

ALCOHOL AND TOBACCO COMMISSION
DECEMBER 6, 2022
10:00 A.M.

1. Call to Order and Noting of Quorum --
2. Disposition of Minutes --
November 15, 2022
3. Prosecutor's Recommendations --
PAD Forms
4. Hearing Judge's Recommendations --
BR1930081 Kelsie Selems -- Proposed Findings of Fact
DL10-32219 Gilmore Construction, Inc. -- Proposed Findings of Fact
5. Consideration of Applications -
578 renewals
52 new/transfers
44 catering
34 new/renewal carriers
4 new direct wine shippers
6. Renewal Letters and Waivers of Fees for Letters of Extension -
7. Applications for Discussion --
DL45-32998 Singh Brother LLC -- transfer with LB voting 2-1 to deny
RR34-39502 Wildcat Creek Golf Course LLC -- conversion from 209 to 210
RR82-07412 The Monarch Corporation -- request catering hall designation
RR49-39231 Myron Green Corporation -- request catering hall designation
RR57-39434 57C Eclectic Avenue LLC -- request catering hall designation
DL01-33034 Dagco Oil, LLC -- new with LB voting 4-0 to approve
DL44-32843 Lakeville Liquor Store, Inc. -- transfer with LB voting 4-0 to deny
8. Inactive Files --
9. Old Business -
10. New Business --
11. Policy Determinations --

New Non-Rule Policy Documents

12. Announcements -

Round Table Discussions –

Retailers – December 6 @ 1:30 p.m. via Microsoft Teams

2023 Amended Commission Meeting Dates - 1st week of January 2023, Wednesday January 4
3rd week of January 2023, Wednesday January 18
1st week of May 2023, Wednesday May 3
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

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

DECEMBER 6, 2022

CALL TO ORDER/NOTING OF QUORUM

Chairman 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 November 15, 2022 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. Seventy dispositions were submitted with fines totaling \$43,550.00. Commissioner Grubb seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

BR1930081 KELSIE SELEMS – Commissioner Maginn, who sat as Hearing Judge, stated this applicant for an employee permit was denied due to the fact that she was not eligible to hold the permit because of OWI convictions. The applicant appealed the denial, and the matter was set for hearing. Commissioner Maginn now submits her Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Commissioner Maginn moved to adopt the Proposed Findings and deny the employee permit. Vice Chairman Payne seconded. The motion was unanimously approved.

DLI0-32219 GILMORE CONSTRUCTION, INC. – Vice Chairman Payne noted this is an appeal of a denial of a transfer. The issues in this case deal with the definition and interpretation of statute where a permit is held in escrow without ever being put into use and then transferring the permit to someone else. This transferor held the permit in escrow without ever putting it into use. There must be exceptional and unusual circumstances for this to be allowed. The examples given are bankruptcy and death, neither of which were part of this case.

Vice Chairman Payne also stated the two attorneys did a great job presenting this case.

Vice Chairman Payne moved to deny the transfer and allow the permit to revert to the Commission. Commissioner Maginn 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 new and renewal carrier applications. Commissioner Maginn seconded. The motion was unanimously approved.

Commissioner Grubb moved to approve the new direct wine seller applications. Commissioner Maginn seconded. The motion was unanimously approved.

RENEWAL LETTERS AND WAIVERS OF FEES

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

APPLICATIONS FOR DISCUSSION

DL45-32998 SINGH BROTHER LLC – Chair Allen noted this is a transfer of ownership and location with the local board voting 2-1 to deny. She stated concern with people trying to bolster their position by submitting documents outside of the local board hearing. The proper way to provide that information is to submit it at the local board hearing and the local board forward it to the Commission for their review. Two items were made part of the record by the Chair---documents from Ken Britt and an email from Councilman Darren Washington.

Vice Chairman Payne agreed with the Chair regarding submission of documents.

Commissioner Maginn stated this permittee owns several other permits in close proximity to this location. There were individuals for and against this establishment present at the hearing. City councilmen were present to remonstrate, stating their desire to clean up the area and not needing an additional alcohol establishment.

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

RR34-39502 WILDCAT CREEK GOLF COURSE LLC – Chair Allen noted this is a request to covert this permit from a type 209 to a type 210, due to annexation of location.

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

RR82-07412 THE MONARCH CORPORATION – Chair Allen noted this permittee is requesting to be designated as a catering hall.

Commissioner Maginn moved to approve the request to designate this permittee as a catering hall. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-39231 MYRON GREEN CORPORATION – Chair Allen noted this permittee is requesting to be designated as a catering hall.

Commissioner Maginn moved to approve the request to designate this permittee as a catering hall. Commissioner Grubb seconded. The motion was unanimously approved.

RR57-39434 5C ECLECTIC AVENUE LLC – Chair Allen noted this permittee is requesting to be designated as a catering hall.

Commissioner Maginn moved to approve the request to designate this permittee as a catering hall. Commissioner Grubb seconded. The motion was unanimously approved.

DL01-33034 DAGCO OIL, LLC – Chair Allen noted this is a new application with the local board voting 4-0 to approve. There were remonstrators present at the hearing.

Commissioner Maginn stated details of the business practices were provided by the applicant.

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

DL44-32843 LAKEVILLE LIQUOR STORE, INC. – Chair Allen noted this is a transfer of location. The transfer of ownership was previously approved and was not part of this local board hearing.

Commissioner Maginn stated there were numerous individuals at the hearing, the majority of them in opposition. It was noted there are 13 alcoholic beverage locations in close proximity to this location. Those in opposition are concerned because the town is quiet, historic and welcomes a large tourist population because of its unique nature.

Vice Chairman Payne made note of the individuals who signed petitions in favor of this primarily were not from the town. The purpose of the board is to represent the desire of the community.

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

INACTIVE FILES

No Inactive Files

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

NON-RULE POLICY #28 – VIOLATION HISTORY – Vice Chairman Payne moved to approve Non-Rule Policy #28. Commissioner Maginn seconded. The motion was unanimously approved.

NON-RULE POLICY #29– EXTENSION LETTERS – Chair Allen stated this will be voted on at the December 20, 2022 meeting.

ANNOUNCEMENTS

ROUND TABLE DISCUSSIONS- Round table discussions dates are set.

Retailers – December 6 @ 1:30 p.m. via Microsoft Teams

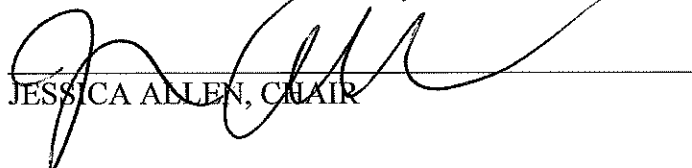
2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

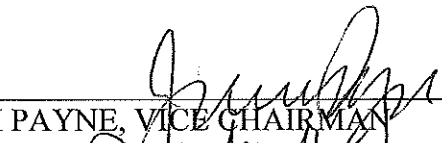
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ADJOURNMENT

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

Approved this 20th day of December, 2022.


JESSICA ALLEN, CHAIR



JIM PAYNE, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER