

MINUTES

ALCOHOL AND TOBACCO COMMISSION

FEBRUARY 4, 2025

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 Jones, Prosecutor Wignall, Deputy Director Serak, General Counsel Merritt, and Senior Attorney Beaucaire were in attendance.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the January 22, 2024 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. Seventy-four dispositions were submitted with fines totaling \$48,600.00. Commissioner Maginn seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

RR49-37158 VEGAS HOOKAH LOUNGE AND BAR – Vice Chairman Payne, who sat as hearing judge, stated this is an appeal of a denial of a transfer of location. At the appeal hearing, several people testified, both for and against the transfer and exhibits were admitted into evidence. The Vice Chairman submitted the Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Payne moved to uphold the denial of the transfer. Commissioner Maginn seconded. The motion was unanimously approved.

CONSIDERATION OF APPLICATIONS

Commissioner Jones 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 the 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.

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

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

Commissioner Jones moved to approve the direct wine shipper applications. Vice Chairman Payne 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 Maginn seconded. The motion was unanimously approved.

ITEMS FOR DISCUSSION

RC04-18090 BENTON COUNTY COUNTRY CLUB INC. – Chair Allen noted this is a request for conversion of a social club permit to a restaurant permit.

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

RR45-20186 SHADES OF TIME – Chair Allen noted this is a request for the ability to transfer a denied permit.

Commissioner Maginn stated this permit was denied and an appeal was filed. The permittee requested the ability to file a transfer of this permit.

Commissioner Maginn moved to approve the request conditioned upon clearing the tax protest, filing a statement noting the transfer would be an arm's length transaction and filing the transfer within 30 days. Vice Chairman Payne seconded and thanked Commissioner Maginn for requesting a statement of an arm's length transaction.

Chair Allen stated the attorney for the permittee will be filing a supplemental affidavit assuring the Commission this would be an arm's length transaction.

The motion was unanimously approved.

RR18-41609 APS MALLS LLC – Chair Allen noted this is on for extension request.

Commissioner Maginn stated this permittee has a pending violation and a tax protest. There is a settlement conference scheduled for the violation.

Commissioner Maginn moved to approve the extension request upon the clearance of the tax protest. Vice Chairman Payne seconded. The motion was unanimously approved.

RR29-31671 FIREBIRDS OF CARMEL LLC – Chair Allen noted this was on for an extension request, however, all missing information has been received. The permit can be renewed.

RR49-38124 RED SEA BAR & RESTAURANT LLC – Chair Allen noted that this is on for an extension request.

Commissioner Maginn stated there was a processing error in scheduling a local board for the renewal.

Commissioner Maginn moved to approve a fee-waived extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR65-40562 AND CT65-32353 FIELD 2 FORK LLC – Chair Allen noted this is on for an extension request.

Commissioner Maginn stated there is a tax protest on this permit.

Commissioner Maginn moved to approve the extension request conditional upon clearing the tax protest. Vice Chairman Payne seconded. The motion was unanimously approved.

RR49-35771 and CT49-31513 EL FANDANGOS INC. – Chair Allen stated this is on for an extension request.

Commissioner Maginn stated the renewal of this permit was denied and an appeal was filed. The business has been closed since November. The renewal was denied due to criminal activity and police calls to the business. The Commissioner noted a corrective action plan was filed but thinks eliminating limited separation and closing earlier would be a good addition to the plan. This would be helpful in keeping minors out of the business during late hours.

Commissioner Maginn moved to approve an extension, but stated the Commission expects strict compliance with laws and regulations and there will be zero tolerance for any additional problems. Vice Chairman Payne seconded.

Chair Allen stated the business needs to make the best decisions for the community and barreling ahead with minors and late closing hours opens the door for problems, which is a concern for her. She also stated that the appeal standard is whether the local board's denial was arbitrary or capricious and granting the extension does not mean their determination was arbitrary or capricious. The appeal will be decided on the merits of the case.

Vice Chairman Payne noted there were so many issues with this establishment and the guns troubled him, so he will be voting against granting the extension.

Commissioner Jones abstained from voting because he is the hearing judge for the appeal.

The motion passed 2-1.

INACTIVE FILES

Chair Allen stated permit #RR41-23970 was removed from the list posted on January 7, 2025. Renewals are on file.

Commissioner Maginn moved to make 21 permits dead that were previously posted on the January 7, 2024 meeting agenda. Vice Chairman Payne seconded. The motion was unanimously approved.

Chair Allen stated there are 49 permits posted to be made dead at the February 18, 2025 meeting.

OLD BUSINESS

No Old Business

NEW BUSINESS

No New Business

POLICY DETERMINATIONS

NON-RULE POLICY #24 REVISION – Chair Allen noted the Commission is proposing amendments to Non-Rule Policy #24, which deals with receiving incomplete applications that are causing processing delays. Comments have been received.

Chair Allen moved to continue this to the February 18, 2025 meeting. Commissioner Maginn seconded. The motion was unanimously approved.

ANNOUNCEMENTS

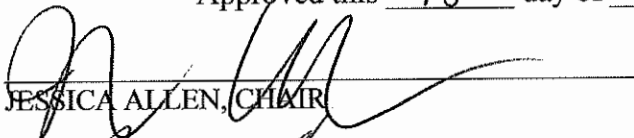
2025 AMENDED COMMISSION MEETING DATE - Chair Allen stated the next 2025 Amended Meeting Dates are:

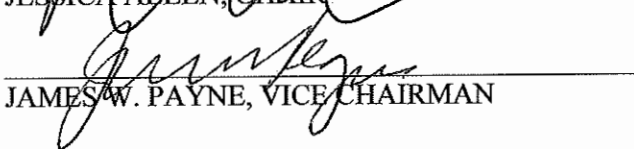
Wednesday, May 28, 2025 (escrow hearing)
Wednesday, September 3, 2025 (commission meeting)
December 2025 (no escrow hearing)

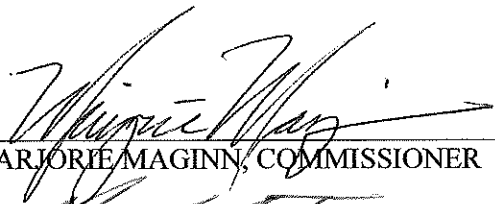
ADJOURNMENT

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

Approved this 18th day of February, 2025.


JESSICA ALLEN, CHAIR


JAMES W. PAYNE, VICE CHAIRMAN



MARJORIE MAGINN, COMMISSIONER



MARK A. JONES, COMMISSIONER