

ALCOHOL AND TOBACCO COMMISSION

May 16, 2023

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

May 3, 2023

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

535 renewals
102 new/transfers
32 catering
25 carriers
111 direct wine sellers

6. Waivers of Fees for Letters of Extension -

7. Items for Discussion –

RR46-06509 JJ's Sideout Bar and Grill, LLC – renewal with LB voting 2-2

DL06-32862 Central Indiana Package Group LLC – transfer with LB voting 3-1 to approve

RR49-39641 Matiguas Night Club LLC – transfer with LB voting 4-0 to deny

RR49-36981 SNA Restaurant Inc – renewal with LB voting 4-0 to deny

RR49-34539 El Chila Sports Bar LLC – renewal with LB voting 3-0 to deny and 1 abstention

8. Inactive Files –

7 permits to be made inactive

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

2023 Amended Commission Meeting Dates -

1st week of July 2023, Wednesday July 5

1st week of September 2023, Wednesday September 6

1st week of November 2023, Wednesday November 8
4th week of December 2023, Wednesday December 27 (Escrow Hearing)

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

MAY 16, 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, Commissioner Grubb, Deputy Director Kirkman, General Counsel Merritt, and Prosecutor Wignall were present.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the May 3, 2023 meeting. Commissioner Grubb 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-two dispositions were submitted with fines totaling \$37,100.00. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

No Hearing Judge's Recommendations

CONSIDERATION OF APPLICATIONS

Commissioner Grubb 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 Grubb 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.

Commissioner Grubb moved to approve the catering applications. Commissioner Maginn seconded. The motion was unanimously approved.

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

Commissioner Grubb 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.

APPLICATIONS FOR DISCUSSION

RR46-06509 JJ'S SIDEOUT BAR AND GRILL, LLC – Chair Allen noted this is a renewal with the local board voting 2-2.

Commissioner Maginn stated this permittee has a history of violations.

Commissioner Maginn moved for a one-year renewal and a review from Prosecutor Wignall for possibly being put on PACE. Commissioner Grubb seconded. The motion was unanimously approved.

Chair Allen also stated that the permittee should consider this as a zero tolerance for future violations. This will be the last chance for this permittee to become compliant with 7.1.

DL06-32862 CENTRAL INDIANA PACKAGE GROUP, LLC – Chair Allen noted this is a transfer with the local board voting 3-1 to approve.

Commissioner Maginn stated the local board member who voted to deny was the Excise officer who based his vote on a different permit this applicant has an interest in, which was denied by the local board in a different county. That permit location has a history of furnishing to minors.

Commissioner Maginn moved to uphold the local board's recommendation to approve the transfer. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-39641 MATIGUAS NIGHT CLUB, LLC – Chair Allen noted this is a transfer with the local board voting 4-0 to deny.

Commissioner Maginn stated this applicant failed to post the orange sign, which is a requirement. Commissioner Grubb seconded. The motion was unanimously approved.

Chair Allen stated the Excise officer sitting on this board made every effort to assist the applicant with posting the sign, but the applicant still failed to do so.

RR49-36981 SNA RESTAURANTS, INC. – Chair Allen noted this is a renewal with the local board voting 4-0 to deny.

Commissioner Maginn stated establishment has had a history of problems at this location. Those problems include shootings. The permittee has an entity interested in purchasing this license. The Commissioner would agree to allow the filing of a transfer within 30 days and the completion of that transfer in 180 days.

Commissioner Maginn moved to uphold the local board's recommendation to deny the renewal, and to allow a transfer to be filed within 30 days and the completion of transfer in 180 days. Vice Chairman Payne seconded. The motion was unanimously approved.

Vice Chairman Payne noted that he is in favor of this because the transfer applicant owns 2000 restaurants around the country and is very reputable.

RR49-34539 EL CHILA SPORTS BAR, LLC – Chair Allen noted this is a renewal with the local board voting 3-0 to deny with one abstention.

Commissioner Maginn stated this business has had numerous problems. The business has informed the Commission it will close on June 28, 2023.

Commissioner Maginn moved to uphold the local board's recommendation to deny the renewal and allow the filing of a transfer of ownership/location within 60 days, to be completed in 180 days. Commissioner Grubb seconded. The motion was unanimously approved.

Chair Allen stated the administrative matters conducted by the local board are reviewed on a substantial evidence standard where a reasonable person could conclude the same outcome. With the conflicting information regarding the police runs, there is not sufficient evidence to conclude public nuisance. However, the conviction for failure to remit taxes can show poor character and failure to maintain a high and fine reputation. Substantial evidence was presented to support that finding.

Vice Chairman Payne stressed the fact that non-payment of taxes is extremely concerning and is a very serious matter, so he agrees with this finding.

Chair Allen stated the Settlement Agreement regarding this permittee is also on the agenda for Commission approval---Complaint #EX21014101. This has been signed by Prosecutor Wignall and the permittee.

Commissioner Maginn moved to accept the Settlement Agreement. Vice Chairman Payne seconded. The motion was unanimously approved.

RR84-20634 TOP HAT, INC./RR84-39968 CODA Enterprises, LLC – Chair Allen noted this is a request for an additional Extension. Top Hat was denied renewal and requested ability to file a transfer. The current Extension request was granted until today, waiting for the outcome from the local board. However, the transfer application is missing an Enabling Ordinance that is required for issuance of a 3-way permit in a town of less than 5000 population. The applicant has not been able to verify the current Ordinance is still valid, so the local board continued the hearing.

Commissioner Maginn moved to grant a 75-day Extension to allow time to obtain the Enabling Ordinance. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make seven permits inactive. 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 -

- 1st week of July 2023, Wednesday July 5
- 1st week of September 2023, Wednesday September 6
- 1st week of November 2023, Wednesday November 8
- 4th week of December 2023, Wednesday December 27

ADJOURNMENT

Commissioner Grubb moved to adjourn the meeting. Commissioner Maginn seconded. The motion was unanimously approved.

Approved this 6th day of June, 2023.

JESSICA ALLEN, CHAIR

JAMES W. PAYNE, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER

MARJORIE MAGINN, COMMISSIONER