

STATE OF INDIANA
BEFORE THE INDIANA ALCOHOL AND TOBACCO COMMISSION
IN THE MATTER OF)

THE PERMIT OF

| | |
|-------------------------------------|------------|
| AMVETS PARKE COUNTY POST #61, INC) | RC61-89315 |
| PO BOX 305) | |
| 120 N. SILL) | |
| ROCKVILLE, INDIANA 47872) | |
| PERMITTEE | |

HEARING ON PRE-TRIAL
PROPOSED FINDINGS OF FACTS AND CONCLUSIONS OF LAW

Comes now James W, Payne, Hearing Judge, having presided over the appeal hearing in the above-referenced matter on August 14, 2025, and recommends the following findings and orders:

I. BACKGROUND

On April 8, 2025, Amvets Parke County Post # 61, Inc. (hereinafter referred to as "Permittee ") filed its Applicant's Objection and Request for an Appeal Hearing on the denial of its renewal application for its permit of RC61-89315. The hearing before the Parke County Local Alcohol Board heard on March 13, 2025, with a subsequent hearing on March 18, 2025.

Permittee has held its permit from the Indiana Alcohol Tobacco Commission (hereinafter referred to as "ATC") for approximately 30 years, currently serving approximately 260 member veterans as a not-for-profit corporation. They follow the rules and regulations of the national AMVETS program and currently have approximately 20 volunteers with 4 paid employees. Its mission is to help veterans and the public, requiring veterans to be members. The club has a bar, meeting area, gaming, and pool tables and is generally a philanthropic organization providing food and clothing to the needy along with a food pantry and money donations, holding an auction for donations for the community.

It has had a number of violations over the years and a recent set of violations in November 2024 for no Manager's Questionnaire, pouring liquor into another bottle, unauthorized buy for liquor, and server records. It was stated that without the liquor permit, the Post will close.

The permit came for a renewal hearing before the Parke County Local Alcohol Board on March 13, 2025. At the end of the hearing, the local Board voted to deny the renewal. ATC affirmed the Local Board ruling and this appeal hearing is a result of that denial.

II. EVIDENCE BEFORE THE LOCAL BOARD

A. The following individuals testified before the Local Board in favor of the Applicant:

1. John Tapia, local Commander of Permittee
2. Deborah Thomas, bar Manager of Permittee
3. Howard Roosevelt, Finance Officer of Permittee.

B. The following evidence was introduced and admitted before the Local Board in favor of the Applicant:

1. None

C. The following evidence was introduced and admitted before the local board in opposition to the Applicant:

1. S #1- Incident Report EX-24-004346
2. S #2- Notice of Violation and Settlement Offer Letter, 1-4-25.
3. S#3- Notice of Violation and Settlement Offer Letter, 9-7-23.
4. S#4- Violations of Permittee from 11-2000 to 12-2-24.

III . EVIDENCE BEFORE THE COMMISSION

A. The following individuals testified at the ATC hearing in favor of the Applicant:

1. John Tapia, Commander of Permittee.
2. Deborah Thomas, Bar Manager of Permittee.
3. Howard Roosevelt, Finance Officer of Permittee.
4. Lloyd Miller, Member of Sons of Amvets.
5. Tamara Hubble, Auxiliary Member of Permittee

B. The following Exhibits were introduced and received into evidence at the ATC hearing in favor of the Applicant:

1. Exhibit A- Corrective Action Plan.
2. Exhibit 2 – Bartender Policy

3. Exhibit 3- Updated Bartender Policy of August 28, 2025.

C. The following individuals testified at the ATC hearing in opposition to the Applicant:

1. None

D. The following evidence was introduced at the Commission hearing in opposition to the Applicant:

1. None

IV. FINDINGS OF FACT

1. The Permittee is the holder of a permit for a fraternal club permit issued by ATC decades ago under RC61-89315.
2. Permittee is an Amvets not for profit corporation located in Rockville, Parke County, Indiana operating under the rules and regulations of the national organization of Amvets.
3. They currently have approximately 260 members with the organization managed by officers duly elected.
4. They mainly operate with a commander, the first and second vice, and a finance officer.
5. They have approximately 20 volunteers and 4 paid staff.
6. To be a member, an individual must be a veteran.
7. The building, located at the above address, consists of a bar, seating area, meeting area, gaming and entertainment pool table area for the use of its members and guests.
8. Its mission is to help and support veterans and engage in public philanthropic activities.
9. Their philanthropic activities include food delivery to needy people, clothing donations, food pantry, and making monetary contributions to people in need.
10. They regularly conduct an auction to receive donations and contributions for the people they serve and support in the community.
11. The testimony indicated that without this permit, Amvets Parke County Post #61 would not exist and cannot service membership or the community.
12. Recently, the Permittee received a violation from the Indiana State Excise Police for violations including unauthorized purchase of liquor, pouring liquor in another bottle, failure to have records of server permits, and no management questionnaire. Exhibit #S1 at the Parke County Local Alcohol Board meeting on March 13, 2025, EX-24-004346.

13. For that violation, the Permittee signed the Notice of Violation and Settlement Offer letter admitting the violations on January 4, 2025, and paying a \$1250 civil penalty. See Exhibit #S2 at the Parke County Local Alcohol Board meeting on March 13, 2025.
14. Prior to those violations, the Permittee had other violations from 2000 to 2007. See Exhibit #S4 at the Parke County Local Alcohol Board meeting on March 13, 2025.
15. No other violations are listed from 2007 to 2023, a 16-year timeframe.
16. On September 7, 2023, the Permittee was issued a notice of violation by the Indiana State Excise Police for sales to an intoxicated person which the Permittee admitted and signed a Notice of Violation and Settlement Offer letter. See Exhibit #S3 at the Parke County Local Alcohol Board meeting on March 13, 2025.
17. Testimony indicated that, as a result of recent activities, three bartenders were fired to address and eliminate the problems.
18. Deborah Thomas testified that she is the bar manager of the Permittee, has been there 7 years, and that her responsibilities include ordering products, having food for the kitchen, doing payroll, and addressing personnel issues.
19. She indicated that they have the required employee permits, but they were just not on site, and they are now up to date.
20. She said she accepts responsibility for the issues presented by the violations of November 2024 and will address those matters from now on.
21. Howard Roosevelt, a finance officer for Permittee, indicated that they have a food pantry and receive approximately \$2000 a year in donations and give almost \$20,000 a year to various charities in the community including building ramps and providing wheelchairs for those who need them.
22. Lloyd Miller, a member of the Sons of Amvets, indicates he goes to the Permittee's location almost every day just to talk to people there, helps build handicap ramps of a metal modular type, and that going there is like being with family.
23. Tamera Hubble indicated that that she is a voluntary member of the auxiliary and that she also goes there almost every day and that being there is like family.
24. The Permittee provided a Corrective Action Plan dated May 30, 2025, stating how they had corrected the issues in the violation from November 2024 and steps they are taking to ensure that all matters regarding the permit will be addressed and corrected hereafter. See ATC hearing of 8-14-25 Exhibit A.

25. Additionally, on May 30, 2025, the Permittee provided its Bartender Policy addressing issues regarding the service of alcoholic beverages, establishing drink service to each patron, and other issues regarding service of alcoholic beverages. See ATC hearing of 8-14-25 Exhibit B.
26. Finally, the Permittee provided Bartender Policy, amended August 26, 2025, containing its amended policy under paragraph 9 stating that, until February 27, 2027, Permittee will lock its doors at 11:50 PM, not serve alcoholic beverages after 12 AM midnight, and will have all patrons and employees out of the building by 12:30 AM. See ATC Document Bartender Policy filed August 28, 2025
27. Pursuant to 905 IAC 1-36-7-(a) the Hearing Judge may take judicial notice of all the Commission's file relevant to a case, including the transcript of proceedings and the exhibits and the Indiana Court records before the local board.
28. A Review of EX -24-004346 and EX 23-004234 and the settlement offers for both indicate that the Permittee did in fact violate the rules and regulations of ATC but that no other violations were charged to the permit for the previous 16 years and, that, while they may be considered important violations, they are thoroughly and completely addressed by the Corrective Action Plan and Bartender Policies submitted to ATC.
29. Some of the commitments under the Corrective Action Plan include the Permittee will:
- a. order all alcohol through authorized distributors
 - b. have enough alcohol to last two weeks
 - c. keep bartender and server records behind the bar
 - d. keep a Manager's Questionnaire on file
 - e. document bartender expectations and repercussions for violations
 - f. have monthly meetings with bartenders
 - g. require any new hires to take a certified server training course
30. Some of the commitments under the Bartender Policy – original and amended- include the following:
- a. bartenders may not drink before or during their shifts
 - b. bartenders must card all patrons for membership and age
 - c. limit drinks by the amount and number
 - d. limit the number of drinks per hour per patron
 - e. call police for any aggressive, violent or unruly individuals
31. Pursuant to the amended Bartender Policy, the Permittee until February 27, 2027, will stop serving alcohol after 12 AM, midnight, lock the doors at 11:50 PM, and ensure that all patrons and employees are out of the building no later than 12:30 AM.

32. The above-mentioned commitments are a part of the ATC records and are a significant commitment to addressing the concerns that may exist and that will affect or change the culture of the Permittee's operations.
33. The Local Board hearing on March 13, 2025, contained discussions and comments regarding allegations of drug activity and use on the premises of the Permittee, however, it was stated at the hearing that they are allegations that were refuted by the Permittee witnesses with specific requests to identify those alleged to be involved so the Permittee could take further action.
34. The discussion of the Local Board members, after the testimony of March 13, 2025, was to consider and vote upon the permit renewal considering: the Permittee's good moral character; the permit premises has become a public nuisance; and/or, whether criminal offenses have taken place on the premises.
35. After discussion, the motion was made and seconded for the second and third reasons – public nuisance and criminal offenses- one member wanting to add public nuisance but that was not part of the motion and second.
36. The 2023 violation, which was admitted by the Permittee and subject to Settlement with the ATC Prosecutor. is a serious offense that, while presented as a violation of ATC Rules and Regulations, also qualifies for consideration as a criminal offense but there is no information that a criminal charge was filed with no specific allegations.
37. The Hearing Judge finds that the violations of ATC rules and regulations set out in Exhibit S#4 in the early 2000's established a pattern of mismanagement by Permittee at that time, but that the intervening 16 years of no violations with the 2 recent violations, even though substantial, are balanced by the commitments made in the Corrective Action Plan and the Bartenders Policies and make the decision to deny the Permittee's renewal of its permit excessive.
38. The Hearing Judge acknowledges that the Corrective Action Plan and the Bartender Policies were not available or presented to the Parke County Local Alcohol Board on March 13, 2025, but Conclusion Number 4 hereinafter allows and requires the Hearing Judge to consider such evidence at the *de novo* hearing in making Its Findings of Fact and Conclusions of Law.
39. It is probable that if the Corrective Action Plan and the two Bartender Policies had been presented to the Parke County Local Alcohol Board at the hearing on March 13, 2025,

that the Local Board would have considered those important in its consideration of the renewal of the permit for the Permittee.

40. Any Finding of Fact may be considered a Conclusion of Law if the context so warrants.

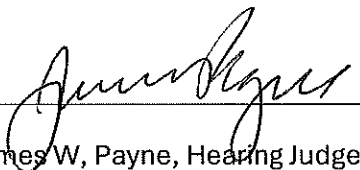
CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to IC 7.1-1-2-2 and IC 7.1-2-3-9.
2. The permit application was submitted pursuant to IC 7.1-3-1-4.
3. The Commission is authorized to act upon proper application. *Id.*
4. The Hearing Judge conducted a *de novo* review of the appeal from the decision of the Parke County Local Alcohol Board on behalf of the Commission, including a public hearing, and a review of the record and documents in the Commission's ATC file and evidence and testimony. IC 7.1-3-19-1 1a; 905 IAC 1-36-7(a); and 905 IAC 1-37 (2).
5. The Hearing Judge may take judicial notice of all the Commission's file relevant to a case, including the transcript of proceedings and the exhibits and the Indiana Court records before the local board. 905 IAC 1-36-7(a).
6. The Findings are based exclusively upon substantial and reliable evidence in the record of the proceedings, the ATC files, and all matters officially noticed in the proceeding. 905 IAC 1-36(7(a)).
7. The ATC has absolute discretion in granting or denying the application for a permit. IC 7.1-2-3-9, IC 7.1-3-19-1, and IC 7.1-3-19-10.
8. The Commission may overturn the recommendation of the Local Board if it finds that the decision of the Local Board is : 1- arbitrary, capricious, an abuse of discretion or otherwise not in accordance with the law; 2- contrary to a constitutional right, power, privilege or immunity; 3- in excess of or contrary to statutory jurisdiction, authority, limitations or rights; 4- without observance of procedure required by law, or; 5- unsupported by substantial evidence IC 7.1-3-19-11.
9. The substantial evidence standard is met if "a reasonable person would conclude that the evidence and the logical and reasonable inferences there from of such a substantial character and probative value so as to support the administrative determination." *Indiana Alcoholic Beverage Commission v. Edwards*, 659 N.E.2d 631 (1995) (citing *Civil Rights Commission v. Weigart, Inc.*, 588 N.E.2d 1288, 1289 (ind. 1992).

10. The substantial evidence standard requires a lower burden of proof than the preponderance of evidence test, yet more than a scintilla of evidence test. *Burke v. City of Anderson*, 612 N.E.2d 559, 565, n.1 (Ind. Ct. App. 1993).
11. The Notice of Violation and Settlement Offer Letter does not abrogate the authority of the Parke County Local Board or of the Indiana Alcohol and Tobacco Commission from pursuing the denial of the renewal application by the Permittee.
12. Based upon the evidence and the testimony before the Hearing Judge, the records of ATC and the Local Board hearing, the Hearing Judge concludes that the finding of the Parke County Local Board is arbitrary, capricious or an abuse of discretion and is not supported by substantial evidence.
13. The facts do not support the denial of the renewal of the permit RC61-89315, and the decision of the Parke County Local Board is reversed.
14. Any Conclusion of law may be considered a Finding of Fact if the context so warrants.

THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that the recommendation of the Parke County Local Board to deny the renewal of Amvets Parke County Post #61, Inc permit under RC61-89315 is hereby reversed and the renewal of such petition is granted for a period of 1 year, subject to the terms and conditions of the Corrective Action plan and the original and amended Bartender Policy and any future violation of Indiana law or the policies and procedures of the ATC; further, this matter will be referred to the Prosecutor for the ATC for consideration of placement in the ATC PACE program.

All of which is dated this 9thth day of September 2025.


James W, Payne, Hearing Judge

Approved this 7th day of October, 2025



JESSICA ALLEN, CHAIR



JAMES PAYNE, VICE CHAIRMAN



MARJORIE MAGINN, COMMISSIONER

MARK A. JONES, COMMISSIONER