

ALCOHOL AND TOBACCO COMMISSION

April 4, 2023

10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

March 21, 2023

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

RR35-35570 Rustic River Outfitters, Inc. – Proposed Findings of Fact and Conclusions of Law

RR29-35146 Adel Gyros, LLC – Proposed Findings of Fact and Conclusions of Law

5. Consideration of Applications -

371 renewals

21 news/transfers

33 catering

25 carriers

47 direct wine sellers

6. Renewal Extension Letters and Waivers of Fees for Letters of Extension -

7. Applications for Discussion –

RR50-39837 830 Lincolnway LLC – requesting catering hall designation

8. Inactive Files –

8 permits to be made inactive

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

2023 Amended Commission Meeting Dates -

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 (Escrow Hearing)

13. Adjournment

MINUTES

ALCOHOL AND TOBACCO COMMISSION

APRIL 4, 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, Deputy Director Kirkman, General Counsel Merritt, and Prosecutor Wignall were present.

**DISPOSITION OF MINUTES**

Vice Chairman Payne moved to approve the minutes from the March 21, 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-two dispositions were submitted with fines totaling \$34,450.00. Commissioner Grubb seconded. The motion was unanimously approved.

**HEARING JUDGE'S RECOMMENDATIONS**

RR35-35570 RUSTIC RIVER OUTFITTERS, INC. – Vice Chairman Payne served as Hearing Judge in this violation appeal. The permittee was cited for furnishing alcohol to a minor during a Survey of Alcohol Compliance Check. An appeal hearing was held. The Hearing Judge submitted Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

Vice Chairman Payne moved to find the permittee guilty of furnishing alcohol to a minor. Commissioner Maginn seconded. The motion was unanimously approved.

RR29-35146 ADEL GYROS, LLC – Vice Chairman Payne served as Hearing Judge in this matter. The renewal was denied, and the permittee filed an appeal. The permittee had been cited for purchasing alcohol from a retailer and for having liquor on premises with only a beer and wine permit. Those violations had already been before the local board in 2020 and the renewal was granted. No other violations have been issued. The Hearing Judge submitted Proposed Findings of Fact and Conclusions of Law for recommendation to the Commission.

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

By consent, the Commission added permit #DW0001188 to the agenda.

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

#### **RENEWAL LETTERS AND WAIVERS OF FEES**

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

RR49-31098 JOCKAMO LAWRENCE LLC – Chair Allen stated this permittee filed a request for a second extension. The permittee is required to go before the local board for renewal this year, but will be out of the country for both the March and April local board hearings, so in order to continue operating the business during that time, an Extension is needed. There are no pending violations.

Commissioner Maginn moved to approve the 2<sup>nd</sup> Request for Extension. Commissioner Grubb seconded. The motion was unanimously approved.

#### **APPLICATIONS FOR DISCUSSION**

RR50-39837 830 LINCOLNWAY LLC – Chair Allen noted this permittee requested a catering hall designation.

Commissioner Maginn moved to approve the request. Commissioner Grubb seconded. The motion was unanimously approved.

#### **INACTIVE FILES**

Commissioner Grubb moved to make eight permits inactive. Commissioner Maginn seconded. The motion was unanimously approved.

## **OLD BUSINESS**

No Old Business

## **NEW BUSINESS**

No New Business

## **POLICY DETERMINATIONS**

No Policy Determinations

## **ANNOUNCEMENTS**

STATEMENT BY CHAIR ALLEN REGARDING NON-RULE POLICY 29 – Chair Allen stated that on March 30th, 2023, the Indianapolis Metropolitan Police Department, via Captain Chris Boomershine submitted a letter to ATC Prosecutor Drew Wignall attempting to rebut statement submitted by attorney Jeff McKean relating to a request for extension for permit number RR49-34539.

The Commission recently adopted Non-Rule Policy 29. While this is a new process for everyone and there is an adjustment period, it is not and cannot be a replacement for local board processes, appeals or violation hearings.

Extensions are granted at the discretion of the Commission, considering whether good caused exists for granting the extension.

The Commission, as we indicated in response to recent permittee filings, will not make findings about the facts of a denial or the facts of an alleged violation through filings related to extension requests. The extension process is not a substitute for the processes adopted in 905 IAC 1-36 or 905 IAC 1-37. As stated in the scope of Non-Rule Policy 29, the Commission understands that even a short interruption in a permittee's ability to operate under a permit may be detrimental to business operations and will treat timely requests or a letter of extension with this fact in mind. The Commission will consider extension requests at both the bimonthly Commission meetings and the escrow hearings and made this point clear in Non-Rule Policy 29. The Commission also clearly stated that a permittee may refile extension requests after resolving matters addressed in the denial.

The Commission will continue to address matters in an orderly manner as governed by statute and rules. The letter submitted by Captain Boomershine on behalf of IMPD, was provided to the Attorney of record for permit RR49-34539. The letter was submitted to the ATC prosecutor after the Commission decision on March 28, 2023. Since it was submitted to the prosecutor, it will remain part of the prosecutor's file on violation EX-21-014101. The ATC prosecutor will determine, within his discretion what evidence to present and how to present it for the violation matter.

### 2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

1st week of May 2023, Wednesday May 3

1st week of July 2023, Wednesday July 5

1st week of September 2023, Wednesday September 6

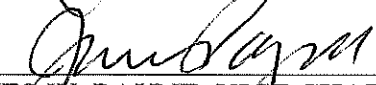
1st week of November 2023, Wednesday November 8  
4th week of December 2023, Wednesday December 27

**ADJOURNMENT**

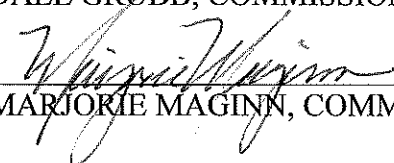
Commissioner Grubb moved to adjourn the meeting. Vice Chairman Payne seconded. The motion was unanimously approved.

Approved this 15th day of April, 2023.

  
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JESSICA ALLEN, CHAIR

  
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JAMES W. PAYNE, VICE CHAIRMAN

  
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DALE GRUBB, COMMISSIONER

  
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MARJORIE MAGINN, COMMISSIONER