

ALCOHOL AND TOBACCO COMMISSION

January 20, 2021

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

January 5, 2021

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

574 renewals

61 new/transfers

4 catering

4 new direct wine shippers

13 new/renewal carriers

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

7. Applications for Discussion –

CH49-30093 Elegant Events – new with LB voting 3-1 to deny

RR49-36427 Diamonds Direct USA of Indianapolis, Inc. – new with LB voting 4-0 to deny - FTA

RR02-37071 Benji's The Caribbean Spot, LLC – new with LB voting 2-2

RR43-26051 Channel Side, LLC – renewal with LB voting 3-0 to deny

RR45-26553 Mark O's Bar & Grill, Inc. – renewal with LB voting 4-0 to approve - remonstrators

RR15-30265 Poppy, Inc. – Escrow expired, renewals filed

8. Inactive Files –

4 permits not subject to auction

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JANUARY 20, 2021

CALL TO ORDER/NOTING OF QUORUM

Chairman Cook called the meeting to order and noted the quorum and the attendance. Also present virtually were Vice Chairman Krauss, Commissioner Maginn, Commissioner Grubb, Executive Secretary Allen, Prosecutor Harrison, Commission Counsel Hyer, and Sgt. Stewart.

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

DISPOSITION OF MINUTES

Vice Chairman Krauss moved to approve the minutes from the January 5, 2021 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Chairman Cook stated Prosecutor Harrison submitted 103 Parties' Agreed Dispositions, with fines totaling \$43,775.00, 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

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 applications. 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 issued the preceding weeks. Commissioner Grubb seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

CH49-30093 ELEGANT EVENTS – Chairman Cook noted this is a new application with the local board voting 3-1 to deny.

Commissioner Maginn stated this location has been open as a catering hall since 2019. Scheduled events used outside caterers for alcoholic beverage service. The applicant applied for the permit so outside caterers would not have to be used. One remonstrator, who is a pastor of a church in the same strip mall as this applicant, said the location was used heavily during the last year. Lots of trash, including alcohol bottles, syringes and spent bullets, would be present in the parking lot on Sunday mornings. Also, during COVID-19 restrictions, closing was to be at midnight, but the business was open after midnight. Hookah was advertised for some events, but the location does not have tobacco certificate.

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

RR49-36427 DIAMONDS DIRECT USA OF INIANAPOLIS, INC. – Chairman Cook noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn moved to uphold the local board's recommendation to deny the new permit for failure to appear. Commissioner Grubb seconded. The motion was unanimously approved.

RR02-37071 BENJI'S THE CARIBBEAN SPOT, LLC – Chairman Cook noted this is a new application with the local board voting 2-2.

Commissioner Maginn stated this applicant indicated the business would be open 3 days a week and only for persons over the age of 21. Remonstrators present stated they did not desire to have another alcohol establishment in the area. There are several homes, schools and parks close to this location. Also, the remonstrators feel like the business was operational prior to this license being issued.

Vice Chairman Krauss stated the remonstrators were very articulate in statements about their concerns regarding the business. He also mentioned that remonstrators testified that it appeared women were soliciting outside of the business.

Chairman Cook was impressed with the remonstrator's presentation of their concerns with this business.

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

RR43-26051 CHANNEL SIDE, LLC – Chairman Cook noted this is a renewal with the local board voting 3-0 to deny. The Chairman made note of petitions he received a couple of days ago that were not presented to the local board. The petition does not state a clear purpose of the petition and only has a listing of names and cities, but no addresses. It will not be considered by the Commission.

Commissioner Maginn stated there was an incident at the bar where a 20-year-old was served and over the course of time he was there, displayed signs of intoxication, but was served. After leaving the bar, he later fell, hit his head, and died. Remonstrators presented a very compelling case showing the business failed to do enough to prevent this young man from entering the business and being served.

Vice Chairman Krauss stated he thought the remonstrators were very convincing in their testimony about not allowing the renewal of this permit.

Chairman Cook stated the young man, Ty Brown, had a BAC of .21, which is more than a little over the legal limit. Excise reviewed a videotape from that evening and reported there were clear signs of intoxication presented by this man.

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

RR45-26553 MARK O'S BAR & GRILL, INC. – Chairman Cook noted this is a renewal with the local board voting 4-0 to approve.

Commissioner Maginn stated there have been a large number of police runs to this location over the last few years. In the last year, the bar owner and the Munster Police Department got together to discuss things the bar could do to help reduce the problems. Some of the suggestions were to have cameras in the parking lot, signs stating no weapons, enhanced security, more police presence at closing, earlier closing times, no drink specials, and no last call.

Commissioner Maginn moved to uphold the local board's recommendation to approve the renewal.

Vice Chairman Krauss noted this establishment has had problems but has had no violations of the alcohol laws. He recommended a one-year renewal.

Commissioner Grubb agreed with the one-year renewal to give the business time to prove they are serious about controlling the issues that have been occurring over the last few years.

Commissioner Maginn amended her motion to uphold the local board's recommendation and approve the renewal, but for 1 year only. Commissioner Grubb seconded. The motion was unanimously approved.

RR15-30265 POPPY, INC. – Commissioner Maginn stated this permit was placed in escrow in 2014. Per statute, the permit had to be transferred or put in to use by June 30, 2020, otherwise the permit would revert to the Commission. Renewals were filed, however, the permit was not put into use or transferred by June 30, 2020.

Commissioner Maginn moved to deny processing the renewal because it reverted to the Commission per statute. Vice Chairman Krauss seconded. The motion was unanimously approved.

INACTIVE FILES

Vice Chairman Krauss moved to make four permits inactive. All four permits are not subject to auction. Commissioner Grubb seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

ANNOUNCEMENTS

Chairman Cook stated the Alcohol and Tobacco Commission will be back open to the public on Thursday, January 21, 2021.

ADJOURNMENT

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

Approved this 2nd day of February, 2021.



DAVID COOK, CHAIRMAN



JOHN KRAUSS, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER