

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

NOVEMBER 8, 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 17, 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. Eighty-nine dispositions were submitted with fines totaling \$50,650.00. Commissioner Maginn seconded. The motion was unanimously approved.

#### HEARING JUDGE'S RECOMMENDATIONS

RR49-38778 JOLLOF BUKA LLC – Chair Allen noted this matter was before us at the last meeting regarding an Order to Show Cause resulting in revocation of the permit. A Motion to Reconsider was filed and that is now before the Commission.

Vice Chairman Payne stated this permit was denied due to not appearing for a settlement conference and an Order to Show cause hearing regarding a violation that was not settled. The Motion to Reconsider stated that the notices were not received by the permittee even though a change of address was filed at the post office. The address change was not submitted to the Commission.

Vice Chairman Payne stressed the importance of permittees providing the Commission any changes that need to be made involving their permits, so this does not happen in the future.

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

BR1761339 KELLIE BIENZ – Commissioner Maginn stated this permit was denied because the applicant has two OWI convictions in the last ten years. An appeal was filed, and an appeal hearing was held. No documents or testimony was provided that would allow the Commission to overturn the denial.

Commissioner Maginn moved to uphold the Findings of Fact and Conclusions of Law to deny the permit. Vice Chairman Payne seconded. The motion was unanimously approved.

APPLICANT #3936185 DOUGLAS MENGEDOHT – Commissioner Maginn stated this permit was denied because the applicant has two OWI convictions in the last ten years. An appeal was filed, and appeal hearing was held. No documents or testimony was provided that would allow the Commission to overturn the denial.

Commissioner Maginn moved to uphold the Findings of Fact and Conclusions of Law to deny the permit. 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.

By consent the Commission added MM0730794 and MM5330779 to the agenda.

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 CT2632370 to the agenda.

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

By consent, the Commission added CT2632370 to the agenda.

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**

RR1811489 CHERYL EGAN INC. – Chair Allen noted this permit was made dead at the last meeting. Renewals and a transfer were received right before the meeting and prior to the vote that made the permit dead.

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

RR8420634 TOP HAT, INC. – Chair Allen noted this is a renewal with the local board voting 4-0 to deny.

Commissioner Maginn stated this permit was before us previously as a denial by the local board. After filing an appeal, the permittee requested the ability to file a transfer and dismiss the appeal. The request to remand the renewal for the purpose of transferring was granted. The local board has again voted to deny the renewal for failing to prove qualifications, and false/incomplete documentation.

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

RR8439967 AND RR8439968 CODA ENTERPRISES, LLC – Chair Allen noted this is a transfer with the local board voting 4-0 to deny.

Commissioner Maginn stated this is the transfer from the previous permit, RR8420634 Top Hat, Inc. The local board had a lengthy discussion regarding the transfer. They voted to deny based on failure to prove qualifications, and false/incomplete documentation.

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

RR0238475 BAE HOLDINGS LLC – Chair Allen noted this permittee is requesting to be designated as a catering hall.

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

RR0532083 OIL CITY BAR & GRILL, INC. – Chair Allen noted this permittee was denied escrow.

Commissioner Maginn stated the permittee submitted a letter explaining why no one appeared at either escrow hearing and requested another chance to appear.

Commissioner Maginn moved to approve the request and schedule for the November 28, 2023 escrow hearing. Vice Chairman Payne seconded. The motion was unanimously approved.

DL2012323 BRISTOL FOODS INC. – Chair Allen noted this permittee was denied escrow.

Commissioner Maginn stated the permittee submitted a letter explaining why no one appeared at either escrow hearing. There is a transfer on file and the Commission was not notified the mailing address was not valid because of the transfer on file, therefore, no one was aware of the escrow hearings. The transfer has been approved by the local board, so an escrow hearing may not be necessary.

Commissioner Maginn moved to approve the request and schedule for the November 28, 2023 escrow hearing, if needed. Vice Chairman Payne seconded. The motion was unanimously approved.

RR4940481 MONON 30 HOSPITALITY GROUP LLC – Chair Allen noted the local board is requesting the permit be remanded.

Commissioner Maginn stated the local board and Commission previously approved the permit; however, the owner may not qualify to hold the permit due to criminal convictions.

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

RR7934150 CAPITAL CONNECTION, LLC - Chair Allen noted this is a request for remand.

Commissioner Maginn stated this permit was denied by the local board and the Commission. The denial was based on violations occurring at the establishment. That denial was upheld after appeal. The following permit on the agenda has similar circumstances, but the outcome from the local board was different. The Commission would like the local board to review this renewal along with RR7931044 Three O Eight, LLC, to make sure the local board is making decisions uniformly based on the facts of each permit.

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

RR7931044 THREE O EIGHT, LLC – Chair Allen noted this is a request for remand.

Commissioner Maginn stated the local board voted to approve renewal of this permit, but the circumstances surrounding this permit, mainly the violations occurring at the establishment, were similar to those of RR7934150 Capital Connection, LLC. The Commission overturned the local board approval and denied the renewal.

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

RR4938198 KC GROUPS INC. – Chair Allen noted this permittee is requesting an extension.

Commissioner Maginn stated there was a delay in processing the renewal.

Commissioner Maginn moved to approve a 90-day, fee waived extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR4936984 FAT DAN'S DELI LLC – Chair Allen noted this permittee is requesting an extension.

Commissioner Maginn stated there was a delay in processing the renewal.

Commissioner Maginn moved to approve a 90-day, fee waived extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR4934929 LOS CHILAQUILES RESTAURANT LLC – Chair Allen noted this permittee is requesting an extension.

Commissioner Maginn stated this permit has a tax protest and is requesting a second extension. The renewal was continued at the local board because there was no quorum.

Commissioner Maginn moved to approve a 90-day, fee waived extension, when the tax protest is clear. Vice Chairman Payne seconded. The motion was unanimously approved.

RR4939715 MARIBINO FOOD INC – Chair Allen asked this second extension request be added to the agenda by consent.

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

RR4936138 ALL AROUND SERVICE AND REPAIRS LLC - Chair Allen asked this second extension request be added to the agenda by consent.

Commissioner Maginn moved to approve a 90-day, fee waived extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR0230997 CP REALTY INVESTMENT GROUP LLC – Chair Allen asked that this be added to the agenda by consent. This permit was made dead at the last meeting.

Commissioner Maginn stated the owner submitted a letter requesting reconsideration. A renewal is on file. The owner has had health issues which contributed to the paperwork not being filed properly. There is also a tax protest on file.

Commissioner Maginn moved to reactivate the permit, provided the tax protest is cleared, a renewal is filed and an escrow request submitted, all of which should be completed in 30 days. Vice Chairman Payne seconded. The motion was unanimously approved.

#### **INACTIVE FILES**

Chair Allen stated permit #RR4928529 was renewed earlier this year and is currently in active status but was mistakenly made dead at the last meeting.

Commissioner Maginn moved to leave permit in active status. Vice Chairman Payne seconded. Motion was unanimously approved.

Chair Allen asked that permit #RR0635704 be removed from the inactive list, making the total number of permits to be made dead as six.

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

#### **OLD BUSINESS**

No Old Business

**NEW BUSINESS**

No New Business

**POLICY DETERMINATIONS**

No Policy Determinations

**ANNOUNCEMENTS**

2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

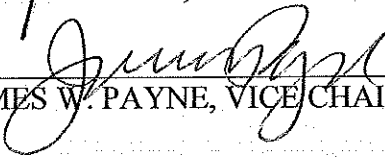
4th week of December 2023, Wednesday December 27

**ADJOURNMENT**

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

Approved this 21<sup>st</sup> day of November, 2023.

  
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JESSICA ALLEN, CHAIR

  
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JAMES W. PAYNE, VICE CHAIRMAN

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DALE GRUBB, COMMISSIONER

  
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MARJORIE MAGINN, COMMISSIONER