

ALCOHOL AND TOBACCO COMMISSION
September 19, 2023
10:00 A.M.

1. Call to Order and Noting of Quorum –
2. Disposition of Minutes –
September 6, 2023
3. Prosecutor’s Recommendations –
PAD Forms
4. Hearing Judge’s Recommendations –
BR1984820 Kevin Patrick McAdams – Proposed Findings of Fact and Conclusions of Law
BR1852836 Alicia Baxter - Proposed Findings of Fact and Conclusions of Law
RR71-30791 Mitch Z, Inc. - Proposed Findings of Fact and Conclusions of Law
BR1645100 Bobbie Brobeck - Proposed Findings of Fact and Conclusions of Law
5. Consideration of Applications –
622 renewals
75 new/transfers
41 catering
28 carriers
12 direct wine sellers
6. Waivers of Fees for Letters of Extension -
7. Items for Discussion –
RR49-36905 The Smith Entertainment Group LLC
RR83-40235 Brouillettes Wine and Beer Co. LLC – new with LB voting 4-0 to deny
DL80-33343 Windfall Liquor, Inc. – new with LB voting 4-0 to deny
RR60-39184 Toremac LLC – renewal with LB voting 3-0 to deny
RR20-39549 Wedgewood Brewing Company LLC – requesting catering hall designation
RR48-14318 Bearvon Corporation – Extension request
RR71-30791 Mitch Z, Inc. - Extension request
8. Inactive Files –
3 permits to be made inactive

9. Old Business -

10. New Business --

11. Policy Determinations --

12. Announcements --

2023 Amended Commission Meeting Dates -

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

SEPTEMBER 19, 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 September 6, 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. Seventy-four dispositions were submitted with fines totaling \$43,760.00. Commissioner Grubb seconded. The motion was unanimously approved.

HEARING JUDGE'S RECOMMENDATIONS

BR1984820 KEVIN PATRICK MCADAMS – Commissioner Maginn stated this was an appeal from a denial of an employee permit due to OWI convictions that made him ineligible to hold a permit.

Commissioner Maginn moved to deny the permit. Commissioner Grubb seconded. The motion was unanimously approved.

BR1852836 ALICIA BAXTER – Commissioner Maginn stated this was an appeal from a denial of an employee permit due to two OWI convictions within a ten-year period. The two convictions were decided on the same day, but were two separate occurrences.

Commissioner Maginn moved to deny the permit. Commissioner Grubb seconded. The motion was unanimously approved.

RR71-30791 MITCH Z, INC. AND BR1645100 BOBBIE BROBECK – Chair Allen noted the Commission will consider these Findings together.

Vice Chairman Payne stated this was an appeal of a violation for serving an intoxicated patron. An appeal hearing was held. Witnesses were sworn and provided testimony for both sides and a video was shown of the intoxicated patron at the business, who had been drinking at a different establishment prior to this one. The Vice Chairman did not notice any obvious signs, from the video, of intoxication by the patron, even though her BAC was well over the legal limit.

Vice Chairman Payne moved to dismiss the violation for the establishment and the employee. 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.

The Commission moved permit #DL45-33348 from the new/transfer list to the Items For Discussion.

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. Vice Chairman Payne seconded. The motion was unanimously approved.

ITEMS FOR DISCUSSION

RR49-36905 THE SMITH ENTERTAINMENT GROUP LLC – Chair Allen noted this renewal was denied by the local board on August 7, 2023, regarding undisclosed ownership issues. The Commission set this for the October 17, 2023, to allow the prosecutor and permittee time to resolve the issues. The Commission was provided with a resolution, so this matter was put on the agenda for today.

Commissioner Maginn stated paperwork has been submitted adding a person who has been very involved in this business and had previously portrayed herself as an owner, to the ownership.

Commissioner Maginn moved to approve the renewal and transfer of this permit and hold it in escrow pending a location. Vice Chairman Payne seconded. The motion was unanimously approved.

RR83-40235 BROUILLETES WINE AND BEER CO. LLC – Chair Allen noted this is a new application with the local board voting 4-0 to deny for failure to appear.

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

DL80-33343 WINDFALL LIQUOR INC. – Chair Allen noted this is a new application with the local board voting 4-0 to deny.

Commissioner Maginn stated this applicant does not have a lease at the location listed on the application.

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

RR60-39184 TOREMAC LLC – Chair Allen noted this is a renewal application with the local board voting 3-0 to deny.

Commissioner Maginn stated this permittee failed to disclose criminal convictions on the application. This business has also had violations that resulted in suspensions being served.

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

Chair Allen stated when applications are filed, the applicants/permittees are signing under the penalties for perjury that all the information is true and accurate, even if there is a preparer filing the paperwork. It is the permittee's responsibility to make sure everything is correct.

RR20-39549 WEDGEWOOD BREWING COMPANY LLC – Chair Allen noted this permittee is requesting to be designated as a catering hall.

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

RR48-14318 BEARVON CORPORATION – Chair Allen noted this is a second Extension request. The renewal is also on the agenda for approval, so an Extension is not necessary, however, there is a tax protest on the permit. The Commission cannot approve a second Extension with the tax protest on file.

Commissioner Maginn moved to approve the renewal of the permit, pending removal of tax protest. Commissioner Grubb seconded. The motion was unanimously approved.

RR71-30791 MITCH Z, INC. – Chair Allen noted this is a second Extension request. The local board is set for September 27th and the current Extension expires on September 20th.

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

DL45-33348 VILLAGE WINE & SPIRITS – Chair Allen noted this is a transfer of ownership with local board voting 4-0 to approve.

Commissioner Maginn stated there was a remonstrator present at the local board hearing with concerns about an additional liquor store being issued. This would not bring an additional permit to the area because it is only a transfer of ownership of an existing business.

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

INACTIVE FILES

Commissioner Grubb moved to make three 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 November 2023, Wednesday November 8
4th week of December 2023, Wednesday December 27

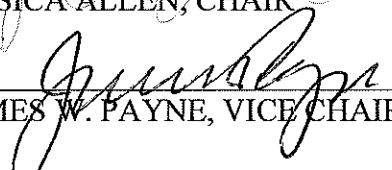
ADJOURNMENT

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

Approved this 3rd day of October, 2023.

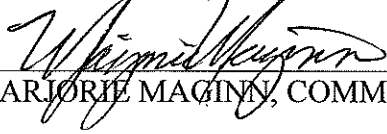


JESSICA ALLEN, CHAIR



JAMES W. PAYNE, VICE CHAIRMAN

DALE GRUBB, COMMISSIONER



MARJORIE MAGINN, COMMISSIONER