

ALCOHOL AND TOBACCO COMMISSION
JUNE 7, 2022
10:00 A.M.

1. Call to Order and Noting of Quorum –
2. Disposition of Minutes –
 May 17, 2022
3. Prosecutor’s Recommendations –
 PAD Forms
4. Hearing Judge’s Recommendations –
 RR49-06236 1711 Corp. – Proposed Findings of Fact
 MM49-30303 Heartland Distillers, LLC - Proposed Findings of Fact
 BR1812024 Ethan Rodgers - Proposed Findings of Fact
 BR1744295 Shelbi Kristina Henry - Proposed Findings of Fact
5. Consideration of Applications -
 443 renewals
 68 news/transfers
 9 catering
 21 new/renewal carriers
 49 new/renewal direct wine sellers
6. Renewal Letters and Waivers of Fees for Letters of Extension -
7. Applications for Discussion –
 WH49-30105 - Indiana Beverage Wholesaler LLC
 RR41-32657 Johnson’s BBQ Shack, LLC – reconsideration of revocation
 Applicant #3615116 Tha Drive Thru – new tobacco certificate applicant
 DL88-30370 Apples Tree Top Liquor LLC – requesting reactivation
 RR82-38236 B. Lanae Salon, LLC – new with LB voting 3-0 to deny. FTA
8. Inactive Files –
 2 permits not subject to auction
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

JUNE 7, 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 17, 2022 meeting. Commissioner Maginn 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 40 dispositions with fines totaling \$25,950.00. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR49-06236 1711 CORP. – Chair Allen, who sat as hearing judge in this matter, noted this began with a Settlement Agreement with the prosecutor to file a transfer of the permit within 45 days of approval of the Agreement. Transfer was filed, but was denied by the local board and Commission. No appeal was filed. A renewal and new transfer were filed and approved by the local board and Commission. The Commission rescinded the approval stating the transfer cannot be approved based on the terms of the Agreement and an appeal was filed. Chair Allen now submits Proposed Findings of Fact and Conclusions of Law for the Commission's consideration.

Commissioner Maginn moved to uphold the Hearing Judge's recommendation to overturn the denial and approve the renewing of the permit and the filing of a transfer. Commissioner Grubb seconded. The motion was unanimously approved.

MM49-30303 HEARTLAND DISTILLERS, LLC - 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 violation. Numerous attempts have been made to contact the permittee to get this 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.

BR1812024 ETHAN RODGERS – Commissioner Maginn, who sat as Hearing Judge, stated this applicant for an employee permit was denied due to the fact that he was not eligible to hold the permit because of OWI convictions. The applicant appealed the denial, and the matter was set for hearing. Commissioner Maginn now submits her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Payne moved to adopt the Proposed Findings and deny the employee permit. Commissioner Grubb seconded. The motion was unanimously approved.

BR1744295 SHELBI KRISTINA HENRY - Commissioner Maginn, who sat as Hearing Judge, stated this applicant for an employee permit was denied due to the fact that she was not eligible to hold the permit because of OWI convictions. The applicant appealed the denial, and the matter was set for hearing. Commissioner Maginn now submits her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Payne moved to adopt the Proposed Findings and deny the employee permit. 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.

Two additional permits were added to the New/Transfer list – MM0930626 and RR4938668

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.

RENEWAL LETTERS AND WAIVERS OF FEES

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

APPLICATIONS FOR DISCUSSION

WH49-30105 INDIANA BEVERAGE WHOLESALER LLC - Chair Allen noted this matter was continued from the last meeting.

Commissioner Maginn stated the Commission received the affidavit from the owner stating there is no undisclosed prohibited interested.

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

RR41-32657/RR41-32656/CT41-31592 JOHNSON'S BBQ SHACK, LLC – Chair Allen stated these permits were revoked at the last meeting because the permittee failed to submit the Form 1 Property Tax Clearance showing payment of property taxes and failed to respond to the Commission repeatedly when asked to do so. After the last meeting, the permittee provided the Property Tax Clearance Form.

Commissioner Maginn moved to reactivate the permits. Vice Chairman Payne seconded. The motion was unanimously approved.

APPLICANT #3615116 THA DRIVE THRU – Chair Allen noted this is an application for a new tobacco certificate with Prosecutor Wignall recommending denial.

Commissioner Maginn stated this application is tied to a revoked tobacco certificate. After the owner failed to appear at a settlement conference, failed to settle a violation and failed to appear at an Order to Show Cause Hearing, the Commission revoked Tobacco Certificate #TC11942001 Various Variety Store. Prosecutor Wignall notified owner Mz Gwen of the revocation, and she informed him she had already applied for a new certificate, which is Applicant #3615116 Tha Drive Thru.

Commissioner Maginn moved to uphold the Prosecutor's recommendation to deny the new certificate. Vice Chairman Payne seconded. The motion was unanimously approved.

DL88-30370 APPLES TREE TOP LIQUOR, LLC – Chair Allen noted this is an expired permit that was made dead. The Commission received a request for the permit to be reactivated. The attorney for the permittee, prior to the beginning of the meeting, asked that the matter be continued to allow time for the permittee to submit a statement from his doctor addressing issues discussed in the correspondence provided to the Commission.

Commissioner Maginn stated she is becoming very frustrated with permittees who fail to comply with the rules after numerous opportunities given to them by the Commission and wait until either the last minute or when the situation becomes dyer and make a plea to the Commission for help.

Vice Chairman Payne agreed with Commissioner Maginn's statements.

Commissioner Maginn moved to continue this until the June 21, 2022 meeting. Vice Chairman Payne seconded. The motion was unanimously approved.

RR82-38236 B. LANAE SALON, LLC – Chair Allen noted this is a new application with the local board voting 3-0 to deny for failure to appear.

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

RR71-34626 NIEMIEC INVESTMENTS INC. – By consent, the Commission added this permit to the agenda. Permit was denied escrow after two failures to appear at an escrow hearing.

Commissioner Maginn stated the permittee requested another opportunity to be heard at an escrow hearing. Permittee also stated they believe there is a buyer for the permit.

Commissioner Maginn moved to grant another opportunity to appear for an escrow hearing. Vice Chairman Payne seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make two permits dead that 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

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.

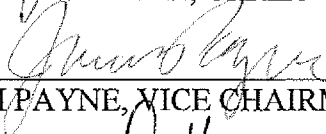
ADJOURNMENT

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

Approved this 21st day of June, 2022.



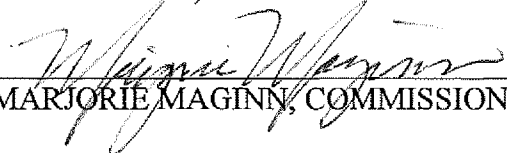
JESSICA ALLEN, CHAIR



JIM PAYNE, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER