

ALCOHOL AND TOBACCO COMMISSION
May 3, 2023
10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

April 18, 2023

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications -

364 renewals
35 new/transfers
39 catering
23 carriers
92 direct wine sellers

6. Waivers of Fees for Letters of Extension -

7. Items for Discussion –

RR29-23639 VAT, Inc. – renewal with LB voting 4-0 to deny (cont. from 4/18)

RR7939720 Heisei Indiana, LLC – request catering hall designation

RR34-03931 Dan the Man, Inc. and RR34-39749 DLDII Investments LLC – renewal and transfer with LB voting 2-1 to approve

DL49-18735 Kwick Mart Inc. – request 2nd Extension

RR84-20634 Top Hat, Inc. – request 3rd Extension

RR88-16023 The Original Pop-A-Top Inc. – request 2nd Extension

RR45-36048 Santa Fe Restaurant and Bar, Inc. – request 2nd Extension

8. Inactive Files –

2 permits to be made inactive

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

2023 Amended Commission Meeting Dates -

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

MAY 3, 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 18, 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. Sixty-seven dispositions were submitted with fines totaling \$46,300.00. Commissioner Grubb seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

No Hearing Judge's Recommendations

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.

By consent, the Commission added permit WH4930119 and WH4930120 to the list for approval.

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.

By consent, the Commission added permit CT0632228 to the list for approval.

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

RR29-23639 VAT, INC. – Chair Allen noted this is a renewal with the local board voting 4-0 to deny. This renewal was continued from the 4/18/23 meeting.

Commissioner Maginn stated this business has a history of violations and the local board voted to deny because they feel it has become a public nuisance.

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

RR79-39720 HEISEI INDIANA LLC – Chair Allen noted this permittee is requesting permission to be designated as a catering hall.

Commissioner Maginn moved to approve the request for a catering hall designation. Vice Chairman Payne seconded. The motion was unanimously approved.

RR34-03931 DAN THE MAN, INC. AND RR34-39749 DLDII INVESTMENTS, LLC – Chair Allen noted this is a renewal and a transfer with the local board voting 2-1 to approve.

Commissioner Maginn stated the renewal was denied in October 2022 due to a history of violations. An appeal was filed. A request to allow the filing of a transfer was also filed and approved by the Commission. The applicant on the transfer is the previous owner of the permit and owns the building.

Commissioner Maginn moved to uphold the local board's recommendation to approve the renewal and transfer of the permit. Vice Chairman Payne seconded. The motion was unanimously approved.

Chair Allen stated that all transfers at the time of the first renewal must go before the local board.

DL49-18735 KWICK MART, INC. – Chair Allen noted this is a request for a second extension. There is a tax hold on the permit, which is the reason the renewal has not been issued. Because this is a second extension request, the Commission cannot issue it because of the tax hold. Also, when the tax hold is removed, the renewal can be issued making the extension request moot.

By consent the commission is holding this until the tax hold is cleared and the renewal can be issued.

Vice Chairman Payne commented that permittees need to make sure when submitting any form all information is filled out completely or it may not be accepted.

RR84-20634 TOP HAT, INC. – Chair Allen noted this is a request for a third extension.

Commissioner Maginn stated the renewal of this permit was denied, an appeal was filed and a request for the ability to file a transfer was filed. The transfer is scheduled to be heard by the local board on May 15, 2023.

Commissioner Maginn moved to approve the request for a third extension that would expire on May 16, 2023. Commissioner Grubb seconded. The motion was unanimously approved.

Vice Chairman Payne voted to approve; however, he is not in favor of granting third extensions. He would like paperwork to be filed timely so these requests are necessary.

Chair Allen stated she agrees, but also made note that transfers must be scheduled for local board hearings and must go through the notice and advertising process which could cause delays.

RR88-16023 THE ORIGINAL POP-A-TOP, INC. – Chair Allen noted this is a request for a second extension.

Commissioner Maginn stated permittee has not submitted a Form 1 Property Tax Clearance Form because the money for taxes had to be used to replace the sewer system at the business. Permittee will pay the taxes soon but needs the business to be operational in the meantime.

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

Chair Allen stressed that Form 1 Property Tax Clearance Forms are required for issuance of a renewal. Permittees should make sure that they are not using this to circumvent the requirement of the renewal if this comes to requesting a third extension.

RR45-36048 SANTA FE RESTAURANT AND BAR, INC. – Chair Allen noted this is a request for a second extension.

Commissioner Maginn stated the permittee has not submitted a Form 1 Property Tax Clearance due to an issue with the address. The permittee expects to have this cleared up by the end of May.

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

DL45-04813 ECONOMY PACKAGE LIQUORS III, INC. – By consent, the Commission added this request for a first extension to the agenda.

Chair Allen stated there is a pending violation on this permit and the settlement conference with the prosecutor is not scheduled until May 8, 2023. The permit expires on May 13, 2023.

Commissioner Maginn moved to approve the request for a first extension. Commissioner Grubb seconded. The motion was unanimously approved.

INACTIVE FILES

Commissioner Grubb moved to make two 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

2023 AMENDED COMMISSION MEETING/ESCROW MEETING DATES -

- 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

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

Approved this 16th day of May, 2023.



JESSICA ALLEN, CHAIR



JAMES W. PAYNE, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER