

MINUTES

ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 19, 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 Coxey and Commissioner Grubb. Also in attendance were Executive Secretary Rothenberg, Superintendent Strittmatter, Prosecutor Drewry and Officer Bedwell.

Matt Brase, Lisa McKinney, Marc Carmichael, Rob Laux, Peggy Laux, Autumn Seprodi, Jeff McKean, Greg Genrich, Alex Intermill, Mark Webb and Diane Masariu were present as observers.

DISPOSITION OF MINUTES

Commissioner Grubb moved to approve the minutes for the November 5, 2013 meeting. Commissioner Coxey seconded. The motion was unanimously approved.

PROSECUTOR'S RECOMMENDATIONS

PARTIES' AGREED DISPOSITIONS – Prosecutor Drewry recommended the Commission approve the PAD forms that were submitted for the November 19, 2013 meeting.

Commissioner Grubb moved to approve the PAD forms that were submitted. Commissioner Coxey seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

DL71-06587 K & B BEVERAGES – Commissioner Coxey stated this was an appeal of the local board's recommendation to deny the renewal of a permit. The only remonstrator present at the local board meeting was a local board member who was only using notes that were taken previously. No new violations have occurred since the last local board recommendation to approve a renewal. After conducting an appeal hearing, she recommended the Commission overturn the local board and approve the permit.

Commissioner Grubb moved to uphold Commissioner Coxey's recommendation. 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.

Four hundred sixty-two (462) renewals approved, sixty-three (63) new and/or transfer applications approved, one (1) catering application approved, three (3) permits approved for first year escrow, five (5) permits approved for second year escrow, two (2) permits approved for third year escrow, one (1) permit approved for fifth year escrow, and one (1) permit approved for sixth 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

RR31-30109 ANGELA KLING, LLC – Vice Chairman Johnson noted this is a new application with the local board voting three (3) to one (1) to disapprove.

Vice Chairman Johnson stated this permittee already has a 2-way permit at this location and is trying to acquire a 3-way. Remonstrators were concerned about the possibility of increased traffic with the addition of liquor.

Vice Chairman Johnson moved to uphold the local board and deny the new application. Commissioner Grubb seconded. Chairman Huskey also voted to uphold the local board. Commissioner Coxey voted not to uphold the local board because there is already a permit at that location and the few remonstrators present based the remonstrance on the assumption that traffic would increase. The motion was unanimously approved.

RR84-03099 JERRY'S HIDEAWAY BAR & GRILL – Vice Chairman Johnson noted this is a renewal application with the local board voting four (4) to zero (0) to approve.

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

RR84-00292 JOHN WILLIAM STEVENS – Vice Chairman Johnson noted this is a transfer of ownership and location with the local board voting 4-0 to approve.

Vice Chairman Johnson stated the commission received information regarding the applicant's convictions and none would disqualify him from holding a permit.

Vice Chairman Johnson moved to uphold the local board and approve the transfers. Commissioner Coxey seconded. The motion was unanimously approved.

RH76-08650 COLD SPRINGS, INC. – Vice Chairman Johnson noted this matter came before the Commission a month ago regarding the conversion of this hotel permit to a liquor, beer and wine restaurant permit. The Commission requested the permittee submit this request. The permittee submitted the request.

There was a discussion as to whether this matter should be remanded to the local board or have the permittee file a new application for the restaurant permit.

Commissioner Grubb moved to require the permittee to file a new application for the restaurant permit. Commissioner Coxey seconded. The motion was unanimously approved.

RR10-28835 ACHILLES PIZZA LLC – Vice Chairman Johnson noted this is a transfer of location with the local board voting 4-0 to disapprove.

Vice Chairman Johnson moved to uphold the local board and deny the transfer. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make 32 permits inactive. Twenty-one (21) permits are not subject to auction and eleven (11) are subject to auction. Commissioner Coxey seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

NEW ALBANY ORDINANCE – Commissioner Coxey stated the Commission received a request to evaluate whether a municipality could enact an ordinance that would required a retail food establishment that would not operate more than 14 consecutive days to acquire a food and beverage permit. The Commission requested an advisory opinion from the Attorney General's office. The Commission is not taking any action on the opinion, but is making it available to those who are interested.

DL82-00788 CO-OP LIQUOR CO-OP – Commissioner Grubb noted the Commission received notice regarding a transfer of ownership that was approved for this permit that the business transaction did not go through and the transfer is no longer needed.

Commissioner Grubb moved to rescind approval of the transfer request. Commissioner Coxey seconded. The motion was unanimously approved.

REVOCATION OF EMPLOYEE PERMITS

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Lauren E. Brooks, permit #BR1761246. Ms. Brooks will not be eligible to hold an employee permit until August 19, 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.

--- Commissioner Grubb stated the following permittee was convicted of a disqualifying crime after this employee permit was issued: Kelly Jo Martinez, permit #BR1750681. Ms. Martinez was sentenced to one year and 180 days in jail, with one year suspended. She will not be eligible to hold an employee permit until January 7, 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

PAINTING WITH A TWIST – See attached transcript.

ANNOUNCEMENTS

No Announcements.

ADJOURNMENT

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

Approved this _____ day of _____, 2013.

ALEX HUSKEY, CHAIRMAN

DAVID JOHNSON, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER

MELISSA COXEY, COMMISSIONER