



COMMISSION MEETING MINUTES

November 18, 2005

The Commissioners of the Texas Alcoholic Beverage Commission met in Regular Session on Friday, November 18, 2005, at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

PRESIDING: Gail Madden, Acting Chair

COMMISSIONERS

PRESENT: Jose Cuevas, Jr., Commissioner

STAFF PRESENT: Alan Steen, Administrator

Glenda Baker, Assistant Chief of Enforcement

Carolyn Beck, Public Information Officer,
Executive

Lou Bright, General Counsel, Executive

Noe Castaneda, Taxpayer Compliance Officer,
Brownsville Port of Entry

Carrie Coulter, Program Administrator, Licensing

Debbie Dixon, Program Administrator, Seller
Training

Loretta Doty, Director of Human Resources

Del Drake, Captain, Office of Professional
Responsibility, Executive

Darla Elam, Program Specialist, Licensing

David Ferrero, Captain, Enforcement
Administration, Region 4

Wes Fitzsimmons, Network Specialist,
Information Resources
Jeannene Fox, Assistant Administrator,
Executive
Jill Fulkerson, Administrative Assistant, Licensing
Buck Fuller, Director of Compliance
David Garza, Director of Homeland Security,
Enforcement
Amy Harrison, Director of Licensing
Gary Henderson, Enterprise Operations Team
Leader, Information Resources
Linda Jackson, Administrative Assistant,
Executive
Renee Johnston, Executive Assistant, Executive
Dexter Jones, Marketing Practices Coordinator,
Executive
Charlie Kerr, Director of Business Services
Richard Maness, System Support Specialist,
Information Resources
Paul Morgan, Investigator
Bich Nguyen, Programmer, Information
Resources
Carie Nguyen, Database Administrator,
Information Resources
Julie Nichols, Program Specialist, Licensing
Julie Ross, Accounts Examiner, Licensing
Robert Saenz, Lieutenant, Austin District Office
Santos Saldana, Jr., HQ POE, Compliance
Garry Sitz, Director of Information Resources
Toney Sharp, Agent, Wichita Falls Outpost
James "Sam" Smelser, Chief of Enforcement
Cindy Vrabel, Administrative Assistant Licensing

GUESTS PRESENT:

Dewey Brackin, Attorney, Gardere Wynne Sewell
Alan Gray, Licensed Beverage Distributors, Inc.
Shaniqua Johnson, Budget Analyst, Legislative
Budget Board
Fred Marosko, Texas Package Stores
Association
M. Jack Martin, Attorney at Law

Mignon McGarry, Republic Beverage
Lindsay Meche, Republic Beverage
Michael Mims, Manager, H-E-B
Betty Sharp, Guest and Wife of Agent Toney
Sharp
Tom Spilman, Vice President, Wholesale Beer
Distributors of Texas
Don Walden, Attorney, Representing TWGGA

CALL TO ORDER

Commissioner Gail Madden called the meeting of the Texas Alcoholic Beverage Commission (TABC) to order. She explained that Chairman Steen was unable to attend the meeting.

TABC 70TH ANNIVERSARY

Commissioner Madden announced that November 18th was a very historic occasion for the agency, marking the anniversary date of the agency's first board meeting. Before she read Governor Perry's certificate marking the occasion, Commissioner Cuevas provided a brief history of the agency.

Commissioner Cuevas stated that November 18, 2005, was the 70th anniversary of the Texas Alcoholic Beverage Commission. On November 18, 1935, the Commission--then known as the Texas Liquor Control Board--first met in downtown Austin. He explained that when the 21st Amendment to the U.S. Constitution repealed national prohibition in 1933, responsibility for regulation of the alcoholic beverage industry was delegated to the individual states. Shortly after the adoption of the 21st Amendment, the Texas Legislature, during a special session, enacted the Texas Liquor Control Act, and thus the Texas Liquor Control Board was born. The agency's name changed in 1970 to the Texas Alcoholic Beverage Commission, and the "Liquor Act" was recodified in 1977 into the Texas Alcoholic Beverage Code. Commissioner Cuevas remarked that the agency has seen a great many changes since its inception 70 years ago, and that these changes are marked in a very detailed historical account, compiled by Public Information Officer Carolyn Beck; Commissioner Cuevas invited everyone to take a copy with them.

Following the brief history, Commissioner Madden then read the Governor's certificate presented to the Texas Alcoholic Beverage Commission on the occasion of its 70th anniversary (Attachment 1).

RECOGNITION OF AGENCY EMPLOYEES WITH 20 OR MORE YEARS OF SERVICE

Commissioner Madden called upon Administrator Alan Steen, Chief of Enforcement Sam Smelser, Director of Compliance Buck Fuller, Director of Licensing Amy Harrison, and Director of Information Resources Garry Sitz, to discuss the accomplishments of their respective staff members being recognized for 20 or more years of service (Attachment 2).

The following were recognized for 30 years of service: Jeannene Fox, Darla Elam, and Bill Horan. Mark Hohensee was recognized for 25 years of service. For 20 years of service, the following were recognized: Kevin Bammert, Noe Castaneda, Richard Maness, and Toney Sharp. Bill Horan, Mark Hohensee, and Kevin Bammert were unable to attend the recognition presentation; however, the division directors would ensure that each received their plaques and appropriate recognition.

APPROVAL OF COMMISSION MEETING MINUTES OF OCTOBER 24, 2005

Commissioner Madden called for a motion to approve the TABC Commission meeting minutes of October 24, 2005. Commissioner Cuevas so moved, and Commissioner Madden seconded. The motion carried.

ADMINISTRATOR'S REPORT

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

- Of the new FTEs, 91 are positions have been filled. Twenty positions have been posted and/or in the process of being filled.
- Administrator Steen participated in various meetings with legislators, industry members, and the new CEO of Mothers Against Drunk Driving.
- The Licensing Division is processing original applications received November 4, beer renewals received July 27, and liquor renewals

received June 24. Staff from the field continue to assist Licensing and will be assisting through the 15th of next month.

- Enforcement is moving forward with public safety initiatives to reduce the number of driving while intoxicated violations and sale to intoxicated person violations. Staff have been meeting with local law enforcement and legislators on these initiatives. Administrator Steen stated that it is too early to cite specific figures; however, the results are looking positive. He noted the professionalism and teamwork of the Enforcement and Compliance Division staff. Commissioner Cuevas asked how the public was being educated to dispel “myths,” citing a common myth that “it’s OK to be intoxicated if one has a designated driver.” Administrator Steen noted that there are misconceptions, clarifying that it is against the law to be intoxicated if it is to the point that the person may be a danger to himself or to others. Staff are using various means from the front end to educate the public on these misconceptions. In addition, he noted that agents are using their discretion in dealing with those who are intoxicated. Administrator Steen also referred to the new two-hour Manager Awareness Program, recently developed by the Seller Server Section, as another means for education, focused on managers of retail establishments.
- With regard to information technology, the agency is in the latter phase of Versa and has “pulled the plug” on the M204 mainframe applications that the agency has used for the last 20 years. Initial preparations have begun for automation of the excise tax collections.
- Purchases for equipment for new employees and office expansions are in process. Of note, Administrator Steen stated that Smith & Wesson would be replacing the faulty 40-caliber pistols purchased for new agents with new state-of-the-art military police weapons. During new agent training in Huntsville, staff experienced a 10% failure-to-fire rate.
- TABC submitted its request for hurricane relief reimbursement from FEMA in the amount of \$177,200.
- TABC is finalizing its Annual Financial Report and its 2005 Governor’s Operating Budget.
- Staff contributed over \$12,000 statewide this year to the State Employee Charitable Campaign, more than double from last year. Administrator Steen commended Gloria Villasenor, the agency’s statewide campaign coordinator.

FISCAL STEWARDSHIP REPORT: FISCAL YEAR 2005 WORKFORCE SUMMARY

Commissioner Madden called upon Loretta Doty, Director of Human Resources Division. Ms. Doty presented the Fiscal Year 2005 Workforce Summary (Attachment 3). Administrator Steen reminded the Commissioners that there had been a huge turnover rate during the last legislative session when retirement incentives were offered. Administrator Steen stated he was pleased with the agency's current overall low 7.8% turnover rate, and attributed the low rate to the agency's well-maintained workforce and to the legislative leadership in granting Schedule C and state employee pay raises.

APPROVAL TO PUBLISH AMENDMENT TO RULE 16 TEXAS ADMINISTRATIVE CODE §45.106, RELATING TO SWEEPSTAKES AND GAMES OF CHANCE

Commissioner Madden called upon General Counsel Lou Bright to discuss the amendment to Section 45.106, relating to sweepstakes and games of chance (Attachment 4).

Mr. Bright explained that legislation passed during the last legislative session removed the requirement that a member of the upper tier could only offer a prize to a consumer if the offer was part of a sweepstake activity conducted in 30 or more states. Therefore, the amendment deletes this requirement as well as provides some language simplification. Mr. Bright recommended the Commissioners approve the publishing of the proposed amendment in the *Texas Register* for public comment.

Commissioner Cuevas moved that the Commission approve the publishing of the proposed amendment to Section 45.106, relating to sweepstakes and games of chance. Commissioner Madden seconded the motion. The motion carried.

PUBLIC COMMENT

Commissioner Madden noted that no one had registered to provide public comment. She stated that she wanted to take the opportunity during this time to say a few words. Commissioner Madden stated that this was her last "official" meeting, although she would be happy to continue serving on the board until the Governor had named her replacement. She expressed her heartfelt appreciation to all employees of the Texas Alcoholic Beverage Commission, the mainstay of the agency.

NEXT MEETING

Commissioner Madden announced the next meeting of the Commission was scheduled for Monday, December 19, 2005.

ADJOURNMENT

Being no further business, **Commissioner Madden called for a motion to adjourn. Commissioner Cuevas so moved. Commissioner Madden seconded. The motion carried, and the meeting was adjourned.**