

ALCOHOL AND TOBACCO COMMISSION
MAY 17, 2022
10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

May 4, 2022

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

RR41-32657 Johnson's BQ Shack, LLC – Proposed Findings of Fact

TC11942001 Various Variety Store – Proposed Findings of Fact

5. Consideration of Applications -

593 renewals
81 new/transfers
10 catering
47 new/renewal carriers
43 new/renewal direct wine sellers
4 renewal e-liquids

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

7. Applications for Discussion –

RR76-38447/RR76-38448 Angola Beverages, LLC – transfer with LB voting 3-0 to approve

RR49-38232 CCJ Corporation – new with LB voting 4-0 to deny

RR84-38705 GM Barrett, Inc. – requesting catering hall designation

WH4930104 & WH4930105 - Indiana Beverage Wholesaler LLC

8. Inactive Files –

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

6/30/2022 Escrow Drop Dead Date – Permits need to be made active/transfer submitted by the drop-dead date.

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MAY 17, 2022

CALL TO ORDER/NOTING OF QUORUM

Chair Allen called the meeting to order and noted the quorum and the attendance. Vice Chairman Payne, Commissioner Maginn, Commissioner Grubb, Executive Secretary Kirkman, General Counsel Merritt, and Prosecutor Wignall were present.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the May 4, 2022 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Payne moved to approve the Parties' Agreed Dispositions, submitted by Prosecutor Wignall. There were 49 dispositions with fines totaling \$23,300.00. Commissioner Grubb seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR41-32657 JOHNSON'S BBQ SHACK, LLC – Chair Allen, who served as hearing judge, stated this permit was issued, in error, prior to the Commission receiving the Form 1. The permittee has been notified of this and was informed the Form 1 must be submitted. Because the permittee did not comply, the matter was set for an Order to Show Cause hearing. The permittee failed to appear at the hearing. Chair Allen submitted her Findings of Fact and Conclusions of Law for the Commission's consideration.

Commissioner Maginn moved to uphold the Hearing Judge's recommendation to revoke the permit for failure to meet qualifications to hold the permit, which includes the underlying permit and the catering authority. Commissioner Grubb seconded. The motion was unanimously approved.

TC11942001 VARIOUS VARIETY STORE - Vice Chairman Payne, who served as hearing judge, stated this permittee was cited for a violation. The permittee failed to appear for the settlement conference and has failed to settle the matter. Numerous attempts have been made to contact the permittee to get this matter settled. The matter was set for an Order to Show Cause hearing and the permittee failed to appear. The Vice Chairman now submits Proposed Findings of Fact and Conclusions of Law for the Commission's consideration.

Commissioner Grubb moved to uphold the Hearing Judge's recommendation to revoke the permit. Commissioner Maginn 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 seller applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the renew e-liquid applications. Commissioner Maginn seconded. The motion was unanimously approved.

RENEWAL LETTERS AND WAIVERS OF FEES

Commissioner Maginn 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

RR76-38447/RR76-38448 ANGOLA BEVERAGES, LLC – Chair Allen noted this is a transfer of a type 303 underlying and a type 210-1 permit with the local board voting 3-0 to approve.

Commissioner Maginn stated over 20 years ago, the Commission erroneously allowed wine only permits (type 303) to be used as the underlying permits for 210-1s. The permits that were issued were grandfathered. Since that time, there have been memos and a non-rule policy (#16) that addressed this issue stating this practice was wrong. So, that is no longer allowed. However, in those memos and non-rule policy, nothing addressed the issue regarding transferring the permits that were issued in error.

Commissioner Maginn moved to uphold the local board's recommendation to approve the transfer because this particular issue was not previously addressed by the Commission, and it would not be fair to the permittee to deny this request without notice. Vice Chairman Payne seconded. The motion was unanimously approved.

Chair Allen stated after reviewing our records, it was determined that there are 12 type 210-1 permits issued with a type 303 as the underlying permit. There are 8 of those in jurisdictions that have beer only or beer and wine permits available. The underlying permits in those jurisdictions will be changed to a correct underlying permit type.

RR49-38232 CCJ CORPORATION- Chair Allen noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated the application was originally approved, but was referred back to the local board. The applicant has numerous criminal convictions and failed to disclose them on the application and before the local board. The local board recommended denial based on high and fine reputation.

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

RR84-38705 GM BARRETT, INC.- Chair Allen noted the permittee is requesting permission to be designated as a catering hall.

Commissioner Maginn moved to approve the request to designate this permittee as a catering hall. Commissioner Grubb seconded. The motion was unanimously approved.

WH49-30104 & WH49-30105 INDIANA BEVERAGE WHOLESALER LLC- Chair Allen noted that the Commission would discuss these new permit applications separately.

Commissioner Maginn stated permit #WW49-30104 is a new wholesaler application. There was concern about the owner holding a salesman permit for another company. That salesman permit was relinquished.

Commissioner Maginn moved to approve the new permit. Vice Chairman Payne seconded. The motion was unanimously approved.

Commissioner Maginn stated the Commission received letters concerning whether there may be a prohibited interest with this application. The attorney representing this applicant sent a letter stating there was no prohibited interest. The Commissioner would like for the applicant to provide an affidavit stating there is no undisclosed interest with the permits.

Commissioner Maginn moved to continue this to the next meeting and to have Executive Secretary Kirkman contact the applicant to get this affidavit on file. Vice Chairman Payne seconded. The motion was unanimously approved.

Attorney Jeff McKean stated he had the owner with him and asked to be heard, which is not standard practice of the Commission. Chair Allen stated we have a motion and second regarding the matter and that our attorneys would be in touch with him and his client.

INACTIVE FILES

No Inactive Files

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

6/30/2022 ESCROW DROP DEAD DATE – Chair Allen stated that permittees who have 6/30/2022 as a drop-dead for their escrowed permits must have the permit put into use, or a valid transfer on file by that drop-dead date. The Chair noted that waiting until the last minute is risky. If a transfer is filed and is denied, there will not be another opportunity to file another transfer. She also stated if applicants should contact Excise to schedule the final inspections to make sure those are completed timely.

NEW APPLICATION FORMS – Chair Allen stated there are new forms for new/renewal permits on the website. Please begin using the new forms now. The last day to use the old forms is August 17, 2022.

ADJOURNMENT

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

Approved this 7th day of June, 2022.



JESSICA ALLEN, CHAIR



JIM PAYNE, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER