Properties, LLC – proposed order

RR14-35639 Jimmy's Hobby Shop – proposed order

RR49-04575 3535 West – proposed order

RR49-36287 Taqueria la Chela – proposed order

TC00722001 Winkler, Inc. – proposed order

8. Inactive Files –

6 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Fee Waived Extension Suspension as of 7/1

ALJ Workload Distribution

Round Table Dates – Retailers - 7/21; Non-Package Store Dealers - 8/18; Artisan Distillery - 9/15;  
Wholesalers - TBD; Vintner's Conference - TBD

13. Adjournment

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

JULY 7, 2020

#### **CALL TO ORDER/NOTING OF QUORUM**

Chairman Cook called the meeting to order and noted the quorum and the attendance. Present remotely were Vice Chairman Krauss, Commissioner Maginn and Commissioner Grubb. Industry Liaison Stewart, Prosecutor Harrison, Executive Secretary Allen and Commission Counsel Hyer were remotely.

By consent, the Commission, regarding items on the agenda that require signatures, gave permission for the Chairman to sign and for Kim Chew to initial for the other commissioners.

#### **DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the June 16, 2020 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

#### **PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Chairman Cook stated Prosecutor Harrison submitted 17 Parties' Agreed Dispositions, totaling \$10,850.00 in fines, for the Commission's approval.

The Prosecutor submitted to the commission a summary of Noteworthy Violations, which was made part of the record by consent.

Vice Chairman Krauss moved to approve the PAD forms submitted by the Prosecutor. 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 said staff with the authority of the Commission, and hereby move for approval of same, pending any escrow hearings, 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 application for changes in location, 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 escrow, if

needed, and inclusion of these lists as part of the minutes. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the catering applications. 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.

### **RENEWAL LETTERS AND WAIVERS OF FEES**

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

### **APPLICATIONS FOR DISCUSSION**

DL52-32075 BHAWANI, INC. – Chairman Cook noted this is a transfer application with the local board voting 2-1 to approve.

Commissioner Maginn stated this location is close to the Indiana University campus. The local board made note that they would have preferred the applicant to have more experience with the operation of an alcohol establishment. The previous owners had several problems.

Commissioner Maginn moved to uphold the local board's recommendation to approve this transfer for one year. Commissioner Grubb seconded. The motion was unanimously approved.

RR84-01565 WABASH VALLEY HOSPITALITY, INC. – Chairman Cook noted this is a renewal application with the local board voting 2-2.

Commissioner Maginn stated there have been several violations over the past few years, one being a violation for service to an intoxicated person.

Vice Chairman Krauss stated he is very concerned about the over-serving violation and that if the violation were to occur today, the prosecutor may recommend revocation.

Commissioner Maginn moved to approve a one year renewal, with close observation. Commissioner Grubb seconded. The motion was unanimously approved.

GR64-30871 STEEL BARREL, INC. – Chairman Cook stated this is a gaming endorsement renewal application. The owner of the establishment has two felony convictions for OWI. Pursuant to statute 4-36-4-13, the owner is ineligible to hold a gaming endorsement.

Commissioner Maginn moved to deny the gaming renewal because the owner is not qualified to hold the endorsement. Vice Chairman Krauss seconded. The motion is unanimously approved.

DL49-30349 PARAGON SUPERMARKETS, INC. – Commissioner Maginn stated this permittee was denied renewal for failure to appear before the local board. The Executive Secretary recommended the Commission reconsider the denial and remand the renewal to the local board for one final opportunity to appear.

Commissioner Maginn moved to remand the renewal to the local board for reconsideration. Vice Chairman Krauss seconded. The motion was unanimously approved.

RH20-30141 SUNNY, INC. - Chairman Cook noted the Executive Secretary recommended that the Commission reconsider previous denial.

Commissioner Maginn stated this applicant failed to appear for an escrow hearing and was denied escrow and denied the permit.

Commissioner Maginn moved to uphold the recommendation and allow this applicant one more opportunity to appear for an escrow hearing on August 11, 2020. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR45-34866 GALAXIE PROPERTIES, LLC – Commissioner Maginn stated the Executive Secretary recommended the Commission set aside the previous denial of the renewal. There is an unresolved violation that may have been part of the reason for denial.

Commissioner Maginn moved to uphold the recommendation to set aside the denial and to stay the decision until the violation is resolved. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR14-35639 JIMMY’S HOBBY SHOP, LLC – Commissioner Maginn stated the owner of the permit is facing felony gambling charges. There is a transfer of ownership that is currently under appeal with the ATC that has been continued multiple times, due to the virus. The Executive Secretary recommended the Commission not make the renewal dead if it expires prior to resolving the transfer.

Commissioner Maginn moved to uphold the recommendation to not make the renewal dead until the transfer is resolved. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-04575 3535 WEST, INC. – Commissioner Maginn moved continue this matter until July 21, 2020. Vice Chairman Krauss seconded. The motion was unanimously approve.

RR49-36287 TAQUERIA LA CHELA, LLC – Commissioner Maginn stated this application was denied for failure to appear before the local board. The Executive Secretary recommended the Commission remand the application for one more opportunity to appear at the local board hearing.

Commissioner Maginn moved to uphold the recommendation to remand. Vice Chairman Krauss seconded. The motion was unanimously approved.

TC00722001 WINKLER, INC. – Commissioner Maginn stated this tobacco certificate was revoked for failure to appear for an order to show cause hearing, regarding a violation. The Executive Secretary recommended the Commission set aside the revocation and allow one more opportunity to appear.

Commissioner Maginn moved to uphold the recommendation to set aside the revocation and allow one more opportunity to appear for hearing. Vice Chairman Krauss seconded. The motion was unanimously approved.

### **INACTIVE FILES**

Vice Chairman Krauss moved to make six (6) permits inactive. Six are not subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

No New Business

### **POLICY DETERMINATIONS**

No Policy Determinations

### **ANNOUNCEMENTS**

FEE WAIVED EXTENSIONS - Chairman Cook stated the Commission has been granting all fee waived extensions while our processes have been slowed due to staff limitations and remote work. We are now charging for extensions.

ALJ WORKLOAD DISTRIBUTION - Chairman Cook noted pursuant to the new law regarding administrative law judges and agency hearings, the Commission is taking on the responsibility for those hearings within the agency. Chairman Cook will be handling the business permit appeals. Vice Chairman Krauss will handle the violation appeals. Commissioner Maginn will handle the employee permit appeals and Commissioner Grubb will handle the order to show cause hearings.

NEW APPLICATION FORMS – Chairman Cook stated the ATC will not accept the old forms after October, so please start using the new forms.

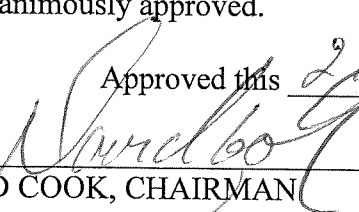
APPOINTMENTS – Chairman Cook stated pursuant to the Governor’s Order, the Government Center is closed to the public, unless you have an appointment. The ATC will abide by that Order and will only take customers by appointment.

ROUND TABLE DISCUSSIONS - Wholesalers - TBD; Vintner’s Conference - TBD; Retailers - TBD; Non-Package Store Dealers - 8/18; Artisan Distillery - 9/15

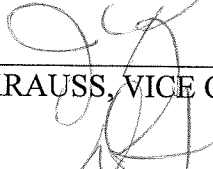
**ADJOURNMENT**

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

Approved this 29<sup>th</sup> day of July, 2020.

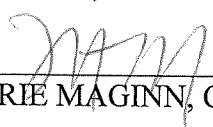


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DAVID COOK, CHAIRMAN



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JOHN KRAUSS, VICE CHAIRMAN

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DALE GRUBB, COMMISSIONER



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MARJORIE MAGINN, COMMISSIONER