

ALCOHOL AND TOBACCO COMMISSION

July 5, 2023

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

June 20, 2023

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

RR02-35122 Las Lomas LLC – Order on Rule to Show Cause

RR71-33908 J and B Hideaway LLC – Order on Rule to Show Cause

DL32-28487 Jo-Fran, Inc. – Proposed Findings of Fact and Conclusions of Law

5. Consideration of Applications –

326 renewals

20 news/transfer

43 catering

26 carriers

32 direct wine sellers

6. Waivers of Fees for Letters of Extension -

7. Items for Discussion –

RR25-39405 Dilly's Bar, LLC – Request for Extension

8. Inactive Files –

11 permits to be made inactive

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

Legislative changes

2023 Amended Commission Meeting Dates -

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

JULY 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, Executive Director Kirkman, Prosecutor Wignall, and General Counsel Merritt were in attendance.

**DISPOSITION OF MINUTES**

Commissioner Maginn moved to approve the minutes from the June 20, 2023 meeting. Vice Chairman Payne 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 dispositions were submitted with fines totaling \$31,450.00. Commissioner Maginn seconded. The motion was unanimously approved.

**HEARING JUDGE'S RECOMMENDATIONS**

RR02-35122 LAS LOMAS LLC – Vice Chairman Payne, who sat as Hearing Judge, noted this was a violation where no one appeared for the settlement conference and the Order to Show Cause hearing. Per the Order of the Show Cause Hearing, the hearing judge allowed more time to resolve this matter. If the matter is not settled as of the extended date, the permit is revoked. Neither the Prosecutor nor the Hearing Judge has received any notification from the permittee.

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

RR71-33908 J AND B HIDEAWAY, LLC – Vice Chairman Payne, who sat as Hearing Judge, noted this was a violation where no one appeared for the settlement conference and the Order to Show Cause hearing.

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

DL32-28487 JO-FRAN, INC. – Chair Allen, who sat as Hearing Judge, stated this permit was denied by the local board and Commission because it was determined the business was not operating in the character of business of a package liquor store. The permittee was attempting to do indirectly what could not be done directly. There were questions about operations during the Public Health Emergency, so it was not clear what the business would have been, if not for the Emergency. The permittee has requested the ability to file a transfer.

Chair Allen moved to allow the filing of a transfer within 30 days of today, with the completion of that transfer within 120 days. The renewal of the permit should be scheduled for the local board at the time the transfer is scheduled, for purposes of transfer only. Commissioner Maginn seconded. The motion was unanimously approved.

### **CONSIDERATION OF APPLICATIONS**

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

Chair Allen moved to remove and remand permit #RR02-40132 from the agenda due to non-disclosure of criminal history on the application. Applicant is to submit a corrected, truthful application. Vice Chairman Payne seconded. The motion was unanimously approved.

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

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

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

Commissioner Maginn moved to approve the direct wine seller applications. Vice Chairman Payne 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**

RR25-39405 DILLY'S BAR, LLC – Chair Allen noted this is a second Extension request.

Commissioner Maginn stated the permittee had an open violation and the renewal has been continued by the local board. The violation is now settled.

Commissioner Maginn moved to allow a second 90-day Extension. Vice Chairman Payne seconded. The motion was unanimously approved.

**INACTIVE FILES**

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

**OLD BUSINESS**

No Old Business

**NEW BUSINESS**

No New Business

**POLICY DETERMINATIONS**

LEGISLATIVE CHANGES – Chair Allen noted the DORA applications are now online. New permits for Auburn, Kendallville, Warsaw, Winona Lake and Syracuse that were adopted in House Bill 1200 have been named 210 Supplementals online. Lastly, changes in 7.1-5-7-11 make it legal for children of all ages to be present in a barroom with a parent or guardian for purposes of consuming food at a table, not the bar, however, not in barrooms that allow smoking or type II gaming.

**ANNOUNCEMENTS**

2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

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

Approved this 18<sup>th</sup> day of July, 2023.

  
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JESSICA ALLEN, CHAIR

  
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JAMES W. PAYNE, VICE CHAIRMAN

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DALE GRUBB, COMMISSIONER

*Marjorie Maginn*

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MARJORIE MAGINN, COMMISSIONER