

MINUTES

ALCOHOL AND TOBACCO COMMISSION

AUGUST 20, 2024

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, Commissioner Jones, Prosecutor Wignall, Deputy Director Serak, General Counsel Merritt, and Senior Attorney Beaucaire were in attendance.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the August 6, 2024 meeting. Commissioner Jones 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. Fifty-four dispositions were submitted with fines totaling \$33,450.00. Commissioner Jones seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR49-38535 RATON DE AGUA SPORTS BAR AND GRILL LLC – Chair Allen noted this is on for a Proposed Order on Rule to Show Cause.

Commissioner Jones, who sat as hearing judge in this matter, stated this permittee was cited for multiple violations, which included falsification of records, public nuisance and several others. No one appeared for the settlement conference and the pre-hearing conference, so the matter was scheduled for a show-cause hearing. Although there were individuals present at the show-cause hearing, none of them were able to explain why no one of record regarding this permit was present to discuss the violations. Prosecutor Wignall requested revocation of the permit.

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

RR84-06667 TEEPEE TAVERN INC. – Chair Allen noted this is on for a Proposed Order on Rule to Show Cause.

Commissioner Jones, who sat as hearing judge in this matter, stated this permittee was cited for several violations. No one appeared for the settlement conference and the pre-hearing conference, so the matter was set for a show-cause hearing. The commission was notified that the owner had a stroke, and the business was not operational. No one appeared at the show-cause hearing. The permit expired on April 4, 2024. No renewals have been filed. Prosecutor Wignall requested revocation of the permit.

Commissioner Jones moved to revoke the permit, including the gaming endorsement. Vice Chairman Payne seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Jones 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.

Commissioner Jones 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.

The commissioners added permit #CT45-32578 to the agenda by consent.

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

Commissioner Jones moved to approve the carrier applications. Commissioner Maginn seconded. The motion was unanimously approved.

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

WAIVERS OF FEES – LETTERS OF EXTENSION

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

ITEMS FOR DISCUSSION

RR47-18944 BRISAS DEL SOL INC. – Chair Allen noted this is a renewal with the local board voting 3-1 to approve for one year.

Commissioner Maginn stated this business has been cited on three different occasions in the last year. Violations included retail to retail sales, expired permit, employees without training and permits. Excise revisited the location and found that employees were still without training and permits. The Commissioner also stated that the permit and 1st extension have expired.

Commissioner Maginn moved to continue this to the September 4, 2024 meeting and for the permittee to file for an extension, if they wish to operate, and to include proof of employee permits/training. Vice Chairman Payne seconded.

Chair Allen noted of the four employees listed, none currently have training from the ATC. If a third-party training was completed, documentation needs to be uploaded into our system and carried with the employee while working.

Commissioner Jones stated he will vote in favor of the motion, but if the documentation is not provided by September 4th, he may vote differently.

The motion passed unanimously.

RR49-41110 MAROTT RENAISSANCE ASSOCIATES LP – Chair Allen noted this is a transfer 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. Commissioner Jones seconded. The motion was unanimously approved.

RR49-38811 HAVANA SPORTS LOUNGE LLC – Chair Allen noted this is a renewal with the local board voting 2-1 to deny.

Commissioner Maginn stated a husband and wife ran the business, but the husband passed away. The business has been cited by Excise. The owner stated she feels that she is not able to operate the business alone.

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

RR49-03071 SHANE G INC. – Chair Allen noted this is a renewal with the local board voting 2-1 to approve for one year.

Commissioner Maginn stated this business has been cited by Excise for several things, including public nuisance. One evening two patrons were fighting and a police officer was struck with a fist and a pool ball. The commissioner noted that the permittee states there have been a lot of changes at the establishment to prevent additional problems.

Commissioner Maginn reluctantly moved to uphold the local board's recommendation to approve a one-year renewal. Commissioner Jones seconded but stated if more problems occur this year, his vote may change. The motion was unanimously approved.

RR49-31556 WILLSTAR 53.5 INC. – Chair Allen noted this is a renewal with the local board voting 2-1 to approve for one year.

Commissioner Maginn stated this business had violations that include public nuisance, human trafficking awareness, signage, and no minimum food service. There also seems to be fighting between employees at the establishment.

Commissioner Maginn moved to uphold the local board's recommendation to approve the renewal for one year. Vice Chairman Payne seconded, but also stated that all of these permits approved for one year should be on notice for next year if business practices do not improve. The motion was unanimously approved.

RR49-35291 TEQUILA'S MEXICAN RESTAURANT & BAR, LLC – Chair Allen noted this permittee was denied escrow and is on the agenda for consideration of the renewal.

Commissioner Maginn stated the Commission received a request for another opportunity to appear for an escrow hearing, after failing to appear two previous times.

Commissioner Maginn moved to allow one more opportunity to appear at the September 24, 2024 escrow hearing. Commissioner Jones seconded. The motion was unanimously approved.

RR71-37691 EL RANCHO VIEJO MISHAWAKA LLC – Chair Allen noted this permittee was denied escrow and is on the agenda for consideration of the renewal.

Commissioner Maginn moved to deny the renewal based on the permittee failing to appear for two escrow hearings and being denied escrow. Commissioner Jones seconded. The motion was unanimously approved.

RR39-00970 HISTORIC MADISON INN - Chair Allen noted this permittee was denied escrow and is on the agenda for consideration of the renewal.

Commissioner Maginn stated the Commission received a request for another opportunity to appear for an escrow hearing.

Commissioner Maginn moved to allow one more opportunity to appear at the September 24, 2024 escrow hearing. Commissioner Jones seconded. The motion was unanimously approved.

DL49-32456 VP51, INC. - Chair Allen noted this is on for a Motion to Remand.

Commissioner Maginn stated the renewal of this permit was denied for failure to appear at the local board hearing. An appeal was filed, however, there is now a request for remand to the local board for reinvestigation.

Commissioner Maginn moved to remand the renewal to the local board for one additional opportunity to appear. Vice Chairman Payne seconded. The motion was unanimously approved.

WH49-30104 D & E SPIRITS LLC – Chair Allen noted this is on for a second extension request.

Commissioner Maginn stated this permittee is being investigated for devious transportation practices.

Commissioner Maginn moved to approve a second fee-waived extension, while the investigation is ongoing. Commissioner Jones seconded. The motion was unanimously approved.

RR49-06959 H.A.T. ENTERPRISES, INC. – Chair Allen noted this is on for an extension request.

Commissioner Maginn stated the business practices at this establishment have been a problem. The owners have indicated the plan for the business has been completely changed, all previous employees were let go and the cabaret license has been relinquished.

Commissioner Maginn moved to grant a 90-day extension. Commissioner Jones seconded.

Vice Chairman Payne noted the corrective action plan provided to the Commission was extensive explaining the history of problems and the future plans but would prefer using definite terms in the plan regarding the future.

Commissioner Jones agreed with the plan and is happy that the owners have been in discussions with community groups and the police department regarding the changes. It gives him hope for the future.

Chair Allen stated the establishment is not ready to open. The kitchen is not complete. The bar is not relocated. There has been no final floor plan inspection. She feels like approving the extension would be putting the cart before the horse.

Attorney Jeff McKean, attorney for the permittee, commented that the extension was for after the remodeling is completed.

Chair Allen restated her concern about this being a premature request.

Commissioner Maginn withdrew her original motion and moved to continue this to the September 17, 2024 meeting and reconsider at that time. Vice Chairman Payne seconded. The motion was unanimously approved.

RR49-09422 SKYLINE CLUB LLC – Chair Allen noted this is on for an extension request.

Commissioner Maginn stated this business is requesting a third extension while they are dealing with ownership issues.

Commissioner Maginn moved to approve the request for a third extension. Commissioner Jones seconded. Chair Allen voted to approve. Vice Chairman Payne voted no, due to the fact that he feels businesses should be aware of who the owners are.

The motion passed by a 3-1 vote

RR71-99048 J & S GOLF INC. – Chair Allen noted this is on for an extension request.

Commissioner Maginn stated there are issues with the Secretary of State's paperwork regarding this business entity.

Commissioner Maginn moved to grant a two-week extension to allow time to get the business entity approved and legal with the Secretary of State, and continue this until September 4, 2024 meeting for further review. Vice Chairman Payne seconded. The motion was unanimously approved.

RR49-12270 GPK DOWNTOWN INC. – Chair Allen noted this is on for an extension request.

Commissioner Maginn stated this permittee had an outstanding violation that was recently settled, so now the renewal is able to go before the local board for consideration.

Commissioner Maginn moved to approve the 90-day extension request. Vice Chairman Payne seconded. The motion was unanimously approved.

DL45-04813 ECONOMY PACKAGE LIQUORS #3 – Chair Allen noted this is on for an extension request.

Commissioner Maginn stated this permittee has an outstanding violation dealing with falsification of records/ownership.

Commissioner Maginn moved to approve a two-week extension and to continue this to the September 4, 2024 meeting, to get a report from the prosecutor and permittee on the progress with the violation. Commissioner Jones seconded. The motion was unanimously approved.

RR49-03006 DEER-BELL, INC. – Chair Allen noted this is on for reconsideration of an extension.

Commissioner Maginn stated violations and tax protest have been cleared. A corrective action plan was submitted. The renewal was denied by the local board and the commission, and an appeal was filed. The owner indicated previously that there was no intention to reopen and there has been mentioned a possible stock transfer or submission of a Disclosure of Interested Parties form.

Chair Allen mentioned the violation settlement included a five-day suspension and there is concern the suspension was not served. She would like the owner to provide information showing whether the suspension was served.

Commissioner Maginn moved to approve a two-week extension and continue this to the September 4, 2024 meeting for consideration. Commissioner Jones seconded. Chair Allen approved. Vice Chairman Payne abstained because he is the Hearing Judge for the appeal.

Motion passed 3 to approve and 1 abstention.

RR45-34043 MARS PROPERTIES MANAGEMENT LLC – Chair Allen noted this is on for reconsideration of an extension.

Commissioner Maginn stated the permittee recently had a shooting inside the business. There have been issues at the business, and it is currently on PACE. They currently have an extension until November 12, 2024. Supposedly security has been increased, but there are still doors without security. The Commissioner asked that a corrective action be submitted addressing security and any possible public nuisance issues.

Commissioner Maginn moved to allow the extension to continue for two weeks, until the September 4, 2024 meeting, and revisit the matter at that time. Vice Chairman Payne seconded and added that the corrective action plan should be specific as to what is being done to correct the problems. The motion was unanimously approved.

DL45-16057 L & RS, INC. – Chair Allen asked this be added by consent. Commissioners agreed.

Chair Allen stated this permit was renewed in December 2023, with a transfer of ownership to follow, however, the transfer was never filed. After an investigatory hearing to determine what happened, it

appears the attorney handling the paperwork surrendered her license to practice law and the transfer was never filed. The transfer paperwork has been filed and is ready for approval.

Chair Allen moved for approval of the renewal and completion of the transfer. Commissioner Jones seconded. The motion was unanimously approved.

INACTIVE FILES

Chair Allen asked the Commission for consent to correct number of inactive permits from 15 to 5. Consent was given.

Vice Chairman Payne moved to make 5 permits dead. Commissioner Jones seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

No Policy Determinations.

ANNOUNCEMENTS

RESOLUTION FOR MARION COUNTY LOCAL BOARD MEMBER BARBARA HOWARD – Chair Allen and the Commission honored Barbara Howard for her service as a Marion County Local Board member for more than 10 years.

The Indianapolis Metropolitan Police Department honored her as well.

Barbara Howard stated she was speechless and very thankful for the honors.

2024 AMENDED COMMISSION MEETING DATES - Chair Allen stated the 2024 Amended Commission Meeting Dates are:

Wednesday, September 4, 2024


Wednesday, October 16, 2024

Wednesday, November 6, 2024

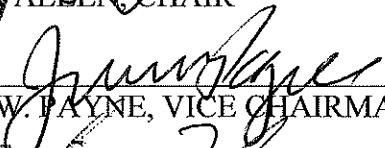
ADJOURNMENT

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

Approved this 4th day of September, 2024.




JESSICA ALLEN, CHAIR



JAMES W. PAYNE, VICE CHAIRMAN



MARJORIE MAGINN, COMMISSIONER



MARK A. JONES, COMMISSIONER