

ALCOHOL AND TOBACCO COMMISSION

April 18, 2023

10:00 A.M.

1. Call to Order and Noting of Quorum --

2. Disposition of Minutes --

April 4, 2023

3. Prosecutor's Recommendations --

PAD Forms

4. Hearing Judge's Recommendations --

5. Consideration of Applications -

700 renewals  
99 new/transfers  
37 catering  
21 carriers  
13 direct wine sellers

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

7. Items for Discussion --

RR29-35822 AV Nail Spa Hamilton LLC -- renewal with LB voting 4-0 to deny (cont. from 3/21)

DL32-33116 Central Indiana Package Group, LLC -- new with LB voting 3-0 to deny

RR53-38038 Kalao Restaurant & Nightclub Corp -- remand

RR03-39655 Cozy Lounge, LLC -- transfer with LB voting 3-0 to approve

RR29-23639 VAT, Inc. -- renewal with LB voting 4-0 to deny

RR82-18953 Xcess, Inc. -- renewal with LB voting 2 to approve, 2 abstained

RR14-35847 Stone Endeavors, LLC -- renewal with LB voting 3-0 to deny

RR79-31044 Three O Eight, LLC -- extension request

RR30-21963 Strike Force Lanes, LLC -- extension request

8. Inactive Files --

3 not subject to auction

2 subject to auction

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 18, 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 April 4, 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-seven dispositions were submitted with fines totaling \$35,200.00. Commissioner Grubb seconded. The motion was unanimously approved.

**HEARING JUDGE'S RECOMMENDATIONS**

No Hearing Judge's Recommendations

**CONSIDERATION OF APPLICATIONS**

By consent, the Commission added permit #RC26-03499 to the list of renewals to be approved, due to an error on the part of the Commission.

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 Maginn moved to conditionally approve a transfer for permit #RR45-39799. After receipt of Notice of Non-Speculation, the permit is approved. Vice Chairman Payne 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.

Commissioner Grubb moved to approve the direct wine seller applications. Commissioner Maginn 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.

### **APPLICATIONS FOR DISCUSSION**

RR29-35822 AV NAIL SPA HAMILTON LLC – Chair Allen noted this is a renewal with the local board voting 4-0 to deny. This matter was continued from the March 21, 2023 meeting.

Commissioner Maginn stated the local board had questions about ownership. The Commission sent notice to the permittee to ask for clarification regarding these issues. The permittee has not responded.

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

DL32-33116 CENTRAL INDIANA PACKAGE GROUP, LLC – Chair Allen noted this is a new application with the local board voting 3-0 to deny.

Commissioner Maginn stated this is location pending and only ownership was considered at the local board hearing. This owner does hold other permits. The local board had numerous concerns about other permits owned by this permittee and the number of violations issued to the other permits.

Commissioner Maginn moved to uphold the local board's recommendation to deny the new permit. Commissioner Grubb seconded. Chair Allen voted to deny. Vice Chairman Payne abstained from voting. The vote was 3-1 to uphold the local board.

RR53-38038 KALAO RESTAURANT & NIGHTCLUB CORP – Chair Allen noted this renewal was set for automatic renewal, but should have been scheduled for the local board due to a violation that occurred in the last renewal period.

Commissioner Maginn moved to set aside the previous approval of the renewal and to schedule a local board hearing. Vice Chairman Payne seconded. The motion was unanimously approved.

RR03-39655 COZY LOUNGE LLC – Chair Allen noted this is a transfer of ownership with the local board voting 3-0 to approve.

Commissioner Maginn stated a police officer was present to remonstrate at the local board hearing. He wanted to make sure the new owner was aware of the past problems with this location, but also stated fewer calls have been made to this location since this applicant has been running the establishment.

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

RR29-23639 VAT, INC. – Commissioner Maginn moved to continue this matter to the May 3, 2023 meeting. Commissioner Grubb seconded. The motion was unanimously approved.

RR82-18953 XCESS, INC. – Chair Allen noted this is a renewal with the local board voting 2 to approve and 2 to abstain.

Vice Chairman Payne stated he was the hearing judge regarding a violation that occurred at the establishment. The settlement agreement included a fine and a substantial number of days of suspension. Also included in the agreement was a no-tolerance policy where if any other violations occur at the location, the permit will be revoked.

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

RR14-35847 STONE ENDEAVORS, LLC – Chair Allen noted this is a renewal with the local board voting 3-0 to deny.

Commissioner Maginn stated this establishment has a history of violations and is currently on the PACE Program.

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

RR79-31044 THREE O EIGHT, LLC – Chair Allen noted this permittee is requesting a letter of extension. She also stated a corrective action plan was submitted, but there may not have been time for the Commissioners to review prior to this meeting.

Commissioner Maginn stated there have been multiple violations issued to this establishment for furnishing to minors.

Commissioner Maginn moved to continue this to the April 25, 2023 Escrow Hearing, since the commissioners have not had time to review the corrective action plan. Vice Chairman Payne seconded. The motion was unanimously approved.

Chair Allen restated the Escrow Hearings are publicly noticed meetings. The link for the meeting is on our website. Non-Rule Policy 29 states extension requests can be considered at escrow hearings.

Vice Chairman Payne noted while in a college town over the weekend, a business he patronized used a system for carding that required one piece of identification for those who appeared to be over 25 and two pieces of identification for those who appeared to be under 25. He found that to be an interesting concept.

RR30-21963 STRIKE FORCE LANES, LLC – Chair Allen noted this permittee is requesting a 2<sup>nd</sup> letter of extension.

Commissioner Maginn stated the request for extension is due to missing paperwork.

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

RR08-30951 M.G. DUTTON, INC. – Chair Allen noted this permittee is requesting a 2<sup>nd</sup> letter of extension. There has been a change in the status of this permit since the last request in that they have settled the pending violation.

Commissioner Maginn moved to continue this to the April 25, 2023 escrow hearing because she has not been able to review the request. Vice Chairman Payne seconded. The motion was unanimously approved.

#### **INACTIVE FILES**

Commissioner Grubb moved to make five permits inactive. Three permits are not subject to auction and two are subject to auction. Commissioner Maginn seconded. The motion was unanimously approved.

#### **OLD BUSINESS**

No Old Business

#### **NEW BUSINESS**

No New Business

#### **POLICY DETERMINATIONS**

No Policy Determinations

#### **ANNOUNCEMENTS**

#### 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 3<sup>rd</sup> day of May, 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