

ALCOHOL AND TOBACCO COMMISSION
August 15, 2023
10:00 A.M.

1. Call to Order and Noting of Quorum –

2. Disposition of Minutes –

August 1, 2023

3. Prosecutor's Recommendations –

PAD Forms

4. Hearing Judge's Recommendations –

5. Consideration of Applications –

512 renewals
89 new/transfers
34 catering
21 carriers
13 direct wine sellers

6. Waivers of Fees for Letters of Extension -

7. Items for Discussion –

RR27-39870 Jack's Donuts Gas City, LLC - new with the LB voting 3-0 to deny – FTA

RR33-39970 El Cajon De Arauca Agritainment Ranch, LLC – new with LB voting 4-0 to deny

RR32-34285 The Clax Shack, Inc – renewal with LB voting 3-0 to deny

RR78-40160 Patriot Main St LLC – new with LB voting 3-1 to approve

RR49-36905 The Smith Entertainment Group LLC – renewal with LB voting 3-0 to deny

RR82-00285 Amy's Lamasco Bar, LLC – renewal with LB voting 2-1 to deny with 1 abstention

RR79-31044 Three O Eight LLC – renewal with LB voting 3-1 to approve + Extension request

RR46-01558 Blackhawk Inn, Inc. – Extension request

RR71-00744 The Blue Lantern Inc. – Extension request

DL45-04813 Economy Package Liquors #3 Inc.- Extension request

RR53-32765 El Ranchero Mexican Restaurant LLC – Extension request

RR29-38865 Watson Holdings Inc. – Extension request

8. Inactive Files –

9 permits to be made inactive

9. Old Business -

10. New Business –

11. Policy Determinations –

12. Announcements -

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

AUGUST 15, 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, General Counsel Merritt, and Prosecutor Wignall were in attendance.

DISPOSITION OF MINUTES

Vice Chairman Payne moved to approve the minutes from the August 1, 2023 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. Forty dispositions were submitted with fines totaling \$31,900.00. 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.

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

Commissioner Maginn moved to approve the fee waived letters of extension issued the preceding weeks. Commissioner Grubb seconded. The motion was unanimously approved.

ITEMS FOR DISCUSSION

RR27-39870 JACK’S DONUTS GAS CITY, LLC – Chair Allen noted this is a new application with the local board voting 3-0 to deny for failure to appear.

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

RR33-39970 EL CAJON DE ARAUCA AGRITAINMENT RANCH, LLC – Chair Allen noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated the applicant has not been approved by the Henry County Health Department to serve food and this type of permit requires the business to have \$200,000 in food sales in the first two years and \$100,000 in food sales per year after that to qualify for the permit.

Commissioner Maginn moved to uphold the local board’s recommendation to deny the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR32-34285 THE CLAX SHACK, INC. – Chair Allen noted this is a renewal application with the local board voting 3-0 to deny.

Commissioner Maginn stated the local board recommended denial because the permittee does not meet the required amount of food sales to be eligible to hold this type of permit.

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

RR78-40160 PATRIOT MAIN ST LLC – Chair Allen noted this is a new application with the local board voting 3-1 to approve.

Commissioner Maginn stated there was one remonstrator who is a package store owner. There was concern the reason for remonstrating was fear of competition.

Commissioner Maginn moved to uphold the local board’s recommendation to approve the new permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR49-36905 THE SMITH ENTERTAINMENT GROUP LLC – Chair Allen stated this is a renewal with the local board voting 3-0 to deny.

Commissioner Maginn stated the local board is concerned that the person making decisions regarding the operations of this business (Cheri Smith) is not listed on the ownership. There was discussion about retail to retail sales and a minor being employed at the business.

Commissioner Maginn moved to have the Prosecutor work with the permittee to make sure they understand the importance of following the rules and regulations of the Commission and to clarify the role of Cheri Smith. Also, continue this renewal to the October 17, 2023 meeting. Vice Chairman Payne seconded. The motion was unanimously approved.

Chair Allen asked General Counsel Merritt to send notice to the permittee regarding this motion.

Vice Chairman Payne stated after listening to the local board hearing, he also had concerns about the operations of this business and agreed it should be looked into before making a determination.

RR82-00285 AMY'S LAMASCO BAR, LLC – Chair Allen noted this is a renewal with the local board voting 2-1 to deny with 1 abstention.

Commissioner Maginn stated this permittee has had several violations---one while on the PACE Program. The commissioner feels the business has become a public nuisance.

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

Chair Allen admitted the letter from permittee's attorney into the record.

Vice Chairman Payne explained the PACE Program is similar to a corrective action plan that is supposed to be a vehicle to help permittees keep or get on the right track as far as operating the business lawfully and should be taken seriously.

RR79-31044 THREE O EIGHT LLC – Chair Allen noted this is a renewal with the local board voting 3-1 to approve. There is also a request for an Extension.

Commissioner Maginn stated this permittee has had five violations within a few months of each other and there are issues with the owner being absent from the business. The Commissioner noted another bar also near Purdue that was denied recently for similar violations and wanted to make sure the Commission was being consistent with their decisions.

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

Chair Allen stated an Extension request was submitted. However, part of the violation settlement agreement included a 20-day suspension that begins on Thursday, August 17, 2023.

Commissioner Maginn moved to approve a 2-day Extension and place this on the next agenda with the permittee submitting a corrective action plan prior to that date for consideration of an additional Extension. Vice Chairman Payne seconded. The motion was unanimously approved.

RR46-01558 BLACKHAWK INN, INC. – Chair Allen stated Extension is no longer needed.

R71-00744 THE BLUE LANTERN INC. – Chair Allen stated this is a third Extension request with the current Extension expiring today.

Commissioner Maginn noted there have been no violations recently and the permit is part of an estate.

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

DL45-04813 ECONOMY PACKAGE LIQUORS #3, INC. – Chair Allen noted this is a second Extension request.

Commissioner Maginn stated there are pending violations and the permittee is currently working with the Prosecutor to resolve them.

Commissioner Maginn moved to approve a second Extension. Commissioner Grubb seconded. The motion passed unanimously.

RR53-32765 EL RANCHERO MEXICAN RESTAURANT LLC – Chair Allen stated Extension no longer needed.

RR29-38865 WATSON HOLDINGS, INC. – Chair Allen noted this permit received an Extension in error. There are pending violations. The violations at this location deal with the franchisee having no interest in holding an alcohol permit. There is no alcohol on the premises.

Commissioner Maginn moved to recall the Extension issued in error and ask the permittee to submit an Escrow Request. Vice Chairman Payne seconded. The motion was unanimously approved.

RR84-38865 TOP HAT INC. – Chair Allen stated there is an additional request for an Extension for the agenda. The Commission added this by consent.

Commissioner Maginn noted the renewal of this permit was denied and an appeal was filed. Permittee requested the ability to transfer, and that transfer was filed. Currently the transfer is being held up while counsel is verifying the Enabling Ordinance for the town is still valid.

Chair Allen stated the Commission can accept an affidavit stating the Enabling Ordinance is valid.

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

INACTIVE FILES

Commissioner Grubb moved to make nine permits inactive. Vice Chairman Payne 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 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 6th day of September, 2023.



JESSICA ALLEN, CHAIR



JAMES W. PAYNE, VICE CHAIRMAN



DALE GRUBB, COMMISSIONER

MARJORIE MAGINN, COMMISSIONER