

MINUTES

ALCOHOL AND TOBACCO COMMISSION

OCTOBER 17, 2023

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, General Counsel Merritt, Prosecutor Wignall, and Deputy Director Chris Serak, were in attendance.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the October 3, 2023 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. Thirty-three dispositions were submitted with fines totaling \$24,200.00. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR49-38778 JOLLOF BUKA LLC – Vice Chairman Payne stated this permittee was cited for a violation. The permittee did not appear at the settlement conference. The matter was set for a show cause hearing and the permittee failed to appear. At that hearing, the Vice Chairman found the violation to be true.

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

RH10-30233 JK CLARKSVILLE LLC – Vice Chairman Payne stated this permittee was cited for a violation. The permittee did not appear at the settlement conference. The matter was set for a show cause hearing and the permittee failed to appear. At that hearing, the Vice Chairman found the violation to be true. As of this date, a signed settlement and payment of the fine have been submitted to the Commission,

Vice Chairman Payne moved to rescind the Show Cause Order to revoke the permit. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Maginn stated that permittees need to participate in this process and show up for hearings and take care of violations timely, so the Commission does not have to reverse decisions.

Vice Chairman Payne made note that the Commission is choosing to reverse the decisions and permittees run the risk of those decisions not being reversed and revocations becoming actual decisions.

RR30-33825 ZAH INVESTMENTS LLC – Vice Chairman Payne stated this permittee was cited for a violation. The permittee did not appear at the settlement conference. The matter was set for a show cause hearing and the permittee failed to appear. At that hearing, the Vice Chairman found the violation to be true. As of this date, a signed settlement and payment of the fine have been submitted to the Commission,

Vice Chairman Payne moved to rescind the Show Cause Order to revoke the permit. Commissioner Maginn seconded. The motion was unanimously approved.

Chair Allen stated this permittee has also filed an Extension request.

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

CONSIDERATION OF APPLICATIONS

Vice Chairman Payne 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.

Vice Chairman Payne 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.

By consent, the Commission added CT48-32350 to the agenda for approval.

Vice Chairman Payne moved to approve the catering applications. Commissioner Maginn seconded. The motion was unanimously approved.

Vice Chairman Payne moved to approve the carrier applications. Commissioner Maginn seconded. The motion was unanimously approved.

Vice Chairman Payne moved to approve the direct wine seller applications. Commissioner Maginn seconded. The motion was unanimously approved.

WAIVERS OF FEES – LETTERS OF EXTENSION

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

ITEMS FOR DISCUSSION

DL44-33357 DOLGENCORP LLC – Chair Allen noted this is a new application with the local board voting 3-0 to approve. This matter was continued from the last meeting.

Commissioner Maginn stated the location of this establishment is in Shipshewana. There were remonstrators present at the local board hearing stating their opposition to alcohol being sold at this location. Employees of the business were present in favor of the permit. Petitions were also submitted with hundreds of signatures against the issuance of this permit.

Commissioner Maginn moved to overturn the local board's recommendation and deny the new permit. Vice Chairman Payne seconded. The motion was unanimously approved.

DL29-30771 INDY GO GAS AND CONVENIENCE LLC – Chair Allen noted this is a renewal 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 renewal. Vice Chairman Payne seconded. The motion was unanimously approved.

Vice Chairman Payne again stated the failures to appear result in permits being denied.

RR49-34173 THE ROUND TABLE LLC – Chair Allen noted this is a renewal application with the local board voting 3-0 to deny.

Commissioner Maginn stated the Indianapolis Police Department, and the Health Department were present as remonstrators. There have been numerous violations from the Health Department. There was an incident of the owner's handgun accidentally discharging inside the establishment. The business has had nude dancing and male reviews that violate zoning ordinances. Several other incidents have occurred at the establishment.

Commissioner Maginn moved to uphold the local board's recommendation to deny the renewal. Vice Chairman Payne seconded. The motion was unanimously approved.

DL20-12323 BRISTOL FOODS INC. – Chair Allen noted this permittee was denied escrow.

Commissioner Maginn stated this permittee requested escrow but failed to appear at two escrow hearings.

Commissioner Maginn moved to deny the renewal. Vice Chairman Payne seconded. The motion was unanimously approved.

DL49-05201 LIQUORS UNLIMITED 1, INC. – Chair Allen noted this is a second Extension request.

Commissioner Maginn stated the first Extension was granted because there were pending violations. Those violations have been cleared.

Commissioner Maginn moved to approve a second Extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR49-39829 MI COSTENITA 2 LLC – Chair Allen noted this is a second Extension request.

Commissioner Maginn stated there was a processing error on the Commission's part, which caused a problem with getting the permit renewal processed.

Commissioner Maginn moved to approve a second Extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR82-00285 AMY'S LAMASCO BAR – Chair Allen noted this is a request for an Extension, added by consent. This was continued from the last meeting where the Commission granted a 2-week Extension allowing time for the permittee to submit a corrective action plan.

Vice Chairman Payne stated there are two issues that need to be addressed. The corrective action plan that was previously submitted was not sufficient. It was not in the form of a pleading, not in the permittee's name and not verified under oath. The corrected plan has been submitted. The second issue is the request to transfer the permit. That request was received by the Commission right before the meeting, therefore, this request was taken under advisement.

Vice Chairman Payne moved to approve a 90-day Extension, minus the 2-weeks that was previously granted. Commissioner Maginn seconded. The motion was unanimously approved.

RR64-37084 FH BAR LLC – Chair Allen noted this is an Extension request, added by consent.

Commissioner Maginn stated this permittee had pending violations that caused the local board to continue the renewal. The violations have been cleared. The local board is scheduled for November 9th.

Commissioner Maginn moved to grant a 45-day Extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR49-37629 NEW PUNCH BOWL INDIANAPOLIS – Chair Allen noted this is a second Extension request, added by consent.

Commissioner Maginn stated this permittee is dealing with ownership issues that need to be cleared up.

Commissioner Maginn moved to approve a second Extension. Vice Chairman Payne seconded. The motion was unanimously approved.

INACTIVE FILES

Chair Allen stated renewals were received for RR64-39287, DL75-31151 and RR49-31154 and asked for them to be removed from the list of auction and non-auction permits to be made dead. They were removed by consent.

Chair Allen stated by statute, these permittees have six months to renew the permit after the expiration date. The Commission sends notification regarding the renewals. If these permits are important to these businesses, the Commission expects renewals to be filed timely and not right before the second notice the permit is going to be made dead.

Commissioner Maginn moved to make the list of auction and non-auction permits on the agenda dead. Vice Chairman Payne seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations

ANNOUNCEMENTS

Chair Allen introduced Chris Serak as the new Deputy Director of the Commission.

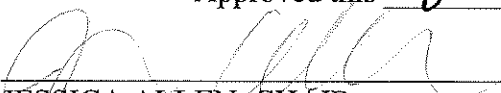
2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

1st week of November 2023, Wednesday November 8
4th week of December 2023, Wednesday December 27

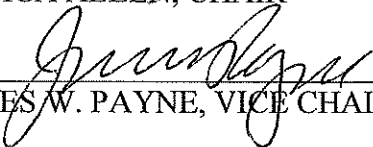
ADJOURNMENT

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

Approved this 8th day of November, 2023.




JESSICA ALLEN, CHAIR



JAMES W. PAYNE, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER