

TEXAS ALCOHOLIC BEVERAGE COMMISSION
COMMISSION MEETING
MONDAY, AUGUST 27, 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. and Gail Madden, Member. Staff present: Rolando Garza, Administrator; Randy Yarbrough, Assistant Administrator; Jeannene Fox, Director of License & Compliance; Greg Hamilton, Chief of Enforcement; Denise Hudson, Director of Resource Management; Vivian Rowe, Director of Human Resources; Gayle Gordon, Director of Legal; Gene Bowman, Director of General Services; Charlie Kerr, Director of Fiscal Services; Jay Webster, Director of Information Resources; Buck Fuller, Director of Compliance and Claire Myers, Public Information Officer. Present to receive certificate of service: Dan Hoover, Lubbock Compliance. Visitors included: Alan Gray, Licensed Beverage Distributors, Inc.; Robert Sparks, Licensed Beverage Distributors, Inc.; Rick Donley, Beer Alliance of Texas; Mike McKinney, Wholesale Beer Distributors of Texas; Tom Spilman, Wholesale Beer Distributors of Texas and Shannon Swan, Jenkins & Gilchrist.

The agenda follows:

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

1. Recognition of agency employees with 20 or more years of service.
2. Approval of minutes of July 9th and July 23, 2001 meetings; discussion, comment, possible vote.
3. Administrator's report:
 - a. discussion of staff reports;
 - b. recognitions of achievement; and
 - c. discussion of management controls.
4. Acknowledge acceptance of \$3,600 from Hays County Law Enforcement Appreciation Committee to purchase three (3) hand-held radios for TABC use in Hays County.
5. Public comment.

Announcement of executive session.

6. The commission will meet in executive session to discuss the duties of the administrator under the authority of §551.074 of the Government Code.

Continue open meeting.

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

The meeting was called to order at 1:43 p.m. by Chairman Shivers.

MR. SHIVERS: I will call this meeting of the Texas Alcoholic Beverage Commission to order on Monday, August 27, 2001. It is one forty-three in the afternoon.

First, before we get into our formal agenda, I'd like to recognize employees who have been with the agency for 20 years or more.

First, being Dan Hoover, who is a compliance regional supervisor in our Lubbock Office. He joined the TABC on August 23, 1971 as an Auditor I in our Austin Office. As noted in his previous evaluations, "Dan is an experienced, hard-working and trustworthy employee." A true asset to the commission, Dan continues to produce at the highest level of performance and has excelled at every position he has held with the agency. Not only do we congratulate Dan on his 30 years of dedicated service to the TABC and the citizens of Texas, but we also congratulate him on the recent birth of his new granddaughter, Riley Elizabeth Adams.

MR. HOOVER: Thank you.

MR. SHIVERS: Next is Nora Coligan, an administrative technician in our Houston Enforcement Office. She joined the TABC on August 24, 1981 as a Secretary II. As noted in previous evaluations, "Nora consistently produces a high quantity and quality of work. Her dedication and hard work make her an asset to the Houston Office." Most recently, Nora was recognized and honored as one of the agency's "Employees of the Year." We congratulate her on 20 years of service to the agency and the State of Texas.

She could not be with us today, and her certificate has been forwarded to her.

Minutes of the meetings of July 9th and July 23rd have been mailed to the commission. Are there any changes?

MR. STEEN: I move acceptance of the July 9th minutes.

MR. SHIVERS: Second?

MS. MADDEN: Second.

MR. SHIVERS: All in favor, say aye.

MR. STEEN: Aye.

MS. MADDEN: Aye.

MR. SHIVERS: Aye.

July 23rd?

MS. MADDEN: I so move.

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

MS. MADDEN: Aye.

MR. SHIVERS: Aye. Opposed?

Mr. Garza, may we have the administrator's report, please, sir?

MR. GARZA: Chairman Shivers, Commissioner Steen and Commissioner Madden, first of all I'd like to say that it's good to be back at TABC. I want to thank the staff of the agency for being so helpful to me the last two weeks, particularly the executive members of the team and Cheryl Lyle for providing many hours of late night reading for me during the last few weeks. She's been more than hospitable.

I don't have much by way of a long report. I will tell you that during my first two weeks, I've spent time meeting with and visiting with staff of the agency and setting up some regular meetings that we will be holding throughout the year.

I had the opportunity last week to travel to Dallas and meet at an in-service training school with all the supervisors across the state, so we had some good time to share on my personal philosophy and expectations for the organization but, more important than that, to listen to staff and get some of their input.

As you well know, this week marks the end of another fiscal year for all state agencies, so we will go about the business of reviewing our performance over the past year, taking a look at some of our fiscal stewardship issues and be preparing for you a more detailed report in September including, and probably foremost, is a report from the enforcement division with Chief Hamilton and Assistant Chief Sam Smelser looking at some of the various issues that we've been talking about over the last few months with enforcement's performance and use of resources, our educational initiatives and how we are proposing to address those issues in the coming fiscal year.

It's also the time of the year for our enforcement division when you have young students getting back to school and that means a heightened

awareness of the need for us to address underage drinking violations.

Just last week, Chief of Police Stan Knee, here in Austin, announced the formation of a new organized task force, a control unit to target underage drinking, sale to intox, use of fake ID's. This control unit will take effect October 1st. It will include three to four APD officers as well as a member of TABC working alongside the local officers. So, I think this speaks well to our agency's continued attempt to partner with local law enforcement agencies and to work to try to maximize the use of those resources.

I'll ask Chief Hamilton to speak briefly to another similar effort that we've got going on in Longview, which also is representative of a partnership between TABC and some local law enforcement organizations.

MR. SHIVERS: Any questions of Rolando before Greg talks?

MS. MADDEN: Would you address what we were talking about earlier about what the state is going to do about resignations and how that's going to be handled?

MR. GARZA: I'll be glad to. I know, Commissioners, in the past this is a subject which has drawn attention, and we've had some discussions over some of the last meetings regarding the turnover rate here at TABC. I can tell you that the executive staff and the senior management staff have had some discussions primarily in terms of how we address that turnover. There are pockets of employees where we are having some increased difficulty in retaining. There are pockets of employees that we are having difficulty in terms of attracting them to be candidates for jobs. In the licensing area, I think we've had a turnstile in terms of keeping some of the administrative support function up there. We will try to address that, obviously, through possible reclassification and increasing the salaries that we offer to those jobs. I will tell you, based on the exit survey information that I have received of people leaving their jobs here with TABC, salary is not the sole reason. There are other factors.

Interestingly, the State Auditor's Office has launched a new initiative effective September 1st, as directed by the legislature, to introduce an electronic exit survey form that all agencies will be using starting September 1st. Ms. Rowe and I had talked about that earlier. So, any state employee who leaves their job after September 1st will be asked to voluntarily fill out this exit survey. The intent of that is to give the legislature more of a full broad brush explanation of why it is that people are leaving state government. Is it salary? Is it limited promotional opportunities? Is it the fact that there's not enough growth in terms of

managerial development programs? The legislature, in turn, will use this data to try to analyze what it can do at its level to try to retain employees. We are looking forward to participating in that electronic exit survey. I know it's voluntary, so there may be people who will forego that. We will still strive to find ways of administering our own form and get that information.

The State Auditor's Office has informed me by a letter that they will be sending both Ms. Rowe and myself quarterly reports on the data they collect from those surveys from employees who leave from TABC and complete that survey. They will send us their exact wording on those forms. We hope to be able to periodically brief the board on not only what we are doing to address the issues, but also to try to come up with some ways of enhancing our retention efforts at the agency.

MS. MADDEN: Thank you. I think that can be a very effective tool. I hope it turns out to be.

MR. GARZA: We will monitor it closely, and we will be submitting periodic reports to the board on it.

MR. SHIVERS: Greg?

MR. HAMILTON: Commissioners, I would like to tell you a little bit about what's going on in East Texas. We just transferred a lieutenant that was working in McAllen who did a real good job down there on building relationships with the community and the local law enforcement, building partnerships.

Lieutenant Trey Rusk has now moved to Longview, and one of the things that he's doing now, he's made contacts with many of the legislators in that particular area. He's also advised them of what we are trying to do. He's also met with local law enforcement agencies there to build a partnership on addressing minors in that particular community and also to address the issue of sale to intox which is a problem that we are having all over the State of Texas. He's formed a partnership with - in a matter of fact, he had written me a memo just recently and said he had put out a letter for a meeting. We have 75 law enforcement agencies that will be participating in his area from Longview to Texarkana. It's covering a lot of areas. He's met with the local chiefs of police and the sheriffs. These individuals are excited about working with TABC. There's always been a relationship, but not a relationship like Lieutenant Rusk has developed with these different agencies. Also, Lieutenant Rusk has assigned an agent to oversee that task force, which is Tommy Rodgers out of that particular

area.

We also have another initiative where our agency is working real closely with the community with *Project SAVE*, going to faith groups and getting them involved, because we have realized that this issue of underage drinking is bigger than TABC. It's going to take the whole community in order to address this issue. We are in the infancy stage of working with these different groups and trying to put together where we will be able to work with the local law enforcement - not only the local law enforcement, but the local retailers and the community leaders in those particular areas, and they are all going to be reactive, and we are going to be proactive in addressing this particular issue. I'm excited about it. If he does half of what he's done in McAllen, I think we will have a real good relationship, and we will be addressing the issue of underage drinking and sale to intox.

MS. MADDEN: Mr. Hamilton, do you have an update on what you mentioned last month about San Angelo, the Citizens Against Violence and the TABC partnership?

MR. HAMILTON: The program hasn't officially started because school just began. One of the things that they are going to do - I talked with the office here in Austin where this program began. The community, the local law enforcement, the local district attorney, the local sheriff's department are all part of this initiative, and what's going to happen is - they are having an influx, and it's happening all over the state and around the country where we are seeing a lot of date rape drugs dropped in people's drinks. These individuals will have a card that says they are working in conjunction with the local establishment. They are allowing volunteers to come in. As these volunteers walk around in the club, if they notice there is a drink that's been left on the table, what they will do is put a card on top of there and say that you've been drugged, and then it will explain what the program is all about, advising them not to leave their drinks on the table. The program hasn't kicked off yet but, seeing that school just cranked up, it will be kicking off real shortly.

MR. SHIVERS: John?

MR. STEEN: Mr. Garza, on these reports that we are doing on fiscal stewardship, wasn't there a question at a previous meeting about whether this governor's office was wanting that information? I'm bringing it up because I got a memorandum from Governor Perry, and I'm sure that Chairman Shivers and Commissioner Madden got one also, and included in it was the financial oversight information, the material on fiscal stewardship. Ms.

Hudson, I know we've been doing those reports. Who have you been sending those to at the Governor's Office?

MS. HUDSON: We have not been forwarding them. We have just been presenting them to you in-house. I have not received anything stating that they were still needing that information at the Governor's Office.

MR. STEEN: I've got the name of a person. He is the director of budget and planning, John Opperman. I've got the telephone number here. On this cover sheet it doesn't specifically say to send it to him, but maybe you want to check with him and see if he would like for us to be sending that information.

MS. HUDSON: We had thought that Mike McElhaney from the Governor's Office would be here today but he's not. He's taking a day off. He should be at our next meeting.

MR. STEEN: Another thing I got along with this memorandum was an ethics policy for the Office of Governor Rick Perry. Do we have any kind of an ethics policy here?

MR. GARZA: I will say that - Randy, I'll ask you to jump in - that during my time here previously that our general counsel was actively involved in making sure that we did put out information on ethics and even did training on ethics for public servants. We will definitely look into the fact of whether we have one within our administrative procedures manual and borrow whatever information you might have. I think, periodically, that's supposed to be issued to state employees, at least on an annual basis, to remind them about what the ethics policy is.

MR. STEEN: This policy?

MR. GARZA: I'll have to take a look at that and see if that's what we have in place.

MR. STEEN: Take a look at this and, at a future meeting, report back if it's something we might want...

MR. YARBROUGH: We do have an ethics policy as part of our employee handbook. We can compare it to what the Governor's Office put out and see if there's anything we need to add and make those changes.

MR. STEEN: Good. Thank you.

MR. GARZA: Also, Mr. Chairman, if I might? One of the first things I did also during

my coming back to TABC, I had the opportunity to visit with members of the alcoholic beverage industry, and I'd be remiss this afternoon if I didn't thank them publicly for taking the time from their schedules to sit down with me and to give me a moment of their time and just establish a meeting with them. I want to thank them for that.

MR. SHIVERS: Let me ask Chief Hamilton a question. The enforcement division has a performance measure - Number of Complaint Investigations Opened. We are toward the end of the fiscal year and we've hit 81 percent of our goal. Is that a performance measure that the legislature requires? To me, it's sort of meaningless. How do you open a complaint investigation unless someone makes a complaint?

MR. HAMILTON: That's a performance measure that we can't control. If nobody complains - we can't control that particular one right there. As far as a performance measure that the legislators have put on us, yes, sir, it is.

MR. SHIVERS: What do we look for when you manage your agents? You don't look at the number of complaint investigations opened. Obviously, the number of investigations you close within 60 days might be a useful management measure, but...

MR. HAMILTON: That is a tool that we watch pretty closely, as far as when the complaint comes in, we do try to close it within a certain period of time. Oftentimes, the source investigations that are considered complaints also, some of those investigations take longer than the 60 days to close because of trying to get information from other law enforcement agencies and trying to get people to come in so we can interview them.

MR. SHIVERS: Why are the number of inspections below goal?

MR. HAMILTON: I'm glad you asked that. I know that was something on all of the commissioners' mind. One of the things that I would like to say, first of all, that bottom line it's a matter of manpower allocation. I think we did a poor job this year on that. I would also say that our agents are out there working. One of the things that needs to be considered is over this last year, unlike the past years, we've had several in-services all around the state, probably about 12 to 14 in-services. Each time that we had those in-services, our agents are taken out of the field for four days, so that's taking resources from going out and doing those inspections. At the same time, we had CrisNet. That will require CrisNet training. That will require agents to come in during the day hours and work on and learn how to perform on this particular computer system. We also have had more

grants, for instance, spring break. Historically, we've only had 20 people on South Padre Island. This year, we had 60 over a period of three weeks. We've also had several trainings. As I've said before, we had the National Crime Prevention Council out of DC and the Office of Juvenile Justice that piloted a program, a multi-jurisdictional task force training here in Texas. That was a week's training. We pulled agents to be with local law enforcement that were coming to these particular trainings, and we felt it was necessary for our agents that were going to be working with these people on the multi-jurisdictional task force to come to this training. That pulled our agents out of the field. There's been a lot of different things that have happened this particular year, but I think the bottom line, even having said that, I think that it was just a poor manpower allocation and not watching closely these inspections.

MR. SHIVERS: It appears from this report that you've spent a lot of time and effort on education. You exceeded the goal of the number of persons attending educational seminars, but as a measure of the effectiveness of those seminars, we are not doing too hot.

MR. HAMILTON: As far as education is concerned, these numbers are not for our people. That's education going out and educating the local law enforcement, educating the kids, educating the retailers. I would like to say that over the last year, it may seem that we have raised the numbers, but I think that's also due to our *Shattered Dreams* program. The *Shattered Dreams* program, we get a large number of individuals and that's causing that number to go up. If you look at the percentage of time over this last year, our time spent on education was only .5 percent more than what we did last year.

MR. SHIVERS: But you are only obtaining 62 percent of your goal, which is a measure in the average increase in knowledge of the program.

MR. HAMILTON: Our goal is 50 percent.

MR. SHIVERS: That says the goal is 135 percent.

MR. HAMILTON: No. Our goal, as far as our measure, it's 50 percent gained in knowledge, so we are over that.

MR. SHIVERS: That isn't what this says. This says "% Goal Obtained," 62 percent of goal. If the goal is 135 percent increase, which is what that...

MR. HAMILTON: That's got to be a misprint. Our goal is 50 percent increase in knowledge

as far as our *Project SAVE* program.

MR. SHIVERS: You ought to look at the way the report is presented. Thank you, Greg.

MR. HAMILTON: You're welcome.

MR. SHIVERS: We need to formally accept a gift of 3,600 dollars from the Hays County Law Enforcement Appreciation Committee to purchase three hand-held radios for the agency's use in Hays County. Do I have a motion to gratefully accept this gift?

MS. MADDEN: I so move.

MR. STEEN: Second.

MR. SHIVERS: All in favor, say aye.

MS. MADDEN: Aye.

MR. STEEN: Aye.

MR. SHIVERS: Aye. Would you express our appreciation to the Hays County Law Enforcement Appreciation Committee, Rolando?

MR. GARZA: Sure will.

MR. SHIVERS: Thank you.

We have no one signed up for public comment today.

MS. MADDEN: Can I make a public comment?

MR. SHIVERS: You may. You don't need to sign up.

MS. MADDEN: I just want to welcome our new administrator, Mr. Garza. As your first meeting, you're doing great. We just want to tell you we are excited you are here.

MR. GARZA: It's good to be back, Ms. Madden. Thank you very much.

MR. STEEN: I'm having Cheryl copy a letter I received from Sergeant Charlie Cloud. It really grew out of a conversation we had where I was trying to draw out some information from him. I asked him to put it in writing, which he did,

and I checked with him to make sure it was all right to present it to you, Mr. Garza. It has to do with the promotion policy. I will give you a copy of the letter, and I will also give one to my fellow commissioners. Would you review it and maybe we can discuss it at the next meeting?

MR. GARZA: Be glad to, Mr. Steen.

MR. STEEN: Thank you.

MR. SHIVERS: The next item on the agenda is an executive session. The commission will now go into a closed, executive session to discuss the duties of the administrator under the authority of Section 551.074 of the Government Code. If everyone but the administrator will excuse us?

The commission convened in executive session at 2:05 p.m. and reconvened in open meeting at 2:40 p.m.

MR. SHIVERS: The commission meeting of August 27, 2001 is now back in open session. During executive session no votes were taken, no final decisions were made.

Motion to adjourn, please?

MR. STEEN: So moved.

MR. SHIVERS: Hearing a motion, we are adjourned. Thank you.

The meeting adjourned at 2:41 p.m.