

MINUTES

ALCOHOL AND TOBACCO COMMISSION

OCTOBER 16, 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 and Commissioner Grubb. Also in attendance were Superintendent Strittmatter and Officer Bedwell.

Matt Brase, Lisa McKinney, Marc Carmichael, Jim Purucker, Jane Gentry, Debbie Brown, Alex Intermill, Ron Breymer, Bart Herriman, Mark Webb and Diane Masariu were present as observers.

**DISPOSITION OF MINUTES**

Commissioner Grubb moved to approve the minutes for the September 17, 2013 and October 1, 2013 meetings. Vice Chairman Johnson seconded. The motion was unanimously approved.

**PROSECUTOR'S RECOMMENDATIONS**

PARTIES' AGREED DISPOSITIONS – Commissioner Grubb moved to approve the PAD forms that were submitted. Vice Chairman Johnson seconded. The motion was unanimously approved.

**HEARING JUDGE'S RECOMMENDATIONS**

RR84-95179 JAMES NICOSON – Commissioner Grubb stated this permittee appealed the Commission's previous decision to deny an escrow request.

Commissioner Grubb moved to uphold Hearing Judge Coxey's recommendation to allow for additional escrow, due to the fact that the permit was transferred to him in 2010, so he was not given the opportunity to have the possible five years of escrow granted to him. Vice Chairman Johnson seconded. The motion was unanimously approved.

RR49-28781 SKYFALL LOUNGE, LLC – Commissioner Grubb moved to uphold the recommendation of Hearing Judge Coxey to remand this transfer of location to the local board for reconsideration of the location for need and desire, not for fitness of permittee because the permit was previously transferred to this permittee. Vice Chairman Johnson seconded. The motion was unanimously approved.

DL14-29013 DOLGENCORP, LLC – Commissioner Grubb moved to uphold the recommendation of Hearing Judge Coxey to deny this new application. The recommendation of the local board was not arbitrary and capricious and; therefore, should be upheld. Vice Chairman Johnson 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, 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. Commissioner Grubb 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, 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 Grubb seconded. The motion was unanimously approved.

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

Five hundred forty-four (544) renewals approved, seventy-one (71) new and/or transfer applications approved, four (4) catering applications approved, two (2) permits approved for first year escrow, three (3) permits approved for second year escrow, two (2) permits approved for third year escrow and one (1) permit approved for fourth year escrow.

## **RENEWAL LETTERS AND WAIVER OF FEES**

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

## **APPLICATIONS FOR DISCUSSION**

RR40-02918 MICHAEL R. MARSHALL COMPANY – Vice Chairman Johnson noted this is a matter of renewal where the permittee pleaded guilty to three counts of voter fraud, a class D felony. He is currently on probation. At the end of probation, the felonies will be reduced to misdemeanors.

Vice Chairman Johnson moved to table this matter until the permittee provides proof that probation has been completed and the felonies have been reduced to misdemeanors. Commissioner Grubb seconded. The motion was unanimously approved.

DL82-29982 CO-OP LIQUOR CO-OP INC. – Vice Chairman Johnson noted this is a transfer of ownership with the local board voting three (3) to one (1) to disapprove.

Vice Chairman Johnson stated there were numerous remonstrators present at the local board meeting, who did not challenge the owner's character or fitness to hold this permit. The location has been a liquor store for 40 years.

Chairman Huskey stated he received numerous calls from remonstrators that only were concerned with location becoming a “super” liquor store and not anything concerning the owner’s character.

Vice Chairman Johnson moved to overturn the local board and approve the transfer of ownership. Commissioner Grubb seconded. The motion was unanimously approved.

DL46-26518 SKYGROUP, INC. – Vice Chairman Johnson noted this is a renewal application with the local board voting three (3) to zero (0) to disapprove.

Vice Chairman Johnson moved to uphold the local board’s recommendation to deny the renewal. Commissioner Grubb seconded. The motion was unanimously approved.

RR28-30090 #1 ASIAN BUFFET, INC. – Vice Chairman Johnson noted this is a new application with the local board voting four (4) to zero (0) to disapprove.

Vice Chairman Johnson moved to uphold the local board’s recommendation to deny the new application. Commissioner Grubb seconded. The motion was unanimously approved.

RR08-98132 CARROLL COUNTY COUNTRY CLUB, INC. – Vice Chairman Johnson noted this renewal was remanded at the last meeting in error. It was sent to the Commission for approval.

Vice Chairman Johnson moved to rescind the remand and approve the renewal. Commissioner Grubb seconded. The motion was unanimously approved.

### **INACTIVE FILES**

No Inactive Files

### **OLD BUSINESS**

INVENTORY REDUCTION PROCESS – Chairman Huskey stated that Jim Calvert withdrew his request for approval.

### **NEW BUSINESS**

#### **REVOCAION OF EMPLOYEE PERMITS**

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Jessie J. Wright, permit #BR1753643. Mr. Wright is on probation for 720 days and will not be eligible to hold an employee permit until September 22, 2015.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Chad M. Lombardo, permit #BR1727371. Mr. Lombardo will not be eligible to hold an employee permit until March 29, 2016.

Commissioner Grubb stated after conducting an investigation of the permittee, Senior Officer Rich Swallow recommended the Commission revoke the permit.

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

### **POLICY DETERMINATIONS**

READOPTION OF RULES – LSA DOCUMENT #13-360F – Chairman Huskey stated the following rules are up for readoption: 905 IAC 1-1-1, 905 IAC 1-5.1, 905 IAC 1-5.2, 905 IAC 1-7.1-1, 905 IAC 1-9-5, 905 IAC 1-10, 905 IAC 1-12.1, 905 IAC 1-13, 905 IAC 1-14, 905 IAC 1-15.2, 905 IAC 1-15.3-1, 905 IAC 1-16.1-3, 905 IAC 1-17, 905 IAC 1-18, 905 IAC 1-20-1, 905 IAC 1-21-1, 905 IAC 1-26, 905 IAC 1-27, 905 IAC 1-29-8, 905 IAC 1-30, 905 IAC 1-31, 905 IAC 1-32.1, 905 IAC 1-33.1-1, 905 IAC 1-34, 905 IAC 1-35, 905 IAC 1-36, 905 IAC 1-37, 905 IAC 1-38.

Commissioner Grubb moved to readopt the rules. Vice Chairman Johnson seconded. The motion was unanimously approved.

### **ANNOUNCEMENTS**

No Announcements.

### **ADJOURNMENT**

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

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

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ALEX HUSKEY, CHAIRMAN

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DAVID JOHNSON, VICE CHAIRMAN

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DALE GRUBB, COMMISSIONER

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MELISSA COXEY, COMMISSIONER