

MINUTES

ALCOHOL AND TOBACCO COMMISSION

OCTOBER 3, 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, and Prosecutor Wignall were in attendance.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the September 19, 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. Forty-one dispositions were submitted with fines totaling \$24,050.00. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

No Hearing Judge's Recommendations

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.

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

DL44-33357 DOLGENCORP LLC – Chair Allen noted this is a new application with the local board voting 3-0 to approve.

Commissioner Maginn stated the location of this establishment is in Shipshewana. There were remonstrators present at the local board hearing stating their opposition to alcohol being sold at this location. Employees of the business were present in favor of the permit. The Commissioner said the Commission had been provided numerous emails with documents from the remonstrators at the end of the day on Monday and another one today. The commissioners and the attorney representing the applicant have not had time to review the information.

Commissioner Maginn moved to continue this until October 17, 2023. Vice Chairman Payne seconded. The motion was unanimously approved.

RR45-31589 VALENTINA MITRESKA – Chair Allen noted this is a renewal application with the local board voting 4-0 to deny.

Commissioner Maginn stated this establishment has had numerous Excise violations and a lot of enforcement activity---fights, shots fired, overserving, etc. This permittee has been on our PACE Program. Remonstrators were present, including Griffith Police Department, who stated this establishment puts a drain on their resources. The Commissioner noted the local board voted to deny based on public nuisance.

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

RR07-40473 HARMONY TREE RESORTS, INC. – Chair Allen noted this is a new application with the local board voting 2-1 to approve.

Commissioner Maginn stated this business is currently operating as a restaurant without the alcohol permit. The plan is to add buildings to the existing business, which would make it very close to homes in the area. Remonstrators were present and voiced very serious concerns as to the proximity to their homes.

Commissioner Maginn moved to not uphold the approval and deny the new permit. Vice Chairman Payne seconded. The motion was unanimously approved.

Vice Chairman Payne stated there seems to be enough property attached to the existing business where this new addition could be placed where it would not be so close to the homes.

RR49-38380 KYOTO HIBACHI EXPRESS AND SUSHI LLC – Chair Allen noted this permittee is requesting an Extension.

Commissioner Maginn stated this is a 2nd Extension request. The renewals are being prepared and there is a need for an additional Extension.

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

RR82-00285 AMY'S LAMASCO BAR – Chair Allen noted this is a request for an Extension, added by consent.

Commissioner Maginn stated the renewal of this permit was denied and is under appeal. The business was asked to provide a corrective action plan. That plan was submitted right before this meeting and the Commissioner was not able to review it prior to the meeting.

Commissioner Maginn moved to approve a two-week Extension to provide time to review. Vice Chairman Payne seconded. The motion was unanimously approved.

RR60-39184 TOREMAC, LLC – Chair Allen noted this is an Extension request, added by consent.

Commissioner Maginn stated the renewal of this permit was denied and is under appeal.

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

INACTIVE FILES

Chair Allen stated we are currently going through an extensive list of permits that have been expired for six months or more without permittees taking action to renew. Several permits were added and removed from the list after the agenda was posted. The Chair listed permit numbers DL7195055, DL4532308, RR4537416, RR5036627, RR6523494, and RR8237054, as permit numbers that were removed, making 440 permits on the list. Some of the permits are subject to auction and some are not subject to auction.

Chair Allen noted this is an announcement for the industry that this list will be posted for review allowing time to file the proper documents if the permits are to be renewed. The Commission will vote on this list to be made inactive on October 17th.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

LSA DOCUMENT #23-613 – Chair Allen stated no comments were submitted regarding the rule.

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

LSA DOCUMENT #23-624 – Chair Allen stated this document is readopting 905 IAC 1-42 Non-probationary enforcement officer discharge, demotion, or suspension.

Commissioner Maginn moved adoption. Vice Chairman Payne seconded. The motion was unanimously approved.

ANNOUNCEMENTS

2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

1st week of November 2023, Wednesday November 8
4th week of December 2023, Wednesday December 27

Vice Chairman Payne thanked everyone for traveling down in for the hearing and apologized for the continuation of the matter, hoping they understood the circumstances.

ADJOURNMENT

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

Approved this 17th day of October, 2023.

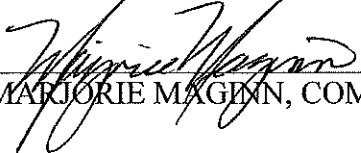


JESSICA ALLEN, CHAIR



JAMES W. PAYNE, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER