

TEXAS ALCOHOLIC BEVERAGE COMMISSION  
COMMISSION MEETING  
MONDAY, JANUARY 29, 2001

The Texas Alcoholic Beverage Commission met on this date in Room 185 at 5806 Mesa Drive, Austin, Travis County, Texas. Members present: Allan Shivers, Jr., Chairman; John T. Steen, Jr., Member and Gail Madden, Member. Staff present: Doyne Bailey, Administrator; Randy Yarbrough, Assistant Administrator; Lou Bright, General Counsel; Jeannene Fox, Director of License & Compliance; Greg Hamilton, Chief of Enforcement and Denise Hudson, Director of Resource Management. Present to receive Employee of the Year Awards: Steve Carlson, Licensing & Compliance Division; Gary Henderson, Resource Management Division; Nora Coligan, Kim Hilton, Deborah Johnson and James White, Enforcement Division. Present to receive certificate of service: Kim Hilton, 20 years, Houston Enforcement. Comment was received from Russell Gregorczyk, Internal Auditor.

The agenda follows:

1:30 p.m. - Call to order.

1. Presentation of 2000 Employee of the Year Awards.
  2. Recognition of agency employees with 20 or more years of service.
  3. Approval of minutes of November 27, 2000 meeting; discussion, comment, possible vote.
  4. Administrator's report:
    - a. discussion of staff reports;
    - b. recognitions of achievement; and
    - c. discussion of management controls.
  5. Acknowledge acceptance of two Motorola Portable Radios from the Bexar County District Attorney to insure the TABC has the necessary equipment to stay in constant radio communication with the San Antonio Police Department.
  6. Acknowledge acceptance of 10 Passive Alcohol Sensor units from Mothers Against Drunk Driving through a grant from the National Highway Traffic Safety Administration to increase enforcement of the zero tolerance law in Laredo and the Rio Grande Valley.
  7. Consider approval of 2001 Fiscal Year Audit Plan; discussion, comment, possible vote.
  8. Consider publication of Notice of Readoption of 16 TAC Chapters 47, 49 and 50 pursuant to Agency Rule Review Plan as published in 25 TexReg 10381; discussion, comment, possible vote.
  9. Consider publication of proposed amendment to 16 TAC §31.2 regarding assignment of agency vehicles; discussion, comment, possible vote.
  10. Public comment.
- Announcement of executive session:
11. Executive session:
    - a. the commission may go into executive session to consult with legal counsel regarding items 8 or 9 of this agenda pursuant to Texas Government Code, §551.071.

Continue open meeting.

12. Take action, including a vote if appropriate, on topics listed for discussion under executive session.
13. Adjourn.

The meeting was called to order at 1:35 p.m. by Chairman Shivers.

MR. SHIVERS: I will call this meeting of the Alcoholic Beverage Commission to order on Monday, January 29, 2001. It is one thirty-five in the afternoon. In consideration of everyone here, please turn off all cell phones and pagers. Put them on silent.

First order of business is to present our Employee of the Year Awards for the year 2000. We have six.

From the licensing and compliance division, we have Steve Carlson who is the supervisor of the support and quality control section of the compliance department. During his 23-year tenure with the agency, he has displayed a high level of professionalism, initiative and adaptability. He is extremely cooperative and open-minded when working with this fellow compliance officers. His excellent computer skills have proved invaluable in the department. Steve Carlson's professionalism and quality of work reflect a positive image for the TABC. Steve presented a positive image for the agency when, in late summer 2000, he was the lead presenter at seller training seminars provided around the state. In addition, Steve has been a member of the Travis County Sheriff's Recovery Dive Team for 13 years.

Congratulations.

MR. CARLSON: Thank you.

MR. SHIVERS: From the resource management division, we have Gary Henderson who has been with the agency for over seven years. He has been employed as an auditor and supervisor in the compliance department and as a programmer, manager, webmaster and technical expert in the information resources department. As the agency's webmaster, Gary Henderson is one of the most creative employees within the agency. Gary has been the driving force behind the success of the agency's web site. Without assistance, he taught himself how to use tool sets and the programming languages required to produce our web site. Gary also continues to design most of the agency's logos, seals and other graphical materials. He spent many hours of his own time implementing an online auction site, "TABC-

Bay,” which was used by IRD to raise money for the State Employees Charitable Campaign.

Congratulations. I think our web site is one of the most effective and informative web sites in state government. Thanks for all your good work.

MR. HENDERSON: Thank you.

MR. SHIVERS: From the enforcement division, we have a team from the Houston district office. Nora Coligan, Kim Hilton and Deborah Johnson are all administrative technicians in Houston and work as a well-oiled machine to accomplish the mission and goals of the agency. It is their teamwork that makes them so different, unusual and rare. Nora, Kim and Deborah processed over 2,300 original applications during the last fiscal year. They did this utilizing the resources available to them, practicing good time management and demonstrating the versatility required while performing a multitude of job functions necessary to accomplish their goals. As noted in the nomination form, “Some people may think of these ladies as simple paper pushers. I can tell you they know more about the code and how it applies to the application process than many of their co-workers. The application process can be a difficult one just by the nature of the beast and, yet, these ladies handle and work it so that it seems simple. The service they provide to not only the public, but to the rest of the agency, is invaluable.”

Congratulations. Thank you for everything you do.

MS. COLIGAN: Thank you.

MS. HILTON: Thank you.

MS. JOHNSON: Thank you.

MR. SHIVERS: Also, from the enforcement division we have James White who has been employed by the agency for more than 18 years. Currently stationed at the Big Spring outpost in the Odessa district, Agent White is known for displaying a high level of professionalism, initiative and adaptability. In an effort to get more involved with his community, Agent White ran for public office as a trustee with the local school board and was elected to the office. He is also involved in other volunteer programs such as the Muscular Dystrophy Association and youth athletics. This past spring, he spent several days and countless hours assisting with the search of two small children that were swept away in flood waters. Agent White leads

by example and is highly thought of by everyone that comes into contact with him.

Congratulations.

MR. WHITE: Thank you.

MR. SHIVERS: Next, we want to recognize employees who have more than 20 years of service with the agency. Kim Hilton, come back up here.

Kim marked her 20 years with the agency on December 1, 2000. She began as a Stenographer I in the Houston Office and is now an administrative technician processing applications. Kim has a son, Christopher. She loves to read and is an avid movie buff.

Congratulations. We have another plaque for you.

MS. HILTON: Thank you.

MR. SHIVERS: The minutes of our November 27<sup>th</sup> meeting have been mailed to the commission. Are there any changes or corrections to the minutes?

MS. MADDEN: No.

MR. SHIVERS: Is there a motion to approve the minutes?

MS. MADDEN: I so move.

MR. STEEN: Second.

MR. SHIVERS: All in favor?

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Opposed?

We will try to move through this just as quick as we can today because one or more of us have to go before the Criminal Justice Subcommittee of the House Appropriations.

The administrator's report. Mr. Bailey, do you have anything in particular

to report?

MR. BAILEY: No. I will answer any questions if you have any, Mr. Chairman.

MR. SHIVERS: Monthly reports for the last two months have been mailed to the commission. Are there any comments or questions?

MR. STEEN: No.

MS. MADDEN: No.

MR. SHIVERS: Number five - Acknowledge acceptance of two Motorola Portable Radios from the Bexar County District Attorney to insure the TABC has the necessary equipment to stay in constant radio communication with the San Antonio Police Department. The commission needs to approve the donation of these gifts to us. Is there a motion to approve?

MS. MADDEN: I so move.

MR. STEEN: Second.

MR. SHIVERS: Any discussion? All in favor?

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye. Opposed?

Number six - Acknowledge acceptance to 10 Passive Alcohol Sensor Units from Mothers Against Drunk Driving through a grant from the National Highway Traffic Safety Administration to increase enforcement of the zero tolerance law in Laredo and the Rio Grande Valley. Is there a motion to accept these passive alcohol sensors?

MR. STEEN: So moved.

MR. SHIVERS: Is there a second?

MS. MADDEN: Second.

MR. SHIVERS: Any discussion?

MR. STEEN: I would just like someone to remind me what these are.

MR. BAILEY: Mr. Steen, several months ago, we had an agent bring some in and demonstrate them. They are simply a device that is much less sophisticated than a breathalyzer or intoximeter, but it does essentially the same thing. A suspect can breathe into the little device, and it will give the officer or the agent a reading as to whether or not there's presence of alcoholic beverages in the blood.

MR. STEEN: Thank you.

MR. SHIVERS: Number seven - Consider approval of 2001 Fiscal Year Audit Plan. Is someone going to present this to us today?

MR. BAILEY: Yes, Mr. Gregorczyk is here. If he wants to come up?

MR. GREGORCZYK: Good afternoon. I'm glad to be here to present this to you this afternoon. The audit plan for 2001, we developed this last month. I met with the division directors and pretty much tried to follow up with what Mr. Kerr had been doing in terms of the auditable units. We did use a little bit different audit risk assessment, and I put all that together for you in a packet.

I know you are in a hurry today. I want to briefly talk about it since this is my first time to do this here. The risk assessment on Page 1, I outlined the purpose of it - why we have to do it to comply with the Texas Internal Audit Act and the things that have to be in the risk assessment and the audit plan. So, that just basically gives you an overview of the process.

I spent a little time talking about how we did the risk assessment and what factors we looked at. Again, most of the information was based on the discussions with staff, and I provided Mr. Bailey and the staff an opportunity to review this before we sent it to you.

I got one bit of feedback on it after I had already finalized it from Ms. Fox. That may be something we want to talk about when we talk about the proposed audit topics.

In summary, the last page of the document outlines what I call the audit universe and the risk assessment scores. We categorize the scores into four categories, everywhere from low risk up to maximum risk. I typically try to concentrate on those areas we consider maximum or high risk areas.

The area that we had some input on after I had turned this in was how I scored what I call the compliance department/licensing department field operations. The field operation staff actually works for the enforcement division, but they are the ones that process the licenses. Ms. Fox thought I probably should have rated that a little higher and I think probably she's right after I went back and looked at that. I'm not sure it would change what we've proposed for audit or not. I don't think it would have, but probably I will make a change when we go back and look at that next time.

What I'm proposing for audit this year are three topics. This is on Page 8 of the plan. We are proposing audit of the fiscal services department, the accounting system and internal controls. We always like to look at that when we come into an agency, and it has been a while since Mr. Kerr looked at that area. That's also an area that we consider one of the required periodic audits under the Texas Internal Audit Act, so it's an audit we have to do on a periodic basis.

We are recommending one audit that was started last year be finished. The licensing department/ports of entry was started. The field work was done, but we didn't get the audit report out. We feel like that ought to be finished. There's still some discussion about whether Mr. Kerr can help with that or whether we are going to have to jump in and try to finish it, but I would recommend that since he's done the field work that we try to go in and finish that audit. It is a fairly high risk topic.

We propose doing follow ups on the audits that were done in previous years, and the biggest audit we would propose would be the licensing department, the headquarters operation. We propose that for audit and, at the end of the year, we would come in and update the risk assessment and prepare the plan for next year.

I believe we can accomplish all of those tasks with the time budgets that we have, and I've laid those out for you in the plan. I will be glad to respond to any questions about the risk assessment or the audit plan or any input you would have on this audit plan.

MR. SHIVERS: Any questions?

MS. MADDEN: It looks like you are trying to be very comprehensive and thorough.

MR. GREGORCZYK: We try. Most of the audit topics are those that Mr. Kerr had already outlined in his work, and we tried to follow through with that and not just turn everything upside down and completely change the way he had been

looking at the process.

MS. MADDEN: Do you have any concerns about anything in particular?

MR. GREGORCZYK: No concerns. You have a very professional staff.

MR. STEEN: Is Mr. Kerr here?

MS. MADDEN: He's at the capitol.

MR. SHIVERS: Do you have any particular concern about licensing or is it just that it hasn't been audited in a while?

MR. GREGORCZYK: It hasn't been audited in a while, and one of the areas that we look at is turnover, and they have had an awful lot of turnover in that division. That, to us, increases the risk. That's just one of the factors. It's the amount of money that goes through there and some other things. In the next few years, we certainly want to look at all the divisions in the headquarters operation. This is just the first one we picked. Ms. Fox says I picked her because she asked me not to, but that's not exactly true.

MS. FOX: I thought that was a sure-fire way to do it.

MR. SHIVERS: I was impressed by the way you laid out the risk assessments and quantified them. I think it's a very objective and defensible plan.

MR. GREGORCZYK: I've used this risk assessment before and it seems to work pretty well. Most of the staff would agree, relatively speaking, it ranks the topics in the right categories.

MR. SHIVERS: Any questions?

MS. MADDEN: No.

MR. STEEN: No.

MR. SHIVERS: Is there a motion to approve the audit plan?

MS. MADDEN: So moved.

MR. STEEN: Second.

MR. SHIVERS: All in favor?

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye. Opposed? Thank you very much.

MR. GREGORCZYK: We will get started.

MR. SHIVERS: Consider publication of Notice of Readoption of 16 TAC Chapters 47, 49 and 50 pursuant to Agency Rule Review Plan as published in 25 TexReg 10381. Is this our normal rolling review of our rules?

MR. BRIGHT: Yes, it is, Mr. Chairman and Members. We have had those rules under consideration and invited the universe to comment. Since October, we have not had any comments. The staff has no recommendations for changes. We recommend that you authorize us to publish this notice that we readopt the rules in those chapters. You may remember that we have done a fairly substantial review and change of Chapter 50 last fall. That is our seller/server training rules.

MR. STEEN: So move.

MS. MADDEN: Second.

MR. SHIVERS: Any discussion? All in favor?

MR. STEEN: Aye.

MS. MADDEN: Aye.

MR. SHIVERS: Aye. Opposed?

Consider publication of proposed amendment to 16 TAC §31.2 regarding assignment of agency vehicles. Mr. Bright?

MR. BRIGHT: Mr. Chairman, Members, we are asking that you authorize publication of these proposed changes to our rule. The genesis of this is that last session the government code was amended to say that state agencies, who have state cars like we do, shall pass rules that mandate that those cars shall be held in a central pool and available for check out for state business, and that we go through certain requirements as stated in this rule if we are going to assign that car permanently to someone.

Between the last session and now, there was a great belief among state government that what that meant was an internal policy. Last month, the general services folks, who manage these kinds of things, said, "No, that means an administrative rule if you have the authority to publish an administrative rule," which we do, and so we are publishing this administrative rule.

I understand through Mr. Bowman that he has sent this draft of a rule and explained our process to general services and they have pronounced themselves pleased. Please allow us to publish this as a proposed rule.

MS. MADDEN: So moved.

MR. SHIVERS: We have a motion. Is there a second?

MR. STEEN: Second.

MR. SHIVERS: Any discussion? Is this going to change the way we operate at all?

MR. BRIGHT: No, sir.

MR. SHIVERS: Okay. All in favor, say aye.

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye. Opposed?

Public comment?

Mr. Bright, since we have covered eight and nine, is there a need for this agency to go into executive session today? Do you have anything to discuss with us?

MR. BRIGHT: I have absolutely nothing. That executive agenda item appears in case there are legal issues involved, potentially, in eight and nine and if, in the course of the discussion, it was necessary for me to say something to you that was confidential. There was not.

MR. STEEN: I have a question about one of the law suits. Should we use the executive session for that?

MR. BRIGHT: I apologize, Mr. Steen, I did not post that, and we should not without a posting. I can meet with you individually and I can certainly post it next month.

MR. STEEN: That's fine.

MR. SHIVERS: Motion to adjourn?

MS. MADDEN: So moved.

MR. STEEN: Second.

MR. SHIVERS: We are adjourned at one fifty-three. Thank you very much.