

TEXAS ALCOHOLIC BEVERAGE COMMISSION  
COMMISSION MEETING  
MONDAY, SEPTEMBER 23, 2002

The Texas Alcoholic Beverage Commission met on this date in Room 185 at 5806 Mesa Drive, Austin, Travis County, Texas. Members present: John T. Steen, Jr., Chairman; Gail Madden, Member and Kel Seliger, Member. Staff present: Rolando Garza, Administrator; Jeannene Fox, Acting Assistant Administrator; Lou Bright, General Counsel; Greg Hamilton, Chief of Enforcement; Denise Hudson, Director of Resource Management and Sam Smelser, Assistant Chief of Enforcement. Visitors included: Mike McElhaney, Governor's Office; Katherine Hughes, Valero-Shamrock; Robert Sparks, Licensed Beverage Distributors, Inc.; Galt Graydon; Mike McKinney, Wholesale Beer Distributors of Texas; Jack Martin and Fred Marosko, Texas Package Stores Association.

The agenda follows:

10:00 a.m. - Call to order.

1. Executive session:

Announcement of executive session:

- a. the commission will meet in executive session to discuss the evaluation and duties of the administrator pursuant to Texas Government Code, §551.074(a)(1); and
- b. the commission will meet in executive session to consult with legal counsel regarding Dickerson v. TABC and rulemaking authority pursuant to Texas Government Code, §551.071.

1:30 p.m. - Continue open meeting.

2. Take action, including a vote if appropriate on topics listed for discussion under executive session.
3. Approval of minutes of August 14, 2002 and August 23, 2002 meetings; discussion, comment, possible vote.
4. Presentation of Bert Ford Certificate to Valero-Shamrock.
5. Administrator's report:
  - a. discussion of staff reports;
  - b. recognitions of achievement;
  - c. discussion of management controls; and
  - d. presentation of enforcement educational activities.
6. Fiscal stewardship of agency; discussion, comment, possible vote.
7. Approval of the Internal Audit Report of Human Resource Systems and Controls; discussion, comment, possible vote.
8. Follow-up Report on FY 2001 Internal Audit Recommendations; discussion, comment, possible vote.
9. Public comment.
10. Adjourn.

The meeting was called to order by Chairman Steen at 10:04 a.m.

MR. STEEN: I want to call to order the September 23, 2002 meeting of the Texas Alcoholic Beverage Commission.

The commission will now go into a closed executive session to discuss the evaluation and duties of the administrator pursuant to Texas Government Code, Section 551.074(a)(1) and to consult with legal counsel regarding Dickerson v. TABC and rulemaking authority pursuant to Texas Government Code, Section 551.071.

The commission convened in executive session at 10:05 a.m. and reconvened in open meeting at 1:15 p.m.

MR. STEEN: The commission meeting of September 23, 2002 is now back in open session. During executive session no votes were taken, no final decisions were made. There are no matters requiring commission action at this time.  
We will take a short break and will continue the regular meeting at one thirty.

MR. STEEN: I'm going to call to order the September 23, 2002, regular meeting of the Texas Alcoholic Beverage Commission.

I want to begin by announcing what many of you already know. On September 13<sup>th</sup>, Randy Yarbrough, longtime TABC assistant administrator, announced his retirement after 30 years with the State of Texas and the past 26 with the commission.

As assistant administrator of the TABC, Randy Yarbrough has been instrumental in helping make the agency one of the foremost alcoholic beverage regulatory authorities in the country. He has been a leader among state regulators interested in how e-commerce can both benefit and impact the alcoholic beverage marketplace and in developing policies for governmental interaction. He has served in various offices in the National Conference of State Liquor Administrators, serving as president during 1998-1999. He has also served on the Joint Committee of the States, a policy study group of regulators from license and control states.

I just want to say that we are going to miss Randy. We wish him the best in his retirement. I'd like to suggest that we do a resolution, Mr. Garza, if you could work on that?

MR. GARZA: We will have staff work on that, Mr. Steen.

MR. STEEN: That we could pass at a future meeting and then present it to him at an appropriate time.

MR. GARZA: Yes, sir.

MR. STEEN: Let's move to the approval of the minutes of the August 14, 2002 and August 23, 2002 meetings.

MS. MADDEN: I so move.

MR. SELIGER: Second.

MR. STEEN: Any discussion? All in favor, say aye.

MS. MADDEN: Aye.

MR. SELIGER: Aye.

MR. STEEN: Aye.

The next item is the presentation of a Bert Ford Certificate to Valero-Shamrock. Is someone here from Valero-Shamrock? Are you Katherine Hughes?

MS. HUGHES: Yes.

MR. STEEN: Please come forward. Welcome.

MS. HUGHES: Thank you.

MR. STEEN: I just want to mention that this is a very prestigious honor that we are awarding Valero-Shamrock. I know that you had this campaign that featured more than 1,000 pump topper signs. I think we've got a sample of one here, is that right?

MR. GARZA: I have one in my office. I didn't bring it in, Mr. Chairman. I did a couple of months ago. I apologize.

MR. STEEN: These have been featured at more than 480 Diamond Shamrock Corner Stores, Stop and N Go and Total retail outlets across the state. The campaign featured the "You Can't Afford the Buzz" theme developed by the Texas Safety Network and used in conjunction with TABC as part of a billboard/school poster campaign. The campaign ran from August 11<sup>th</sup> through September 15<sup>th</sup> and received extensive media coverage across the

state and helps the ongoing efforts to target illegal underage drinking in our state. A sound partnership between the Valero Energy Corporation and the TABC will go a long way in promoting a zero tolerance approach to underage drinking in Texas.

I've got an award and there's an explanation of the Bert Ford Commendation. Ms. Madden, could I ask you to read that? Would it be repetitive of what I just read?

MR. GARZA: No. Please, go ahead.

MS. MADDEN: "The Bert Ford Commendation

"Diligence and cooperation. For former TABC Administrator Bert Ford, there was no better way for an organization to foster and merit the confidence and respect of the public it served. Throughout his tenure (1936-1947), Bert Ford promoted a spirit of cooperation which paved the way for fairness and efficiency in the enforcement of the alcoholic beverage laws in the State of Texas. With an unyielding diligence, he molded a state agency which valued customer service while conducting its operations with a total commitment to professionalism and integrity.

"Today, more than 50 years later, Bert Ford's imprint remains. In an era of heightened concern for legendary customer service, the Texas Alcoholic Beverage Commission remains committed to the values carved out by one of its former leaders. Our guiding philosophy and organizational values embrace Bert Ford's vision and reflect his untiring vigor and determination.

"The campaign to target underage drinking in the State of Texas will require strong, effective law enforcement, as well as a creative and concerted public information and education component. The production of public service pump toppers will be invaluable in any effort to educate young Texans about the dangers associated with underage drinking.

"Through their unselfish dedication and commitment, Valero-Shamrock has proven to be a true partner in this endeavor. Valero-Shamrock has exemplified the sense of civic volunteerism and community responsibility that is critical to this partnership.

"The full impact of the public service pump toppers produced by Valero-Shamrock may never be known. However, what is known is the fact that these professionals are making a difference in their community and, in the process, are helping to save lives!

“On this day we acknowledge the outstanding work of Valero-Shamrock and we honor their noteworthy efforts with the presentation of this Bert Ford Commendation.”

MS. HUGHES: Thank you very much.

MR. GARZA: Mr. Chairman, if I might, while Ms. Hughes is still in the room, I would tell you that when we first met with Jimmy Gibson and some other folks from Valero and broached the idea of them doing a campaign, they were responsive and they were more than helpful. Throughout this whole process, they have been very giving of their time, their resources, and I would tell you that we look forward to having a very good and strong partnership with Valero in the years to come. Thank you, Kathy.

MS. HUGHES: Thank you.

MR. STEEN: We will move to the administrator’s report. Mr. Garza?

MR. GARZA: Mr. Chairman, my comments will be brief. First of all, I would echo your comments with respect to Mr. Yarbrough on his retirement. We will be more than glad as staff to prepare an appropriate resolution that would recognize his 30 years of service to the State of Texas, 26 of which were dedicated to this agency.

Contrary to the *Austin American Statesman*, Jeannene Fox is not the new administrator of TABC; however, Ms. Fox has graciously agreed to accept the assignment as the assistant administrator of this agency. I look forward to working with Jeannene. I think everybody in this room has knowledge and familiarity with her work, her work ethic, her tenacity and the quality of work that she brings to every task she is assigned. I would tell the board and those in the audience today that I anticipate that we will continue to be effective and efficient in the operations of this agency with Jeannene in her new assignment.

We have finished up another fiscal year here at the TABC, and we have done so, I think, with some noted accomplishments. First of all, I would tell you that we have met or exceeded all of our key performance measures. Most notably, you will recall about a year ago, we had some problems in the enforcement area with respect to the number of inspections and that was a key performance measure. This year, we have met that goal, as we said we would a year ago, and have kept that commitment to the board.

In the licensing area, I think we have experienced a record-setting year in

the issuance of licenses and permits. Over 100,000 have been issued this past year, and a lot of that has to do with the strong work and dedication of the staff up here. Keep in mind that we still continue to have some turnover problems, but there is a lot of overtime put into that effort and a lot of the results came from a lot of hard work from Jeannene and Brian, as well as the employees themselves, who brought this work to bear. We are proud of the fact that we have accomplished that milestone.

In the ports of entry program, I think more than five million containers and packs of cigarettes were stamped this year. Again, that program has experienced some growth. There are some new bridges coming online and we anticipate to be continually active in trying to address that issue up and down the Texas-Mexico border. So, we had a good year with our POE program.

Overall, in terms of my year here with the agency, I would tell you that I am proud of the work efforts of every employee. I think they have demonstrated and exhibited the trademark that has been a TABC trademark for many years, and that is people working hard to give taxpayers their due return on the investment. I would tell you that I look forward to working with the staff, to working with each of the board members as we prepare for the session to come.

The last thing I would do, as a reminder, is that breaking away from tradition next month, we will not meet here in Austin. We will meet in Dallas. Ms. Madden has been working tirelessly to make sure that we have all the arrangements necessary to pull this meeting off. Cheryl is pulling her hair out daily, hoping that things will all work out, and I have full assurance with the individuals that I've mentioned that we will, in fact, have a very effective and well-run meeting. We look forward to seeing you all in Dallas next month.

MS. MADDEN: We are looking forward to having everybody. I hope everybody will come. We are going to try to make it very, very nice and very painless that you have to move from Austin to Dallas for this one time. We are looking forward to it.

MR. GARZA: That's all I have, Mr. Chairman.

MR. STEEN: Any questions?

MS. MADDEN: No.

MR. SELIGER: No.

MR. STEEN: Mr. Garza, we've got this resolution. Is it appropriate to do it now?

MR. GARZA: Yes, if we could.

MR. STEEN: Mr. Garza, we are doing this resolution now and we will present it...

MR. GARZA: We will find an appropriate time to make a presentation to Mr. Taylor's family.

MR. STEEN: We are just doing the business of the resolution today?

MR. GARZA: Yes, sir.

MR. STEEN: Ms. Madden?

MS. MADDEN: "Whereas, Howard Taylor, Compliance Officer of the Texas Alcoholic Beverage Commission, departed from this life on the 12<sup>th</sup> day of September 2002; and

"Whereas, his outstanding service with the Commission through his performance and organizational skills led him to achieve a position of leadership both within the Commission and the community; and

"Whereas, the favorable impression of the Commission reflected to the community he served his personal ethics and integrity; and

"Whereas, all his endeavors, large and small, reflected a sense of honor and righteousness which never failed; and

"Whereas, as an emissary of the Commission in his position as a compliance officer, he was a role model for all agency employees; and

"Whereas, his wisdom, personality, strength and character earned the respect of all those who knew him; and

"Whereas, Howard Taylor gave all of us a lesson on how to live our lives to the fullest and how to never take our loved ones for granted.

"Now, therefore, be it resolved by the Texas Alcoholic Beverage Commission that this salute to the memory of Howard Taylor be entered into the records of this Commission so they will forever reflect the esteem of the Commission and its staff; and

"Be it further resolved that a copy of this resolution be presented to his

wife, Filiz, as an expression of our gratitude and a token of the high regard in which Howard Taylor was held by all in the Commission.

“Adopted this the 23<sup>rd</sup> day of September 2002.”

I move that we adopt this resolution.

MR. SELIGER: Second.

MR. STEEN: All in favor, say aye.

MS. MADDEN: Aye.

MR. SELIGER: Aye.

MR. STEEN: Aye.

MR. GARZA: It’s my understanding we will try to present this resolution to Mr. Taylor’s family next month in Dallas.

The last item there, Mr. Chairman, speaks to a presentation by Chief Hamilton and Assistant Chief Sam Smelser by way of an update on some of our educational efforts in the enforcement division.

MR. HAMILTON: Chairman Steen, Commissioners Madden and Seliger, I’ve been tasked to give you an overview - and I’ll try to make it as quick as possible - of our educational activities. When we talk about education, we talk about our public relations and the actual classroom setting. Throughout this presentation, you will see public information and public relations, and when I refer to that, I’m talking about when our agents go out to job fairs, health fairs, career day at schools in the different communities, industry relationship meetings, community coalitions, travel time to and from the site and answering the phones and answering e-mails. When I talk about public education, I’m talking about the class room teaching, such as retail training, Project SAVE, law enforcement training and to college students, also.

The power point presentation included Target Audiences FY 2002; Persons by Program Type; Number of Youth Taught; Hours Spent for Education; Hours Spent on Public Relations; Comparisons of All Agents’ Hours; Partnerships - working and future - and the Jacqueline Saburido poster.

MR. STEEN: Thank you, Chief Hamilton. Are there any questions?

MS. MADDEN: That was a very powerful presentation. Thank you.

MR. STEEN: Chief, who did your graphs?

MR. HAMILTON: Mr. Sam Smelser, the guru of power point.

MR. STEEN: My compliments. That was very well done. I know that is time-consuming work and we appreciate it.

Let's move onto fiscal stewardship of the agency. Ms. Hudson?

MS. HUDSON: We looked at legislative caps this time. We are still under on all of our caps. We are about 34 FTEs under the cap. Most of those are attributed to the enforcement FTEs and, with the establishment of our eligibility list for next year, we should not see these levels again.

Another thing that we looked at was a summary of our Legislative Appropriations Request. We have in that request seven exceptional items, totaling a little over five million dollars and 35 FTEs.

The other thing that we provided some information on is our Biennial Operating Plan. This details our computer operations, the daily operations and our current projects that are going on in that area. It was submitted at the same that we submitted our LAR request. Also, in the IT area, we are currently in the process of hiring a new IT director. We have to have someone on board by the first of December.

MR. STEEN: Any questions?

MS. MADDEN: No.

MR. SELIGER: No.

MR. STEEN: Thank you very much, Ms. Hudson.

Next is the approval of the internal audit report of human resource systems and controls.

MR. GARZA: Mr. Chairman, Members, if I could, I would like to ask that that be pulled from the agenda at this time. We haven't had a full chance among the staff to review that and give that some comments so, with your permission, I'd like to bring that back at a future date.

MR. STEEN: Is that okay?

MS. MADDEN: Fine.

MR. SELIGER: Yes.

MR. STEEN: Follow-up report on Fiscal Year 2001 internal audit recommendations.

MS. HUDSON: We have a report here by our internal auditor, Russell Gregorczyk. He has looked at the reports that were submitted to you for the year 2001. For the accounting and fiscal audit, all the recommendations were either implemented or resolved.

We have three remaining outstanding in ports of entry that are being worked on. Some of those have to do with the availability of DSL service in certain areas, and once that service is available those will be implemented.

In the tax security section, all of those recommendations were either implemented or resolved.

MR. STEEN: Any questions?

MR. SELIGER: Is there action required?

MR. STEEN: Mr. Seliger asked a good question. Is there action required on this?

MR. GARZA: Lou, do we need a motion to adopt?

MR. BRIGHT: I suppose you do. That couldn't hurt, anyway, if you take a motion to adopt these recommendations.

MR. SELIGER: I move the acceptance of the internal audit recommendations.

MS. MADDEN: Second.

MR. STEEN: Any discussion? All in favor, say aye.

MR. SELIGER: Aye.

MS. MADDEN: Aye.

MR. STEEN: Aye.

This is the part of the meeting where we have public comment. Do we have anybody from the public that wishes to speak? I have no cards up here.

MR. MARTIN: I'd just like to say something real quick.

MR. STEEN: Come forward and identify yourself at the microphone.

MR. MARTIN: My name is Jack Martin and I'm an attorney here in Austin. I represent a lot of permittees around the state. I just want to mention one thing. Greg spoke about the licensing forums that you are having around the state. I attended the one here in Austin a couple of months ago, and I just want to let you know how effective they really are. I think they are a great way of getting the licensing services together before the agency and letting them bring forward questions and problems. You can disseminate this to a great number of people who really are doing the work and make the thing go much smoother. I know there have been problems with the agency of late trying to resolve issues that keep coming up through the licensing process, and I think it's an excellent way that you are trying to deal with that, and I just wanted to mention that I hope they will continue them, particularly as you roll out the new form that is going to be on the internet, I believe, and that is one thing that people are going to have to know how to work. I just wanted to commend the agency for doing a good job with those licensing forums.

MR. STEEN: Thank you very much.

MR. MARTIN: Sure.

MR. STEEN: Anyone else?

Mr. Garza, anything else?

MR. GARZA: No, sir.

MR. STEEN: I will entertain a motion to adjourn.

MS. MADDEN: I so move.

MR. SELIGER: Second.

MR. STEEN: The meeting is adjourned.

The meeting adjourned at 2:30 p.m.