

MINUTES

ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 8, 2011

CALL TO ORDER/NOTING OF QUORUM

Chairman Massa called the meeting to order and noted the quorum and the attendance. Present were Vice Chairman Johnson and Commissioner Guthrie. Executive Secretary Dunsmore and Superintendent Huskey were also in attendance.

Nicole Oprisu, Tim Oprisu, Andi Metzler, Alex Intermill, Susan Smith, Sue Wright, Clarke Kahlo, John Rising-Moore, Debbie Rolfsen, Bart Herriman, Mary Walker, and Greg Genrich were present as observers.

DISPOSITION OF MINUTES

Commissioner Guthrie moved to approve the minutes that were submitted for the January 18, 2011 meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Vice Chairman Johnson moved to approve the parties' agreed dispositions that were submitted for the February 8, 2011 meeting. Commissioner Guthrie seconded. The motion was unanimously approved.

RR45-01676 F & F, INC., D/B/A DODO'S FIREHOUSE TAP – Vice Chairman Johnson moved to approve the Parties' Agreed Disposition in this matter. Commissioner Guthrie seconded. The motion was unanimously approved.

Hearing Judge Dunsmore stated this renewal application was recommended to be denied by the Lake County Local Board. The Commission upheld the recommendation. The applicant filed a timely notice of appeal and the matter was set for hearing. The Hearing Judge now submits his proposed findings of fact and conclusions of law for recommendation to the Commission.

Vice Chairman Johnson moved to uphold the Hearing Judge's recommendation and approve the renewal. Commissioner Guthrie seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permits for renewal, which have been recommended by local boards and reviewed by our staff with the authority of the Commission. Commissioner Guthrie seconded. The motion was unanimously approved.

Vice Chairman Johnson moved to approve and incorporate by reference these lists of permit applications for a new permit, which includes the tabled applications, 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. Commissioner Guthrie seconded. The motion was unanimously approved.

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

Vice Chairman Johnson 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. Commissioner Guthrie seconded. The motion was unanimously approved.

Four hundred eighty-seven (487) permits approved for renewal, forty-three (43) new and/or transfer permits approved, four (4) permits approved for catering, eleven (11) permits approved for first year escrow, four (4) permits approved for second year escrow, three (3) permits approved for third year escrow, and one (1) permit approved for fourth year escrow.

RENEWAL LETTERS AND WAIVER OF FEES

Vice Chairman Johnson moved to approve the renewal letters and the waiver of fees for letters of extension for the preceding weeks. Commissioner Guthrie seconded. The motion was unanimously approved.

APPLICATIONS FOR DISCUSSION

RR64-27478 GOODRICH QUALITY THEATERS, INC. - Commissioner Guthrie noted this is a new type 112 application with the local board voting four (4) to zero (0) to disapprove.

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

RR49-27354 FIRKINS, LLC - Commissioner Guthrie noted this is a new type 112 application with the local board voting four (4) to zero (0) to approve.

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

DL44-27490 GASAMERICA SERVICES, INC. - Commissioner Guthrie noted this is a new type 115 application with the local board voting three (3) to zero (0) to disapprove. The Commissioner stated this location is in Shipshewana, Indiana.

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

RR71-00532 CHRISTOPHER RUSSELL - Commissioner Guthrie noted this is a type 210 renewal application with the local board voting three (3) to one (1) to approve.

Commissioner Guthrie moved to uphold the local board's recommendation and approve the renewal. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR49-23321 AREA PROPERTY INVESTMENTS, LLC, D/B/A URBAN ELEMENTS – Commissioner Guthrie moved to table this matter to give the Commission more time to review the file. Vice Chairman Johnson seconded. The motion was unanimously approved.

RC02-00467 FORT WAYNE ELKS LODGE #155 - Commissioner Guthrie stated the permittee is requesting this type 211-3 permit be converted to a type 211-1, due to annexation into the city limits.

Commissioner Guthrie moved to approve the conversion. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR49-08536 WORKING TITLE, LLC – Commissioner Guthrie noted this is a type 210 renewal application and transfer of ownership and location application with the local board voting three (3) to one (1) to approve.

Chairman Massa stated this matter was continued from a previous meeting to allow further analysis. Attorneys for both sides submitted a memorandum, which has been read by each Commissioner. The Chairman also stated Melissa Coxe, staff attorney, also submitted her analysis of the issues regarding these applications.

Commissioner Guthrie moved to uphold the local board’s recommendation to approve the renewal and transfers of this permit. Vice Chairman Johnson seconded. The motion was unanimously approved.

Chairman Massa explained that with the deference the statute affords the local board, he could find nothing to compel the Commission to overturn the local recommendation.

INACTIVE FILES

INACTIVE FILES- Vice Chairman Johnson moved to make eleven (11) permits inactive. Nine (9) permits are not subject to auction and two (2) permits are subject to auction. Commissioner Guthrie seconded. The motion was unanimously approved.

RR12-24055 TIMOTHY AND BETTY SNELL - Commissioner Guthrie stated this permit was made inactive. The permittee requests the Commission reactivate the permit. There is a buyer for the permit.

Commissioner Guthrie moved to approve the reactivation, pending all paperwork that is due is filed and all fees paid. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR64-19336 & 19337 JOE A. RICCIARDI – Commissioner Guthrie stated this permit was made inactive. The permittee has been on active duty in Iraq, and; therefore, missed deadlines for filing paperwork and paying fees. The permittee requests the Commission reactivate this permit.

Commissioner Guthrie moved to approve the reactivation. Vice Chairman Johnson seconded. The motion was unanimously approved.

OLD BUSINESS

GR02-25675 BILLY’S DUGOUT, LLC - Commissioner Guthrie stated the permittee requests the Commission allow a gaming endorsement at this establishment. The owner has been convicted of a class D felony and is currently on probation. The Commissioner noted the Commission has the discretion to allow, or not allow a gaming endorsement, with a felony conviction.

Commissioner Guthrie moved to deny this request, while the permittee remains on probation. Vice Chairman Johnson seconded. The motion was unanimously approved.

NEW BUSINESS

2010 ANNUAL INDIANA STATE EXCISE POLICE REPORT – Superintendent Huskey submitted the Indiana State Excise 2010 Annual Report to the Commission for their approval. One thing in particular the Superintendent pointed out was that over 9,000 compliance checks (SAC) were conducted in 2010, with 91% of the permittees refusing to make the sale.

Commissioner Guthrie moved to accept and approve the report. Vice Chairman Johnson seconded. The motion was unanimously approved.

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

No Announcements

ADJOURNMENT

Commissioner Guthrie moved to adjourn the meeting. Vice Chairman Johnson seconded. The motion was unanimously approved.

Approved this _____ day of _____, 2011.

MARK S. MASSA, CHAIRMAN

DAVID JOHNSON, VICE CHAIR

DALE STURTZ, COMMISSIONER

FRANK GUTHRIE, COMMISSIONER