



## **COMMISSION MEETING MINUTES**

**September 26, 2006**

The Commissioners of the Texas Alcoholic Beverage Commission met in Regular Session on Tuesday, September 26, 2006, at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

**PRESIDING:** John T. Steen, Jr., Chairman

**COMMISSIONERS  
PRESENT:** Gail Madden  
Jose Cuevas, Jr.

**STAFF PRESENT:** Alan Steen, Administrator

Glenda Baker, Assistant Chief of Enforcement  
Joan Bates, Deputy General Counsel, Legal Services  
Carolyn Beck, Public Information Officer, Executive  
Diane Brown, Attorney, Legal Services - Dallas  
Lou Bright, General Counsel, Legal Services  
Michael Cady, Attorney, Legal Services  
Sherry Cook, Director of Information Resources  
Debbie Dixon, Director of Education and Prevention  
Loretta Doty, Director of Human Resources  
Del Drake, Office of Professional Responsibility, Executive  
Jeannene Fox, Assistant Administrator  
Buck Fuller, Director of Compliance  
Christopher Gee, Attorney, Legal Services  
Diana Gonzalez, Assistant Director of Compliance

Russell Gregorczyk, TABC Contracted Internal Auditor  
Amy Harrison, Director of Licensing  
Gary Henderson, Enterprise Operations Team Leader, Information Resources  
Lindy Hendricks, Attorney, Legal Services - Houston  
Linda Jackson, Administrative Assistant, Executive  
Renee Johnston, Executive Assistant, Executive  
Judith Kennison, Senior Attorney, Legal Services  
Charlie Kerr, Director of Business Services  
Linda McLeod, Benefits Coordinator, Human Resources  
Sandra Patton, Attorney, Legal Services - Houston  
Ramona Perry, Attorney, Legal Services - Houston  
James "Sam" Smelser, Chief of Enforcement  
Ashley Storm, Assistant General Counsel, Legal Services

***GUESTS PRESENT:***

Rick Donley, President, Beer Alliance of Texas  
Vicki Goff, Republic Beverage  
Alan Gray, Licensed Beverage Distributors, Inc.  
Fred Marosko, Texas Package Stores Association  
Ken Martin, Sunset Advisory Commission  
Chris Matthews, RFD & Associates, Inc.  
Alfonso Royal, Governor's Advisor, Office of the Governor  
Robert Sparks, Executive Director, Licensed Beverage Distributors, Inc.  
Tom Spilman, Vice President, Wholesale Beer Distributors of Texas  
Randy Yarbrough, Wholesale Beer Distributors of Texas

**CALL TO ORDER**

Chairman John Steen called the meeting of the Texas Alcoholic Beverage Commission (TABC) to order.

**APPROVAL OF COMMISSION MEETING MINUTES OF AUGUST 29, 2006**

**Chairman Steen called for a motion to approve the Commission meeting minutes of August 29, 2006. Commissioner Madden so moved. Commissioner Cuevas seconded. The motion carried.**

## **ADMINISTRATOR'S REPORT**

Chairman Steen called upon Administrator Alan Steen to provide the Administrator's Report. Administrator Steen reported the following:

### Introductions

As the Legal Services team from across the state was in attendance, General Counsel Lou Bright introduced each member to the Commissioners. Administrator Steen introduced Sherry Cook, the new Director of Information Resources.

### Meetings

- The EUDL grant award press conference was held in Midland on September 14, with Commissioner Cuevas presenting the symbolic award check to the Midland Police Department and the Midland Coalition.
- Meetings with Sunset staff have been held, and more meetings are scheduled in the near future; the target completion date for their report is mid-November. **Administrator Steen noted that detailed information concerning the Sunset recommendations and implementation activities would be sent to the Commissioners.**
- An Austin region Auditors' meeting was recently held.
- The Senate Finance Committee hearing is scheduled for October 2, and Commissioner Cuevas will attend the hearing along with staff.

### Operations

Labor Day was active for TABC. Each region had an action plan in place for public safety activities as well as regulatory activities. Statewide, 123 minor stings were conducted, with only 17 illegal sales made. Statewide, 80 locations were targeted for illegal sales on Sunday, with only 6 illegal sales made.

### In-Service Training

Employee registration for the FY 2007 in-service training has begun.

### Governor's Website

TABC was recently contacted by the Governor's Office to include TABC in their website process. The Office of the Governor's Small Business Division is setting up a website to help new retail businesses apply for various permits through a variety of state agencies. Within the software program, there will be a question asking if the individual wishes to sell alcohol. An affirmative response would result in steering the individual to a TABC retailer application process. Testing will take place in November, and the program is scheduled to go live on December 13, 2006.

Following Administrator Steen's report, Commissioner Cuevas noted that the monthly report showing the Information Resources Division report on the number of emails blocked had significantly decreased. Administrator Steen stated that there has been a major improvement in this area. Also, because previous controls were too strict, resulting in the blocking of legitimate email, the controls were loosened.

#### **APPROVAL OF INTERNAL AUDIT REPORT ON CONTRACT MANAGEMENT**

Chairman Steen called upon Russell Gregorczyk to report on the internal audit of the agency-wide contract management system. Mr. Gregorczyk highlighted the report (Attachment 1), observing that TABC has appropriate controls and effective operating procedures for managing contracts. He stated that the recommendations made in the report were minor, and staff had already implemented them.

Chairman Steen asked if the established contract procedures for signatures were found to be in place. Mr. Gregorczyk stated that he found them to be in compliance. Administrator Steen explained that as the Administrator, he signs contracts that are over \$100,000. Lou Bright reviews and signs various contracts from a legal standpoint, and Charlie Kerr reviews and signs contracts from the budget standpoint. Therefore, all three signatures would be on contracts that are over \$100,000.

**Chairman Steen called for a motion to approve the internal audit of the agency-wide contract management system. Commissioner Cuevas so moved, and Commissioner Madden seconded. The motion carried.**

#### **REPORT ON FOLLOW-UP REVIEW OF THE STATUS OF IMPLEMENTING FY 2005 INTERNAL AUDIT RECOMMENDATIONS**

Mr. Gregorczyk highlighted the report (Attachment 2) on the status of the implementation of the recommendations on the following internal audits conducted in FY 2005:

- Accounting System and Accounting Internal Controls
- Compliance Department Field Operations
- Enforcement Department Field Operations

Chairman Steen read the following sentence from the report: “Overall, TABC management has done an excellent job of implementing the internal audit recommendations in these reports.” Chairman Steen commended staff.

### **QUALITY ASSURANCE REVIEW REPORT ON TABC INTERNAL AUDIT ACTIVITY**

Mr. Gregorczyk briefly discussed the external review report (Attachment 3), which is required to be conducted every three years. Mr. Gregorczyk was found to be fully compliant with all of the standards of the Internal Auditing Act. Chairman Steen noted that the external reviewer, Richard Tarr, was very complimentary of Mr. Gregorczyk and the agency.

### **UPDATE ON HOMELAND SECURITY INTERNAL AUDIT RECOMMENDATION IMPLEMENTATION**

Chairman Steen called upon Sam Smelser, Chief of Enforcement. Chief Smelser stated there were nine recommendations made in the internal audit on Homeland Security. All have been completed except for the recommendations referring to the placement of documentation in LicenseEase, and these will be changed to reflect placement of documentation into the Workflow system. All recommendations are implemented or are ongoing or in process.

The Commissioners agreed that because of the importance of this area, they wanted the information presented in writing, something similar to the report that Mr. Gregorczyk presented regarding the status of the implementation of recommendations. **Mr. Gregorczyk stated that he would provide a follow-up report on the recommendations of the Homeland Security internal audit at the November Commission meeting.**

### **UPDATE ON FISCAL YEAR 2006 STATEWIDE ACTION PLAN**

Chairman Steen called upon Glenda Baker, Assistant Chief of Enforcement, and Diana Gonzalez, Assistant Director of Compliance. They presented an update of the fiscal year 2006 statewide action plan (Attachment 4). Administrator Steen explained that the statewide action plan was a result of a Sunset recommendation, and that the plan consists of internal numbers meant for planning purposes.

Chairman Steen expressed concern that the Legislature provided the agency with additional FTEs, and TABC was not meeting the goal set for sale to intoxicated persons operations. Ms. Fox explained that the numbers were internal goals and did not affect the performance measures. Chairman Steen asked what the target goal would be for next year. Chief Smelser explained that staff would identify locations, based on their prior history, as high-risk, medium-risk, and low-risk. Efforts would be focused on the high-risk locations, by working the entire program—stings, inspections, undercover operations, etc.--with the ultimate goal of helping the locations come into compliance.

Ms. Fox further explained that regional staff had worked on their internal goals and presented them at the August Summer Conference. Headquarters staff are reviewing the plans for consistency and are in the final stages of review before approving the plans. The plans will be presented to the Commissioners in a different format than the past. Ms. Fox explained that the action plans would no longer list a target goal of stings; rather, they would focus on such broader areas as public safety and education activities. She stated that the shift in the action plans is a result of following Sunset's recommendation that TABC focus enforcement efforts on the at-risk locations in order to assist them to come into compliance.

### **PUBLIC COMMENT**

As no one registered or expressed a desire to provide public comment, Chairman Steen then began the announcement for the executive session.

### **EXECUTIVE SESSION**

**Chairman Steen announced that the regular open session of the Texas Alcoholic Beverage Commission would be recessed, the time being 2:24 p.m. on September 26, 2006, and an executive session would be held to consult with Legal Counsel regarding pending and anticipated**

litigation against the agency and to discuss the duties, responsibilities, and evaluation of the Administrator, pursuant to Texas Government Code, §§551.071 and 551.074.

Chairman Steen announced that the Texas Alcoholic Beverage Commission had concluded its executive session and was in open session, the date being September 26, 2006, and the time, 3:31 p.m. No final action, decision, or vote was made in the executive session.

### **NEXT MEETING**

Chairman Steen stated that the next meeting was planned for Tuesday, October 24<sup>th</sup>; however, he now has schedule conflicts with Tuesdays. **The Commissioners agreed to work out a new meeting date for October with Renee Johnston.**

### **ADJOURNMENT**

Chairman Steen called for a motion to adjourn. Commissioner Cuevas so moved, and Commissioner Madden seconded. The motion carried, and Chairman Steen announced that the meeting was adjourned.