

MINUTES

ALCOHOL AND TOBACCO COMMISSION

JANUARY 15, 2013

CALL TO ORDER/NOTING OF QUORUM

Chairman Huskey called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson, Commissioner Sturtz and Commissioner Grubb. Also in attendance were Superintendent Strittmatter and Executive Secretary Kowalski.

Diane Masariu, Matt Brase, Rob Hicks, Marc Carmichael, Debbie Rolfsen, Greg Genrich, Connie Vickery, Jane Gentry, Mark Webb, and Bart Herriman were present as observers.

DISPOSITION OF MINUTES

Commissioner Sturtz moved to approve the minutes that were submitted for the January 2, 2013 meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Hearing Judge Kowalski recommended the Commission approve the parties' agreed dispositions that were submitted for the January 15, 2013 meeting.

Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted. Commissioner Sturtz seconded. The motion was unanimously approved.

DL43-29022 NIRMAL PETROLEUM, INC. – Hearing Judge Kowalski stated an appeal hearing was held regarding the denial of this application. Only one remonstrator appeared before the local board. The remonstrator stated she would continue to shop at this establishment with or without the alcohol sales, but she does not drink alcohol and would prefer it not to be sold in this establishment. The Hearing Judge mentioned the local board stated it has a policy to not recommend approval for permits in gas stations, even though the board has been found to be arbitrary and capricious in the past for those recommendations. Hearing Judge Kowalski now submits his Findings of Fact and Conclusions of Law for consideration by the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation to approve this permit. Commissioner Sturtz seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits for renewal, either with or without a quorum at the local board meeting, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for a new permit, or applications for changes in location or ownership or both of existing permits, which have been recommended by local boards and reviewed by at least two Commissioners. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permit applications for catering. Vice Chairman Johnson seconded. The motion was unanimously approved.

Commissioner Sturtz moved to approve and incorporate by reference these lists of permits to be placed in escrow for not more than five years, which have been reviewed and recommended by a Commissioner as appropriate for escrow. Vice Chairman Johnson seconded. The motion was unanimously approved.

Four hundred twenty-five (425) permits approved for renewal, fifty-nine (59) new and/or transfer permits approved, one (1) permit approved for catering, four (4) permits approved for first year escrow, six (6) permits approved for second year escrow, four (4) permits approved for third year escrow, one (1) permit approved for fourth year escrow and three (3) permits approved for fifth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal and fee waived letters of extension for the preceding weeks. Commissioner Grubb seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR75-29056 SKY PETROLEUM, INC. – Vice Chairman Johnson noted this is a new type 209 application with the local board voting two (2) to one (1) to approve.

Vice Chairman Johnson stated no explanation was given for the recommendation to disapprove.

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

DL49-05958 ROQUIL, INC. – Vice Chairman Johnson noted this renewal was tabled at the last due to pending issues with this permit. The Vice Chair made note that there is a transfer of ownership scheduled to go before the local board on January 21, 2013.

Vice Chairman Johnson moved to table this renewal again, until such time as the transfer comes before the Commission. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

No Inactive Files.

OLD BUSINESS

No Old Business.

NEW BUSINESS

RR84-95179 JAMES G. NICOSON – Vice Chairman Johnson noted after this permit was acquired it was put into escrow while renovations were being made to the building where the permit was going to be placed. It had been in escrow for three years without being put into use, so the Commission made the permit inactive. The Vice Chairman stated a request was received by the Commission to reactivate this permit and continue the escrow while the renovations are ongoing.

Vice Chairman Johnson moved to deny this request. Commissioner Sturtz seconded. The motion was unanimously approved.

DL21-11519 DRULEY ENTERPRISES, INC. – Vice Chairman Johnson noted this permittee requested and was granted 6th year escrow in January 2012. The Vice Chairman stated the Commission recently received a transfer of location, but not a request for 7th year escrow. As of this date, there is no definite date as to when the permittee will be ready to open the business.

Executive Secretary Kowalski also wanted to make note that in the request for 6th year escrow the permittee stated they were ready to move to a new location and begin operating the business. However, the permittee did not move and open the business.

Vice Chairman Johnson moved to deny the additional escrow and not process the transfer because of continuing delays. Commissioner Sturtz seconded. The motion was unanimously approved.

RR02-03638 TS & MJ, INC. – Vice Chairman Johnson noted this permit expired in July 2010 and was made inactive in January 2012. Renewals have not been filed since 2009. The permittee requests the Commission reactivate this permit.

Vice Chairman Johnson moved to deny the request to reactivate the permit. Commissioner Sturtz seconded. The motion was unanimously approved.

REVOCATION OF EMPLOYEE PERMITS – Vice Chairman Johnson stated the following permittee was convicted of a disqualifying crime after his employee permit was issued: Dean Tanner, Jr., permit #BR11733955.

Vice Chairman Johnson stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

Vice Chairman Johnson moved to uphold the recommendation of Officer Swallow and revoke the employee permit. Commissioner Sturtz seconded. The motion was unanimously approved.

POLICY DETERMINATIONS

PROPOSED AMENDED SERVER TRAINING RULE – Executive Secretary Kowalski submitted for adoption an amendment to the server training notice of intent to adopt a rule that would allow for online training that does not require having a program director present.

Vice Chairman Johnson moved to adopt. Commissioner Grubb seconded. The motion was unanimously approved.

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Sturtz moved to adjourn the meeting. Commissioner Grubb seconded. The motion was unanimously approved.

Approved this _____ day of _____, 2013.

ALEX HUSKEY, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

DALE GRUBB, COMMISSIONER