

## MINUTES

### ALCOHOL AND TOBACCO COMMISSION

DECEMBER 5, 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 November 21, 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. Sixty-five dispositions were submitted with fines totaling \$39,650.00. Commissioner Maginn seconded. The motion was unanimously approved.

### HEARING JUDGE'S RECOMMENDATIONS

BR1940465 JASMINE ARNOLD – Vice Chairman Payne stated this permittee has two pending violations that have not been settled. At one point there appeared to be a settlement, however, the permittee did not follow through. An additional prehearing conference was scheduled. The permittee failed to appear at the settlement conference and the show cause hearing for these violations.

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

BR139831 IAN HALE – Vice Chairman Payne stated this permittee has a violation for receiving two OWI convictions and those convictions, currently, make him ineligible to hold a permit. The permittee failed to appear at the settlement conference and the show cause hearing for this violation.

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

BR1966139 CORY O'NEAL – Vice Chairman Payne stated this permittee has a violation for receiving two OWI convictions and those convictions, currently, make him ineligible to hold a permit. The permittee failed to appear at the settlement conference and the show cause hearing for this violation.

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

BR1947409 WILLIAM BERNARD - Vice Chairman Payne stated this permittee has a pending violation for poor reputation and character due to a felony conviction for theft. The permittee failed to appear at the settlement conference and the show cause hearing for this violation.

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

DL3233116 CENTRAL INDIANA PACKAGE GROUP LLC – Vice Chairman Payne stated this application was denied by the local board and the Commission for the applicant not having a high and fine reputation. An appeal was filed, and a hearing was held. After the hearing, the applicant submitted documents showing the same local board approved a different permit for this applicant. Boone County also approved a permit for this applicant. Vice Chairman Payne also noted the applicant was cited for selling tobacco to a minor at a different location, however, actually it was not the applicant but someone using his name. That violation was settled along with the violation written to the establishment. The Vice Chairman noted that the local board was correct in their vote based on the information presented to them at the time. But, due to the additional facts submitted, he recommended reversing the denial.

Vice Chairman Payne moved to overturn the denial and approve the permit. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Maginn posed a concern about the signatures on the Settlement Agreements, one written for the business and one for the clerk that was mentioned by the Vice Chairman. The signatures are two different names but appear to be signed by the same person. The Commissioner suggested having the prosecutor investigate this.

Chair Allen stated Excise made her aware of issues with employees at tobacco stores providing incorrect information because they are not required to have a permit and have no identification on them so there is no way to verify the information provided by the clerk.

### **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 permit MM3930805 to the list of new permits for approval.

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.

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**

DL5232404 PLATINUM GROUP LLC – Chair Allen noted this is a request for reconsideration of previous approval.

Commissioner Maginn stated the permit was approved in 2021, and never issued because the Form 1 Property Tax Form was never submitted. The Commission received a request for reconsideration of the approval and a withdrawal from the applicant/permittee.

Commissioner Maginn moved to approve the reconsideration/withdrawal of the application. Vice Chairman Payne seconded. The motion was unanimously approved.

RR4197069 JEFFERSON STREET, INC. – Chair Allen requested this permit be placed on the agenda by consent. It is a reconsideration of a reverted permit that was not appropriately renewed for the 2022-2023 year and should not have gotten a dead letter.

Commissioner Maginn stated in addition to the processing issue, the permittee did not receive the notices due to being out of town taking care of a family member.

Commissioner Maginn moved to remove this permit from the auction list and allow for renewal. Renewals need to be filed within 30 days. Vice Chairman Payne seconded. The motion was unanimously approved.

RR4918714 P.F. CHANG'S CHINA BISTRO, INC. – Chair Allen noted this is a request for extension.

Commissioner Maginn stated this is a 2<sup>nd</sup> request for extension. There are some ownership issues that are being worked out.

Commissioner Maginn moved to approve a 2<sup>nd</sup> 90-day extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR7941044 THREE O' EIGHT LLC – Chair Allen noted this is a request for an extension. The renewal for this permit was remanded to the local board. The current extension expires on December 7<sup>th</sup>.

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

### **INACTIVE FILES**

Commissioner Maginn moved to make thirteen permits 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**

#### 2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

4th week of December 2023, Wednesday December 27

Chair Allen stated both January meetings will be held on Wednesday due to Monday holidays. The first meeting will be January 3<sup>rd</sup> and the second meeting will be January 17<sup>th</sup>.

RESOLUTION HONORING COMMISSIONER DALE GRUBB – Chair Allen stated, Whereas, Alcohol and Tobacco Commission member Dale Grubb, who was first appointed to the commission by Governor Mitch Daniels in January 2013, will be leaving the Commission.

Whereas, Mr. Grubb continued his dedicated service to the commission as an appointee of Governor Mike Pence and Governor Eric Holcomb.

Whereas, Mr. Grubb is a life-long Hoosier and resident of Covington, Indiana where he attended high school before obtaining a Bachelor of Science in Agriculture and Economics from Purdue University.

Whereas, Mr. Grubb never stopped farming and operating Grubb Farms, even while serving Hoosiers in a variety of ways.

Whereas, Mr. Grubb served in the United State Air Force Reserves.

Whereas, Mr. Grubb was elected in 1988 to serve in the Indiana House of Representatives where he continued to serve until his retirement in 2012.

Whereas, during his time in the Indiana House of Representatives he worked on and dedicated his time to:

- organ donation legislation,
- establishing the Wabash River Heritage Commission,
- efforts to promote the production and consumption of renewable energy in Indiana,
- efforts to publicly honor veterans and Prisoners of War,
- maintaining Indiana’s rich heritage of covered bridges, and

□ overseeing a needed remodel of offices in the State House.

Whereas, Mr. Grubb served in leadership roles including Caucus Chairman and committee chair for the Public Policy committee, which would provide him knowledge and understanding of Title 7.1 of the Indiana Code.

Whereas, as a Commissioner, Mr. Grubb dedicated himself to making fair decisions that put public health and safety first.

Whereas, Mr. Grubb was a fantastic colleague and friend.

Whereas, Mr. Grubb has committed much time to his community through his membership in organizations and associations including the American Veterans, the Sons of the American Revolution, the Executive Council of the Council of State Governments, and the St. Vincent Hospital-Williamsport Board of Directors where he served as chair.

Be it resolved by the Alcohol and Tobacco Commission:

The Alcohol and Tobacco Commission bids a fond farewell to Commissioner Dale Grubb.

Commissioner Maginn stated it has been her pleasure working with Dale for the last 11 years.

Vice Chairman Payne stated he has worked with Dale for the past 2 years and he adores and respects him.

Commissioner Maginn moved approval of the Resolution. Vice Chairman Payne seconded. The motion was unanimously approved.

**ADJOURNMENT**

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

Approved this 19th day of December, 2023.

  
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JESSICA ALLEN, CHAIR

  
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JAMES W. PAYNE, VICE CHAIRMAN

  
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MARJORIE MAGINN, COMMISSIONER

  
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MARK JONES, COMMISSIONER