

ALCOHOL AND TOBACCO COMMISSION

July 20, 2021

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

July 7, 2021

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

TC10840001 SAR Petroleum – Default Judgment

BR1800330 Kelly Hansen – Findings of Fact and Conclusions of Law

5. Consideration of Applications -

566 renewals

83 new/transfers

17 catering

55 new/renewal direct wine shippers

20 new/renewal carriers

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

7. Applications for Discussion –

RR29-37490 IBeach31 – new with LB voting 4-0 to approve

RR76-13567 Rosemary Elizabeth Sullivan – denied escrow

RR02-37651 Perks Peak, LLC – new with LB voting 3-0 to approve

RR49-08126 Jeh, Inc.

RR18-07268 J. R. Harty

8. Inactive Files –

7 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Roundtable dates – 7/20 wholesalers, 8/17 retailers, 9/21 artisan distillers, 10/19 brewers, TBD farm wineries

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JULY 20, 2021

**CALL TO ORDER/NOTING OF QUORUM**

Chair Allen called the meeting to order and noted the quorum and the attendance. Vice Chairman Krauss, Commissioner Maginn, Commissioner Grubb, Commission Counsel Hyer, Prosecutor Harrison, Executive Secretary Kirkman and Officer Crider were present.

Mark Webb was present as an observer.

**DISPOSITION OF MINUTES**

Vice Chairman Krauss moved to approve the minutes from the July 7, 2021 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Chair Allen stated Prosecutor Harrison submitted 85 Parties' Agreed Dispositions, with fines totaling \$50,600.00, for the Commission's approval.

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**

TC10840001 SAR PETROLEUM – Commissioner Grubb, who served as hearing judge, stated this permittee failed to appear for a prehearing conference and an order to show cause hearing regarding the violations that occurred at this establishment, and he, therefore, moved to revoke the tobacco certificate. Vice Chairman Krauss seconded. The motion was unanimously approved.

BR1800330 KELLY HANSEN - Commissioner Maginn, who served as hearing judge, stated this applicant was denied renewal of an employee permit due to OWI convictions. The applicant requested an appeal, and a hearing was scheduled, however, the applicant failed to appear at the hearing.

Commissioner Maginn moved to uphold the denial. Commissioner Grubb seconded. The motion was unanimously approved.

**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 applications. Commissioner Maginn seconded. The motion was unanimously approved.

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

### **APPLICATIONS FOR DISCUSSION**

RR29-37490 IBEACH31 – Chair Allen noted this is a new application with the local board voting 4-0 to approve. This has been continued by the Commission for several weeks because of floor plan issues. Applicant’s attorney is requesting the permit be approved and placed into escrow while they continue to work out these problems.

Commissioner Maginn moved to uphold the local board’s recommendation to approve the new permit and to place the permit in escrow pending final inspection. Vice Chairman Krauss seconded. The motion was unanimously approved.

RR76-13567 ROSEMARY ELIZABETH SULLIVAN – Chair Allen noted this is a denial of escrow for failure to appear, continued from the last meeting.

Commissioner Maginn stated the permittee sent notice to the Commission saying she had technical difficulties trying to sign-in to the previous escrow hearings and would like another opportunity to appear.

Commissioner Maginn moved to allow one more opportunity to appear for an escrow hearing. Vice Chairman Krauss seconded. The motion was unanimously approved.

Chair Allen noted the escrow hearing date is August 24, 2021.

RR02-37651 PERKS PEAK, LLC – Vice Chairman Krauss noted this is a new application with the local board voting 3-0 to approve. He commended the local board for how this matter was handled.

Vice Chairman Krauss stated this is an established business that applied for an alcohol permit to enhance the current business. There was one remonstrator present who likes the business but is against alcohol being served.

Chair Allen stated there several people present in favor of the permit, which helped to establish need and desire.

Vice Chairman Krauss moved to uphold the local board's recommendation to approve the new permit. Commissioner Grubb seconded. The permit was unanimously approved.

RR49-08126 JEH, INC. – Commissioner Maginn noted renewal of this permit was denied by the Marion County Local Board on July 16, 2020, and the denial was upheld by the Commission on July 21, 2020. No remonstrators were present at the local board hearing, but shootings have occurred at the establishment. The permittee's attorney requested they be allowed to file a transfer of ownership.

Commissioner Maginn moved to remand the renewal to the local board and place the permit in escrow. The commission would like for the local board to decide whether they would consider a transfer of ownership only, at this location. Because it would only be a transfer of ownership, the location could not be a consideration. So, this remand of the renewal is only for the purpose of filing a transfer and not to renew the permit for the current owner to operate. Commissioner Grubb seconded. The motion was unanimously approved.

RR18-07268 J. R. HARTY – Commissioner Maginn noted renewal of this permit was denied by the local board and the Commission upheld the denial. Remonstrators were present at the local board hearing. There have been violations and numerous police calls, shootings, overserving, etc., creating a public nuisance by the owners and the establishment. The permittee's attorney requested they be allowed to transfer the license to a new owner.

Commissioner Maginn moved to deny the request. Vice Chairman Krauss seconded. The motion was unanimously approved.

### **INACTIVE FILES**

Vice Chairman Krauss moved to make seven (7) permits dead that are not subject to auction. Commissioner Grubb seconded. The motion was unanimously approved.

### **OLD BUSINESS**

No Old Business

### **NEW BUSINESS**

No New Business

### **POLICY DETERMINATIONS**

No Policy Determinations

**ANNOUNCEMENTS**

ROUNDTABLE DISCUSSIONS – Chair Allen noted the dates for roundtable discussions: 8/17 retailers, 9/21 artisan distillers, 10/19 brewers, TBD farm wineries will be forthcoming.

A virtual link will be sent closer to the date of the discussion.

**ADJOURNMENT**

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

Approved this 3<sup>rd</sup> day of August, 2021.

  
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JESSICA ALLEN, CHAIR

  
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JOHN KRAUSS, VICE CHAIRMAN

  
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DALE GRUBB, COMMISSIONER

  
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MARJORIE MAGINN, COMMISSIONER