

ALCOHOL AND TOBACCO COMMISSION

June 20, 2023

10:00 A.M.

1. Call to Order and Noting of Quorum --

2. Disposition of Minutes --

June 6, 2023

3. Prosecutor's Recommendations --

PAD Forms

4. Hearing Judge's Recommendations --

RR79-34150 Capital Connection LLC - Findings of Fact and Conclusions of Law

5. Consideration of Applications --

544 renewals
63 news/transfers
46 caterings
37 carriers
59 direct wine sellers

6. Waivers of Fees for Letters of Extension -

7. Items for Discussion --

DL85-33269 PL23 Inc. -- new with LB voting 3-0 to deny

RR32-39603 India Dining Group, LLC -- new with LB voting 4-0 to deny

RR79-31044 Three O Eight, LLC -- renewal with LB voting 3-0 to deny

RR32-39394 Cheers 2 Dreams LLC -- extension request

RR71-30791 Mitch Z -- extension request

DL90-32710 Taylor C Store LLC -- extension request

8. Inactive Files --

3 permits to be made inactive

9. Old Business -

10. New Business --

11. Policy Determinations --

Non-Rule Policy #31

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

JUNE 20, 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, and General Counsel Merritt were in attendance.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the June 6, 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-nine dispositions were submitted with fines totaling \$35,250.00. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR79-34150 CAPITAL CONNECTION LLC – Chair Allen stated the renewal of this permit was denied by the local board and upheld by the Commission. An appeal was filed, and the matter was set for hearing. Denial was based on 3 separate dates of violations within a 14-month period for service to minors. Proposed Findings were mailed to the permittee and objections were filed. Chair Allen amended the Proposed Findings to correct an error on Finding #17 to now read 76% of sales are food and not alcohol.

Chair Allen moved adoption of the Proposed Findings of Fact and Conclusions of Law upholding the denial of the renewal. Vice Chairman Payne seconded. The motion was unanimously approved.

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

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

ITEMS FOR DISCUSSION

DL85-33269 PL23, INC. – Chair Allen noted this is a new application with the local board voting 3-0 to deny.

Commissioner Maginn stated remonstrators were present stating they do not want or need the services of the applicant and that it would have a negative impact on the community.

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

RR32-39603 INDIA DINING GROUP, LLC – Chair Allen noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated this application was rescheduled by the local board several times, which is the reason for denial. Applicant's counsel filed a Motion to Remand with the Commission.

Commissioner Maginn moved to approve the Motion to Remand and allow one additional opportunity for the applicant to appear before the local board. Vice Chairman Payne seconded. The motion was unanimously approved.

RR79-31044 THREE O EIGHT, LLC – Chair Allen noted this is a renewal application with the local board voting 3-0 to deny.

Commissioner Maginn stated this permittee has had three separate violations this year. Two local board hearings were continued at the request of permittee's counsel and the last two were failures to appear. Applicant's counsel filed a Motion to Remand with the Commission.

Commissioner Maginn moved to approve the Motion to Remand and allow one additional opportunity for the applicant to appear before the local board. Vice Chairman Payne seconded. The motion was unanimously approved.

RR32-39394 CHEERS 2 DREAMS LLC – Chair Allen noted this is a second Extension request.

Commissioner Maginn stated the Commission failed to schedule the local board hearing, so an additional Extension is needed.

Commissioner Maginn moved to allow a second Extension with the fee waived. Commissioner Grubb seconded. The motion was unanimously approved.

RR71-30791 MITCH Z, INC. – Chair Allen noted this is an Extension request.

Commissioner Maginn stated this Permittee has a pending violation that has not been heard by the prosecutor at a Settlement Conference. The Permittee has filed a corrective action plan with the Commission.

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

Vice Chairman Payne explained in the future he will look very carefully at whether businesses have filed a corrective action plan when requesting an Extension due to violations.

Chair Allen noted this requirement is not in the Non-Rule Policy, but stated that corrective actions should be put into place at the time the permittee is made aware of issues at the establishment.

BR1645100 BOBBIE BROBACK – The Commission added this permittee to the Agenda by consent. This is an Extension request for an Employee Permit. This permittee is employed by and part of the violation regarding permit #RR71-30791 Mitch Z, Inc. Extensions are not typically issued to an employee permit because applicants can work on their receipt for 90 days during processing. However, there is a violation in this case and a possibility of an appeal, which is the reason for the request.

Commissioner Maginn moved to approve the request because this is affiliated with Mitch Z, Inc., that was granted an Extension. Vice Chairman Payne seconded. The motion was unanimously approved.

DL90-32710 TAYLOR C STORE LLC – Chair Allen noted this is a second Extension request.

Commissioner Maginn moved to approve a fee-waived 2nd Extension request because the Commission failed to schedule the local board hearing. Vice Chairman Payne seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make three permits inactive. Vice Chairman Payne seconded. The motion was unanimously approved.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

NON-RULE POLICY #31 – Commissioner Maginn moved to adopt Non-Rule Policy #31, effective July 1, 2023. Commissioner Grubb seconded. The motion was unanimously approved.

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. Vice Chairman Payne seconded. The motion was unanimously approved.

Approved this 5th day of July, 2023.



JESSICA ALLEN, CHAIR

JAMES W. PAYNE, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER