



COMMISSION MEETING MINUTES

February 27, 2006

The Commissioners of the Texas Alcoholic Beverage Commission met in Regular Session on Monday, February 27, 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:

Jeannene Fox, Assistant Administrator

Lou Bright, General Counsel, Legal Services

Debbie Dixon, Director, Education and Prevention

Loretta Doty, Director of Human Resources

Del Drake, Captain, Office of Professional
Responsibility, Executive

Diana Gonzalez, Assistant Director, Compliance

Amy Harrison, Director, Licensing

Gary Henderson, Enterprise Operations Team
Leader, Information Resources

Linda Jackson, Administrative Assistant, Executive

Dexter Jones, Marketing Practices, Executive

Garry Sitz, Director of Information Resources

James "Sam" Smelser, Chief of Enforcement

Loretta Smith, Accountant, Fiscal

Gloria Villasenor, Administrative Assistant,
Education & Prevention

GUESTS PRESENT: Dewey Brackin, Gardere Wynne Sewell, LLP
Fred Marosko, Texas Package Stores Association
M. Jack Martin, Attorney at Law
Lindsay Meche, Republic Beverage
Michael Mims, Manager, H-E-B
Robert Sparks, Executive Director, Licensed
Beverage Distributors, Inc.
Randy Yarbrough, Wholesale Beer Distributors of
Texas

CALL TO ORDER

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

APPROVAL OF COMMISSION MEETING MINUTES OF JANUARY 23, 2006

Chairman Steen called for a motion to approve the TABC Commission meeting minutes of January 23, 2006. **Commissioner Cuevas so moved, and Commissioner Madden seconded. The motion carried.**

ADMINISTRATOR'S REPORT

Chairman Steen called upon Assistant Administrator Jeannene Fox to provide the Administrator's Report.

Ms. Fox reported the following activities that have occurred since the previous Commission meeting of January 23, 2006:

Strategic Planning Process

Public forums and industry meetings are being scheduled throughout March to gain input to assist in the agency's strategic planning process. In the past, headquarters has headed this task; however, the Captains and Lieutenants have been asked to conduct the public forums with citizens and industry stakeholders. The forums will be conducted in the major cities within each region. Meetings will also be held with staff for staff input. The information will be gathered from the forums and staff meetings at the end of March. The target date to present the recommendations to the Commission for approval is May so that the plan may be submitted to the Legislative Budget Board (LBB)

in June. The dates vary depending on instructions or changes recommended by the Governor's Office and the LBB. This is also the first part of the process of submitting our Legislative Appropriations Request (LAR) for the next biennium.

In response to Commissioner Madden's question regarding the process for the draft plan, Ms. Fox stated that the draft would be sent to the Commissioners for their review prior to the May meeting.

Human Resources (HR) Policy Manual

Executive staff have spent the last six months reviewing the HR policy manual. The HR policy manual has been updated and was made available to employees via the Intranet on February 15, 2006. Each employee is required to sign a document certifying that he/she has reviewed the policy. The HR policy manual is part of the agency's internal operations, covering such areas as leave and benefits, dress guidelines, and in-house computer security. Ms. Fox thanked all of the participating committee members for their assistance.

In-Service Training

In-service training has begun. The two and a half-day training is required of all TABC employees. The training includes customer service, time management, liquor law, diversity, and safety. Law enforcement Agents will receive an additional 24 hours of training, which includes Standard Field Sobriety Test, Oleoresin Capsicum (OC) Spray, ASP Baton, and Firearms training. In response to Commissioner Cuevas' question about OC spray, Chief Smelser clarified that OC spray is a form of pepper spray.

Smith and Wesson Pistols

Smith and Wesson has replaced 107 of the agency's pistols, and they have been distributed across the state.

Events

- Houston events: NBA All-Star Games, Houston Livestock Show & Rodeo, and Mardi Gras. Ms. Fox reported that there were no major incidents.
- Spring Break events: Staff met with retailers from Galveston, Corpus Christi, and South Padre Island to answer questions and to tell them what the expectations are in preparation for Spring Break.
- A statewide minor sting is being planned from February 27 through March 5, involving four regions and covering the I-35 corridor and other major

arteries leading to the coast. Our hope is to prevent retailers from selling alcohol to minors who are traveling to the beach for Spring Break.

- TABC will purchase quarter-page Public Service Announcements (PSAs) in university newspapers advertising the availability of grant funding that focuses on underage drinking (Attachment 1). The PSAs will include the laws and penalties regarding underage drinking.

Commissioner Cuevas asked how the public and industry forums were publicized. Ms. Fox responded that public newspapers and radio stations are utilized, and industry stakeholders are contacted by phone. Commissioner Cuevas asked if the TABC website was utilized to publicize the forums; Ms. Fox stated that the website is not used for that purpose at this time, because of the short notice for the hearings. Commissioner Cuevas asked if the Commissioners would receive a transcript of the public forums. Ms. Fox replied that **summary reports of the public forums would be completed at the end of March and would be provided to the Commissioners.**

Chairman Steen asked if training on sexual harassment was included in the in-service training. Ms. Fox stated that training on sexual harassment was included in last year's in-service training and that it would be covered every other year.

APPROVAL OF INTERNAL AUDIT OF THE ENFORCEMENT DIVISION HOMELAND SECURITY SECTION

Chairman Steen called upon Russell Gregorczyk, Internal Auditor for TABC. Mr. Gregorczyk presented the internal audit performed on the Enforcement Division Homeland Security (HLS) Section (Attachment 2). He explained that Chief Smelser requested an audit of the HLS Section after it had been moved to the Enforcement Division in August 2005. The main purpose of the audit was to evaluate the effectiveness and efficiency of the new section. Some of the findings from the audit included:

- Operating procedures are not in place;
- Investigative procedures are not standardized; and
- The section lacks coordination and communication with other divisions that also conduct investigative work.

Mr. Gregorczyk stated that TABC management is moving forward to address the findings, with some target deadlines being March 1st and April 1st. Commissioner Cuevas asked the status of the March 1st deadlines. Chief

Smelser stated that recommendations with the March 1st deadline are 98% complete and will be completed by March 1st. He expressed confidence that the April 1st deadlines would be met as well.

Commissioner Cuevas asked if the HLS Section would be re-audited to check for compliance with recommendations. Mr. Gregorczyk stated that he normally does not re-audit; rather, he normally revisits the status of the recommendations at the end of the fiscal year. He stated that he would re-audit the Section upon request of the agency. He also discussed that Commissioner Madden had suggested during the Audit Committee meeting held earlier that **a monthly progress report be given to the Commissioners** due to the importance of the matter. Commissioner Cuevas and Chairman Steen concurred. Commissioner Cuevas asked General Counsel Lou Bright if anything in the audit stood out for him. Mr. Bright stated that nothing in particular stood out for him; however, the goal is to get the lawyers involved with the case makers much earlier in the process. **Chairman Steen requested that a monthly report on the status of the audit implementation be given at the monthly Commission meetings.** Chief Smelser will provide the report; in his absence, Ms. Fox will present the report.

Chairman Steen asked Mr. Gregorczyk whom he was referring to in the audits where he states "Management Response." Mr. Gregorczyk responded that the management team consists of the Administrator, Assistant Administrator and General Counsel. He stated that while Chief Smelser may have prepared the response, he assumed that the management team approved the response; Ms. Fox affirmed this. Chairman Steen asked if the management team also set the timelines. Ms. Fox stated that the division normally sets the timelines with the expectation that they set reasonable timelines and that they meet them.

Chairman Steen called for a motion. Commissioner Madden moved that the Commission approve the internal audit of the Enforcement Division Homeland Security Section. Commissioner Cuevas seconded the motion. The motion carried.

APPROVAL OF RESOLUTION FOR SUBMISSION OF 2006 SPRING BREAK GRANT APPLICATION

Chairman Steen called upon Deborah Dixon, Director of the Education and Prevention Division. Ms. Dixon explained that the Governor's Office has given

\$129,000 to provide additional agents during Spring Break. This will provide 20 agents at South Padre Island and 10 in Port Aransas. The resolution was presented to the Commission (Attachment 3).

Chairman Steen asked if the agency was matching the \$129,000 given by the Governor's Office. Ms. Dixon explained that the funds are for travel and overtime pay of the additional agents. Ms. Fox also stated that the agents' regular salary is being matched by the Governor's Office and that the additional funds pay for overtime and travel costs.

Chairman Steen called for a motion. Commissioner Madden moved that the Commission approve the resolution for submission of the 2006 Spring Break grant application. Commissioner Cuevas seconded the motion. The motion carried.

FISCAL STEWARDSHIP REPORT: PROPERTY LOSSES

Chairman Steen called upon Jeannene Fox, Assistant Administrator, to provide the fiscal stewardship report on behalf of Charlie Kerr, Business Services Division Director, who could not be at the meeting. Ms. Fox explained that there is a property manager for the agency as a whole, and field offices utilize a Compliance Officer as their local property manager. Two physical inventories are conducted each year, one by the statewide property manager and one by the local property manager. TABC has not had any losses in previous years. In 2004, a pistol was stolen, but was recovered. The pistol is not in the agency's custody, as it will be used as evidence in a criminal trial. In 2005, the agency did not have any losses. In 2006, the agency had two items stolen within the last 10 days. A camera was stolen from a law enforcement vehicle, and a laptop stolen from the legal section in Dallas (Attachment 4). Commissioner Cuevas asked if there was a suspect in the stolen laptop incident. Ms. Fox stated that there is a surveillance video of the incident and that it is undergoing investigation.

PUBLIC COMMENT

Chairman Steen asked if anyone wished to provide public comment. As there were none, Chairman Steen 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 2:03 p.m. on February 27, 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 February 27, 2006, and the time, 2:54 p.m. He stated that no final action, decision, or vote was made in the executive session.

NEXT MEETING

Chairman Steen announced that the next Commission meeting was scheduled for Monday, March 27, 2006. He requested that the Commissioners revisit at the next meeting concerning the meeting date in April.

Chairman Steen requested additional information from Legal Services in the monthly report on dismissed cases. In addition, he asked General Counsel Bright to report in writing to the Commissioners, prior to the next meeting, on whether there were any legal impediments that would prevent a change such that the General Counsel reported directly to the Commission rather than the Administrator.

ADJOURNMENT

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