

TEXAS ALCOHOLIC BEVERAGE COMMISSION
COMMISSION MEETING
MONDAY, OCTOBER 28, 2002

The Texas Alcoholic Beverage Commission met on this date at the Hilton Dallas Park Cities, 5954 Luther Lane, Dallas, Texas. Members present: Gail Madden and Kel Seliger. 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; David Alexander, Captain, Dallas Region and Bob Wallace, Compliance Supervisor, Dallas Region. Welcome: Representative Steve Wolens, Dallas. Public comment was received from: Jim Haire, Volunteer; Avi S. Adelman, BarkingDogs.org; Margaret Collins, MADD Metroplex; Katrina Runnels, G & S Licensing Consultants; Mike Perry, United Community Force; Bill Lewis, MADD; Linda Neel, Bachman Community Association and Tim Dickey, Dallas.

The agenda follows:

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

1. Welcoming remarks by State Representative Steve Wolens.
2. Presentation of resolution in memory of Howard Taylor.
3. Adoption of resolution for Randy Yarbrough; discussion, comment, possible vote.
4. Approval of minutes of September 23, 2002 meeting; discussion, comment, possible vote.
5. Administrator's report:
 - a. discussion of staff reports;
 - b. recognitions of achievement;
 - c. discussion of management controls; and
 - d. Dallas region update.
6. Fiscal stewardship of agency; discussion, comment, possible vote.
7. Consider proposed amendment to 16 TAC §37.60 as published in 27 TexReg 8695 on September 13, 2002; discussion, comment, possible vote. (Standard Penalty Chart)
8. Public comment.

Announcement of executive session:

9. The commission may go into executive session with legal counsel pursuant to Texas Government Code, §551.071, regarding:
 - a. item number 7 of this agenda;
 - b. statutory and constitutional standards relating to arrest, search and seizure; and
 - c. Hall v. TABC.

Continue open meeting

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

The meeting was called to order at 10:05 a.m. by Ms. Madden.

MS. MADDEN: We are going to call to order the meeting of the Texas Alcoholic Beverage Commission on this day of October 28th. I can't tell you how excited we are for us to be here in Dallas. This is our first meeting outside the City of Austin. We are a little sad because our chairman, John Steen, is ill and is not able to be here. I'm Gail Madden and I will be pinch-hitting for Mr. Steen as will Mr. Seliger, our other commissioner.

It is my pleasure to introduce an elected official who I think is one of the most outstanding elected officials that we have in the state. He's one of the nicest gentlemen you will ever meet. He is looking at his 12th term in the Texas Legislature and he is currently the chairman of the House State Affairs Committee. He also is a friend of this agency because he has passed legislation supported by MADD that gives police more authority in removing drunken drivers from our highways. He is the most appropriate one to give our welcoming remarks. Let me introduce Representative Steve Wolens.

MR. WOLENS: Thank you. Welcome to my hometown, Dallas, Texas. On behalf of my wife, my favorite mayor of my favorite big town in the United States of America, welcome to our great city. About six or eight years ago, we had to change the law in Texas to permit the Texas Supreme Court to have hearings outside Travis County. We passed that and, subsequently, the Texas Supreme Court went to SMU and went to Baylor and went around Texas to hear cases and to give folks the opportunity to hear cases being argued before the Texas Supreme Court without the necessity of travelling to Travis County or Austin.

Then we started looking at the same notion by courts, and what district courts started to do was to have trials with juries and with complainants, and going to schools and going to gymnasiums within their city and letting students watch how trials were being conducted to, perhaps, excite children, to let them see what the law was like so they wouldn't necessarily have to watch Judge Judy on television. They could actually go and watch the court being conducted live. It is very nice for you to put your hearings on the road so folks can come here, so folks can participate and they can know what's going on with the TABC.

I don't know if you know, but come the year 2005, not only does this agency go through sunset, this agency is going to be 70 years old. It is one of the oldest agencies that we have in the State of Texas regulating every aspect of alcohol, be it the sale, the manufacture or the advertising. For us in the legislature, not only is it a huge social issue what this agency does - when you are on the tax committee, you think about two sin taxes; one is alcohol; the other one is tobacco - so, we are always focused on

alcohol in the state as a cultural issue, but it also is a big issue in terms of revenue. This agency oversees the collection of 180 million dollars a year for the State of Texas. It is not a small matter in terms of revenue and in terms of culture, quality of life, standard of life and conduct.

Gail is right. I have been involved many times over the years in dealing with issues that effect this industry. I just saw some folks here from MADD. I have, over the years, been very much involved, as Bill Lewis would say, in administrative license revocation. You are involved in balancing many interests in this industry and we in the legislature do the same thing. There is a piece of legislation I was involved in carrying, both in '91 and again in '01, that if folks were caught driving and it was suspicious whether they were full of liquor or not, they would either have to give a clean breathalyser test or they would have to lose their license with administrative license revocation. It was a very strong piece of legislation because it sort of turned upside down this notion that you are innocent until proven guilty. Actually there is a civil presumption that you are guilty until proven innocent. It's very tough doing it that way but, nonetheless, we have grown increasingly impatient over the years with drunk drivers.

One thing that's wonderful from the TABC that I have enjoyed as a legislator, we get notices all the time from the TABC like this one that I received in today's mail of an application that is pending for an original private club registration permit for a particular applicant at a particular location. It gives notice to those of us in the legislature what is about to happen, and if we have any objection to it, we have an opportunity, a matter of time, that we can go object to it.

I want to mention a couple of other things. This agency has got a lot of work in front of it. It oversees permits and applications in the number of 93,000 every single year. So, for them to do their business is incredible that they can oversee that but, again, it invites us, it invites citizens, it invites my constituents to get involved in the process, and by having this meeting here in Dallas, you invite constituents and folks who object to a lot of these permits to come be heard. You have a lot of employees. You have 550 employees, but the most important thing is their regulating the industry.

There are several issues before it this coming year, this coming session, one of which is marketing, how they go about permitting, how they go about policing the marketing of mixed drinks in the State of Texas. There are a little bit of cross purposes here because we in the legislature put the burden on them to restrict marketing, to oversee the selling of liquor and

to be as restrictive as possible and, on the same token, we've given them a second mission which is to promote the sale of Texas wine. It's funny, here on one hand, we say be very restrictive in your oversight and, on the other hand, we say we want you to help promote Texas wine.

There are a couple of other areas where they have been wonderful and one is Operation Fake Out, where they are there not only with their regulators and police to oversee kids, they have got posters out, doing everything that we can to discourage underage drinking in this state. I'm also pleased to say out loud, which some of you may not know and which I have seen in the legislature, where the industry has always been supportive of these efforts, specifically the liquor and the beer industry has always been supportive in the Texas Legislature of our laws making it more and more difficult in terms of sanctions when people are breaking the law. Whether those are kids being underage, impermissibly and illegally getting liquor, or whether it is folks driving and drinking, the industry has been pretty much on top of it in helping us pass laws to increase the penalties and working with police officials to make sure that we don't continue down this road.

Thank you for all the work that you do. I know that it's an awful lot of hard work in having to deal with the number of employees that you have got to regulate and oversee, and certainly the number of permits that you folks oversee and the permits and licenses that you regulate and oversee. Thank you very much for your hard work and welcome to Big D.

MS. MADDEN:

Thank you so much.

We have two people in the audience that are very dear to my heart and I would like to introduce them. My husband is in the audience today. His name is Bill Madden, and he has served our state well. He is past chairman of the Texas Water Development Board, and he has been very supportive of me in this effort, and I would like to have everyone in the audience welcome him today.

Secondly, my little business partner - I call her little because she is - her name is Linda McFarland. She and I co-founded a company 12 years ago. It's just the two of us. She's pretty special, and we muddled through it the first few years and now we think we are pretty much pros, don't we Linda? She's here today, and I would like for her to stand up and I would like for everyone to welcome her, too.

This morning, we have a presentation of a resolution in memory of Howard Taylor. Howard Taylor was one of our beloved compliance

officers. Here today with us is his wife, Filiz, and his daughter, Phoebe, and his son, Robert. If you would come forward, we would like to present you with the resolution. We thought we would read the resolution to get it back in the minutes and make it more special for you and then we would like to get your picture.

MR. SELIGER: If I may?

“Whereas, Howard Taylor, Compliance Officer of the Texas Alcoholic Beverage Commission, departed from this life on the 12th 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.”

MS. TAYLOR: Thank you.

MS. MADDEN: This morning, we are going to adopt a resolution for Randy Yarbrough who was with our agency for 26 years. I will have Mr. Seliger read the

resolution, please.

MR. SELIGER: “Whereas, with sound judgment and uncompromising dedication, Mr. Randy Yarbrough joined the Texas Alcoholic Beverage Commission in 1976, and served as the Assistant Administrator from 1987 until his retirement on September 30, 2002; and

“Whereas, Mr. Yarbrough served as the Director of Human Resources as well as the Director of Finance and Budgeting. Since 1982, Mr. Yarbrough acted as the legislative liaison for the commission and the various legislative committees and was active in the area of policy making both with the commission and in the national arena; and

“Whereas, Mr. Yarbrough served as President of the National Conference of State Liquor Administrators (NCSLA) from 1998-1999 and remained active in the association. He served as Executive Secretary Treasurer of the NCSLA from 1987-1989. He served as Vice Chair of the Joint Committee of the States, made up of regulators from the license and control states, which recommends policy considerations for national alcohol regulatory agencies. He has also served on the Joint Committee of the States Trade Practices Subcommittee and has served as an ex-officio member of the Wine Task Force Committee of the National Conference of State Legislatures. Agriculture Commissioner Susan Combs appointed Mr. Yarbrough to the Texas Wine Marketing Advisory Committee in September 2001, and he was appointed by Governor George W. Bush as a member of the Governor’s Task Force on Illegal Gambling in 1997.

“Now, therefore, be it resolved that the Texas Alcoholic Beverage Commission offers it profound appreciation to Mr. Randy Yarbrough and, along with all the agency employees, expresses best wishes in his new pursuits.”

MS. MADDEN: Do I hear a motion?

MR. SELIGER: So moved.

MS. MADDEN: Second. All in favor?

MR. SELIGER: Aye.

MS. MADDEN: Aye. Mr. Yarbrough, as you know the drill, it’s adopted today and we will present it to you at a later date. Did you have anything you wanted to say today?

MR. YARBROUGH: Thank you very much for all the years with the commission and the opportunity to work with you.

MR. SELIGER: Thank you.

MS. MADDEN: Thank you for coming.

I'd like to ask for the approval of the minutes of September 23rd.

MR. SELIGER: Madam Chairman, I move approval of the minutes.

MS. MADDEN: Second. All those in favor?

MS. SELIGER: Aye.

MS. MADDEN: Aye.

Mr. Garza, our administrator's report.

MR. GARZA: Madam Chairman and Mr. Seliger, I first of all would like to acknowledge the hard work of a number of staff people who are here this morning and made this meeting possible. I know, Ms. Madden, you spent a lot of hours preparing for this meeting, but people like James Irvin, who is hiding back there in the corner who is our audio man, came in from Austin and spent a lot of hours last night getting this thing prepped. Two ladies behind me who I have counted on over the years, Jenny Escalante and Cheryl Lyle, have worked very hard to be here and to help us out with this meeting and I want to thank them publicly.

With respect to activities here at the agency, we've had two other significant retirements from the commission during the last 30 days. Notably, Allen Johnson, who was the supervisor of our marketing practices section, has retired after about 25 years of service with the TABC. He left October 1st.

In a couple of days, Dan Hoover, who is our compliance supervisor up in Lubbock, he and his wife will be moving to New Mexico. He is packed and ready to go after thirty-one years of service to this agency and to the State of Texas. Dan will be leaving us on October 31st.

The other key activity going on, as you well know, for the last few months we've been working on a campaign on Fetal Alcohol Syndrome/Fetal Alcohol Effect Awareness. We have received a letter from Governor Perry endorsing that campaign. We have some monies that have been

donated through the March of Dimes of Texas to facilitate this campaign and we will be having a press conference probably sometime in November or early December to unveil it. We will certainly be bringing some information to you. I'd like to acknowledge people like Jim Haire, who is in the audience, who have been key supporters of this campaign. We will be sharing this information statewide with the media.

The last item under this section, we have Captain Alexander and our Compliance Supervisor Bob Wallace who are here today to bring you an update on some of the activities going on in the Dallas region. I will turn it over to these gentlemen.

MR. ALEXANDER: It is indeed an honor to have the commissioners' October meeting here in Dallas, home of the State Fair and America's Team, the Dallas Cowboys.

At this time a PowerPoint presentation was presented by Mr. Alexander and Mr. Wallace which entailed an overview of staffing and activities in Region 2/Dallas. The presentation included past accomplishments and future initiatives of the region.

MS. MADDEN: Thank you.

MR. SELIGER: Thank you very much.

MS. MADDEN: It was a great presentation. I just want to say I'm very proud of the efforts and the work of these two gentlemen and their office staff. They give to the community. It is a huge community and it takes a lot of time and effort, and we thank you for that.

Ms. Hudson, could we have the fiscal stewardship report for the agency?

MS. HUDSON: This month, we looked at key performance measures. Of the ten measures, we met nine. We were a little over on one. That was the average cost per compliance activity. We had some unexpected printing costs at the end of the year that kept that a little higher than we anticipated.

We also, in the area of grants, have been designated by the Governor's Office to begin distributing a grant for them. It is Enforcing the Underage Drinking Laws. We will be looking at two years of funding for 2001 and 2002. The total on those two grants will be about 720,000 dollars, and we will be giving you more information on that as we go through that process in the upcoming months.

We also took a look at property losses for the year. We did have a pistol

that was stolen in Houston and we also had some laptops that were stolen from one agent's car. There was no negligence on the part of any of the employees and total loss for the year on property was about 20,000 dollars.

We've also had the opportunity to have the State Auditor's Office come in and review our contract with the West Texas DROC center. That is the contract that is maintaining our mainframe for us. The only concerns that they had were on the contract monitoring. We opted to do that in-house ourselves. We had listed that as a cost savings but, because we were having our own staff do it, there was no out-of-pocket cost or savings on that, so it was really neutral to the agency.

MS. MADDEN: Remind us again on the EUDL grant how this grant is handled against our budget request. Is it a substitution or is it an offset?

MS. HUDSON: This will be new monies that will be flowing into the budget. Revenue from federal sources is usually listed as estimated amounts, so these will be added to our budget.

MS. MADDEN: Okay.

MR. SELIGER: Will they be used to fund enhancements to existing programs or will it be a new program and, if it's a new program, what happens at the end of 2002 when those grant monies run out?

MS. HUDSON: I will defer to Greg on that.

MR. HAMILTON: These grant monies will be going to new programs and will also go to the expansion of programs. Also, at the end of the fiscal year, they would have to reapply for the funding. We don't know if this is going to be a continuous thing that's coming down with this budget shortfall across the country, if the EUDL funding is going to continue. It's been in existence for the last four years, so we are hoping that it continues.

MR. SELIGER: Thank you.

MS. MADDEN: Thank you.

Next we are going to consider a proposed amendment to 16 TAC Section 37.60 as published in 27 TexReg 8695 on September 13, 2002. Ms. Fox, will you give us a brief update on that?

MS. FOX: What you have before you today is the published proposed rule with regard to seller training. They basically do not change the operation that

we have or any penalties that we have on any of the seller training violations. What we realized is that though we've had these particular penalties in place for a number of years, we did not have them included in our standard penalty chart, so it was really not known by those people involved in these programs what the penalties were for various violations. This mainly provides publicly what the penalties are for any violations that might occur in those particular programs, so it really doesn't change anything. It just makes it publicly known and formally in our rules in the standard penalty chart.

The staff would recommend that you adopt this as published. We've had no comment subsequent to the publication, but I would ask that you adopt it with one change, and that change would be on the last page of the proposed rules. As you will remember that in September we have changed the name of the licensing and compliance division to the regulatory division. That division is actually listed in our rules, so we have merely changed the name, but that is an amendment to the published rule. So, we would ask that you adopt these as published with one amendment to change "compliance and licensing" to "regulatory division."

MS. MADDEN: Do I hear a motion to adopt....

MR. SELIGER: I have a question first. If we have had no standardized penalty for those violations, how was it then applied?

MS. FOX: Internally, we had a guideline to go by, but it was just not published outside the agency. This is just merely making everyone aware, particularly those in the seller training program, the schools and the trainers, of what the penalties would be for any specific violation.

MR. SELIGER: Okay. Madam Chairman, I move the passage of this amendment as published with the change of "compliance and licensing" to "regulatory division."

MS. MADDEN: Thank you. I second it. All those in favor, say aye.

MR. SELIGER: Aye.

MS. MADDEN: Aye. Motion carries.

On our agenda, we always make room for public comment. It seems like we have a whole bunch of people today and we just love that. I am going to kind of divert a little bit, if I may, and say that since we have so many people today - and as I said, the TABC loves to hear public comment - I

think I am going to ask everybody to hold their comments to three minutes. Chief, do you have your watch on?

MR. HAMILTON: Yes, I do.

MS. MADDEN: Does it have a second hand?

MR. HAMILTON: Yes, it does.

MS. MADDEN: What I think we will do here today is as people come up and as you begin your remarks, I am going to have the chief keep his eyes peeled for the time. When their three minutes are up, would you stand up?

MR. HAMILTON: Yes, ma'am, I sure will.

MS. MADDEN: That's a good plan. When you see the chief stand up, you will know your three minutes are up. I don't think anybody wants to argue with our chief of enforcement.

Jim Haire is the first speaker and we welcome him again. He is a volunteer and his subject today is alcohol advertising in Texas. As Mr. Garza had mentioned earlier, Mr. Haire has been before us several times and has raised the awareness of this commission on Fetal Alcohol Syndrome. We welcome you back today, Mr. Haire.

MR. HAIRE: Thank you very much. I'm Jim Haire from Tyler and I appreciate TABC holding this meeting in Dallas. Besides the shorter drive, I like to avoid the Austin traffic whenever possible.

I'm here this morning for two reasons. First, I want to thank TABC for addressing the lack of awareness in Texas of the leading known cause of mental retardation. Most alcoholic drinks served women in Texas apparently carry no birth defect warning and the Texas Department of Health says that about half the women of child bearing age in Texas are unaware of Fetal Alcohol Syndrome. The state also tells us that about 4,000 babies are born in Texas each year with some level of alcohol-related brain damage. A special thank you is also due the March of Dimes, who I understand is funding some of the decals being provided to each alcohol retail outlet in Texas.

The other item I want to mention this morning is an e-mail I recently received advising that Texas Parks and Wildlife has now expanded their alcohol advertising directly into our schools. The number one outreach target of Parks and Wildlife are children, and our children have for years seen this state agency promote alcohol in its facilities, web pages, press

releases, its annual wildlife expo and our state's fishing and hunting regulation booklets. Now Texas Parks and Wildlife has expanded its alcohol advertising to its monthly magazine which goes to many of our Texas schools. Three out of the four schools I called carry this state publication in their library.

I don't think one can appreciate the new full page glossy beer ad being introduced into Highland Park High School here in Dallas by our state government without a little background. Since children are the number one outreach target of Texas Parks and Wildlife, the more successful they are in attracting children to outdoor pursuits, the more alcohol advertising our children will receive from the state in its web pages, publications, etcetera. For someone that loves the Texas outdoors like I do, it's upsetting to see my government not only promote alcohol among our children, but to train our children to associate alcohol with fishing and hunting. I first became involved in Texas alcohol issues after I saw my state government use a video cartoon to introduce my two young sons to the Budweiser beer name at a state fish hatchery.

I won't take time to go into the conflict of interests this particular state agency's partnership represents. Suffice it to say that while Parks and Wildlife is responsible for controlling drinking and boating, they involved Anheuser-Busch in their last safety campaign. One change was the partnership's introduction of Budweiser beer key chains for boaters. Those are apparently still being passed out at Parks and Wildlife fishing events.

Anheuser-Busch is also involved in other unacceptable alcohol advertising among Texas children. Anheuser-Busch and/or its distributor in Houston made a deal with the Houston Zoo that included attaching the Budweiser cartoon lizard names to the lizard cages at the zoo. I heard about that, visited the zoo and saw about 50 school kids on field trips in that particular room of the zoo along with two or three adults. In front of the zoo, you could see the yellow school buses lined up as far as the eye could see, bringing kids on school field trips.

MS. MADDEN: Thank you so much.

MR. HAIRE: If you think that some of this advertising is unacceptable, I hope you will look at guidelines, and if you agree that Parks and Wildlife should not be conveying any alcohol messages to our children, perhaps the guidelines will entail zero tolerance for the state conveying promotions to our children inside or outside the schoolhouse. Thanks a lot.

MR. SELIGER: Mr. Haire, have you sent this communication to the executive director of

Texas Parks and Wildlife?

MR. HAIRE: For five years, I have dealt with them on similar issues and they have never ever given a half an inch. The only time they have given a half an inch is when there was legislative heat and then they would do away with something to kind of win the argument at the moment and then they would come out with something else. Just like recently, they said, "We will give the kids a hunter education booklet without the alcohol ads." As soon as they did that and they had sunset in the rearview mirror, then they came out with this thing that goes to our high schools and junior highs with more advertising. They have a special problem. It's a special situation and some day we will have to talk more about it.

MR. SELIGER: Okay.

MR. MADDEN: Thank you very much.

MR. SELIGER: Thank you.

MS. MADDEN: Next is Avi Adelman. We are glad to have you.

MR. ADELMAN: I'm with the Belmont Neighborhood Association of Lower Greenville. I also publish a website that you have heard about, I'm sure, called BarkingDogs, which focuses on Lower Greenville. I'm the dog and I have the license plate to say it.

MR. SELIGER: That's quite an admission.

MR. ADELMAN: I haven't met the cat yet. I wanted to make the comment to thank you for being here in Dallas. When David talked about the neighborhood activities, he was in our neighborhood about a year ago and pulled me over to the side, called an agent over and said, "I want you to meet Avi before something happens to him." I still remember that.

I'm active in Lower Greenville. We have 60 bars within sight of my house on Lower Greenville, more licenses than that, but 60 different establishments. One of the things we've learned in fighting the problems caused by the patrons is that information wins, which is the focus of two of my requests that you all can pass either to the comptroller or to your own people.

One, my website publishes online. We take the sales tax records and reverse engineer them and put up the sales numbers for the bars. If you ever want to stir up a hornet's nest, tell people what the bars are selling and how much. It drives them nuts and I love it. Three years worth of

records stopped the whining “We don’t have any money to fix the bar’s building.” That cut that argument out immediately because we proved where the money was. We can only publish, though, mixed beverage reports. Beer and wine is confidential per the state comptroller. My request is that your staff ask the state comptroller to make those numbers available so that we can reverse engineer them through a database or get them in a real number and say, “Not only are they selling ‘x’ amount of mixed beverages, which is a good signal, but here is how much beer and wine they sell.” Those numbers impact the neighborhood. We know how busy they are. We see what their patrons are doing in their neighborhood and we can determine whether or not they are a hazard to our health. Forget the patrons.

Two, related to something that Representative Wolens had was that notification form. Here in Dallas, for zoning, the City of Dallas has a mailing list. You may be on it where if you are on a certain list by a Mapsco code, and if something’s happening in your Mapsco code that you’ve requested to be notified on, you get a letter that the business making the request pays for. We would like to see something where when a bar comes in, a new license, if we’re in a zip code that that bar is in and we are registered with the state to get notification, that the residents be notified. That poster in the window doesn’t always work. We have a couple of locations which kind of cover it up, not illegally, but it’s kind of dark. We had one where you had to walk up a flight of stairs to see it because you thought it was the vacancy poster for the real estate agent. That would give us neighborhood activists a heads up.

As I said, in my area, we have 60 bars. We need to know what’s going on down there better. That’s all I have. Thank you.

MS. MADDEN: Thank you.

MR. SELIGER: Mr. Adelman, those are the only two requests?

MR. ADELMAN: Yes, sir.

MR. SELIGER: Thank you.

MS. MADDEN: Margaret Collins, MADD Metroplex - working relationship with the TABC.

MS. COLLINS: I’m from the local chapter. We serve the Dallas/Fort Worth area. I’m the executive director of the local chapter. I love David to death but, David, our name is Mothers Against Drunk Driving. We are not against drivers. We do a lot of education in our local community to make sure people

know that, number one, we are not prohibitionists. We may look like little old ladies in combat boots, but we really aren't that rabid. We are against drunk driving. We operate a number of offender programs and, actually, some of our best volunteers are recovering alcoholics. That may surprise some people. We provide lots of victims' services, but our newest mission expansion is the prevention of underage drinking. That's why I really want to talk briefly about that, and I look forward to you standing up in a few minutes, Greg, to let me know I've gone over my time.

Our working relationship with TABC is really viewed as a partnership. From the local chapters perspective, if I get a phone call at ten o'clock on a Monday morning from a parent who says, "My kid came home drunk this weekend and I found out where they have been getting booze," what I do is I call the TABC office right here in Dallas. I make a complaint. They are always courteous. They are polite. They ask me usually for more information than I can provide, and they act on it. We have a very good relationship, especially in the complaint area.

The other way that I've gotten to know the local TABC folks is in our youth power camps. MADD sponsors youth power camps in the summer, and TABC is a partner with MADD on the youth power camps, and that is a key time for youngsters to come from middle schools and high schools, to come to a statewide conference setting and actually learn how to be activists in their community in the fight against underage drinking. When the average onset use of alcohol is age 12, we've got a problem in the State of Texas. That's a national problem, as well, but we've got to do something about that and we know that if we can increase or extend or delay the onset of alcohol use until the age of 21, will reduce alcoholism as well as drunk driving by 75 percent. That's why we do what we do. The TABC has been key partners in our youth power camp.

The other thing I want to talk about is we sometimes send speakers out to high schools to help TABC in its Shattered Dreams promotion as David mentioned in his report earlier. Actually, we've gotten to know TABC agents as we've gotten our youth involved in our Youth in Action programs, and they are trained by TABC agents on how to do minor alcohol stings. I even accompanied a group of teenagers on an outing about a year and a half ago.

Bottom line, your TABC guys, at least in this area, are wonderful to work with, guys as well as gals. Thanks.

MR. MADDEN: We are glad to know that. Thank you for coming. We are very aware of our power camps and we love working with you and we love that partnership. As you all know, one of our main focuses is underage

drinking.

MR. SELIGER: Thank you, Ms. Collins.

MS. MADDEN: Katrina Runnels, G & S Licensing Consultants - improvements in the Dallas district office.

MS. RUNNELS: I'm Katrina Runnels. I don't have very much to say but, just that within the last year, we've had a lot of improvement as far as enforcement, our relationship with them, our relationship with compliance and our relationship with our licensing division that we have here in Dallas. We have two people that we have to work with, and it has totally changed as far as turnaround of our work that we turn in and when we get it back. We get our corrections back. It's made our job a lot easier since they have improved a lot. That's all I have to say.

MS. MADDEN: Thank you.

MR. SELIGER: When you say licensing consultants, you are consultants to businesses who are seeking permits or licenses?

MS. RUNNELS: That is correct.

MR. SELIGER: Okay. Thank you.

MS. MADDEN: Mike Perry, United Community Force.

MR. PERRY: My name is Mike Perry. I'm a home owner in Dallas and I'm vice president of that group. My primary job is to try to draft some legislation against the sexually oriented businesses, particularly in the City of Dallas. I live in a neighborhood in northwest Dallas that I'm most concerned about. It seems that the TABC is granting licenses just like you fill out applications. We are far too focused in high crime in our area. There are lean-to alcohol establishments, sexually oriented businesses. Every 7-11 has alcohol. Around all that, we go out into our neighborhoods, we see condoms of people that have had sex in front of our homes, syringes in front of our homes, people in the sex act in front of our homes. All of this is surrounded around the alcohol that's consumed in these establishments.

What I'd like to see from the commission is a very tight scrutiny of any granting of applications for selling alcohol in a concentrated area that already has an overabundance of those particular establishments. We have continually fought this to the point that I'm just about ready to give up, to be quite honest. What we've had is TABC out to our meetings. They are very nice people, but it's a finger pointing game. They say, "Well, this

one over here is responsible. Well, the city is responsible.” What I’d like to see is everyone working together as one unit. I work for a multibillion dollar company. We all, as a team, have to work together, and I don’t see that in the governmental agencies. I see each one as isolated and focused in their own environment. What we hear is that we don’t have enough people. We are understaffed. We are tired of hearing that. We are the taxpayers. We deserve some attention to that, and we are not getting it. Don’t take anything personally. That’s how I feel. I’m just very frustrated with this whole situation. I never thought I would be involved in any kind of politics or any kind of stuff like this, but I’ve just had enough of it.

MS. MADDEN: Where is your community?

MR. PERRY: I live in northwest Dallas, south of Walnut Hill. It would be west of Webb Chapel and it would be east of 35. I’m a home owner, like I said. We have apartments near us which adds to the crime. I’m constantly picking up beer bottles. I just swept one up Friday. Someone had thrown a beer bottle right in my front yard, broken a quart size tankard bottle right in front of my home. I got all that cleaned up. I’m constantly over at the school cleaning up beer bottles that are thrown out. I constantly call people. Nobody has done a thing about it, and I’m just very frustrated with this. It’s a downgrade of my property value and my quality of life, which I am entitled to a quality of life just like anyone else in the State of Texas. I understand this is an urban type problem. A lot of the communities don’t have that. When you live in the inner city, you’ve got that and I understand that and I can live with that, but you just get outside of our area and it’s like a whole different world. We have nothing but joint after joint after joint set up in our neighborhood of liquor establishments and sexually oriented businesses, and we cannot get anything done about this with anyone we talk to.

MR. SELIGER: Mr. Perry, have you ever sat down with Captain Alexander or one of his people and gone over the criteria that must be met for someone to get a license or a permit?

MR. PERRY: We did have an individual come out. I can’t remember the lady’s name. She came to our UCF meeting, but I don’t see where it’s all working together. To me, you can’t just line up these alcohol establishments one by one by one, side to side to side. We need some locational restrictions. We need some prudent approvals of those licenses and I don’t see that happening. This is my perception and it may be wrong, but I just see it like it’s just a standard operating procedure to grant a TABC license, and once they are granted then the enforcement is zero because there’s not enough people. You just looked at the statistics up there. We have four people in the whole metroplex or City of Dallas that can enforce it. They

can't do that.

MR. SELIGER: Actually, when you talk about the range of complaints that you have, there are a good many more people to enforce the applicable laws than just that. It can be a problem when you have a concentration of establishments that sell liquor or engage in any sort of recreational activity, but what you are talking about is specifically and exclusively under the realm of the zoning and land use management on the part of cities - things in which the Alcoholic Beverage Commission cannot take action.

MR. PERRY: Right. I understand that. You all working together can make that effective. When you look at Baby Dolls down here and they are operating without a permit, there is something wrong there.

MR. SELIGER: True.

MR. PERRY: Those are the things that I'm talking about.

MR. SELIGER: True, operating without a permit, but what I'm talking about is the fact that there are 15 other establishments running down the street from Baby Dolls, or whatever that is, that that is purely and exclusively the realm of the city in which those establishments exist. Your city can get any information that they want from the Alcoholic Beverage Commission, but the Alcoholic Beverage Commission cannot zone in the city.

MR. PERRY: And that's part of our objective is to work on legislation to resolve that. That's a major focus of our little group here. We are going across all communities. It's just not our little community alone. We are trying to bring everyone in, and we understand that it's been pushed more to a local zoning issue. That's the problem right there, because of the fact we get back to the finger pointing game because it's them granting this, them granting that. It's not working. If we are going to have it local, then let's have TABC local, too. That's all I can say.

MR. SELIGER: That's a large legislative challenge. The reason I ask if you have spoken to Captain Alexander, if you look at the rules under which people can get licenses and permits they are fairly restrictive and they are extensive, but the simple fact of the matter is that if an establishment meets those requirements, then the ABC cannot deny the permit, even if there's 15 permit holders along the street.

MR. PERRY: What about the repeated violations, though? I look down that list there. I mean three strikes and you are out. You screw up and you are gone. I see multiple violations allowed before it's yanked from them. That's a problem.

MR. SELIGER: If you will look at the records on the treatment of those violations and

investigations, you will find that ABC here in Dallas and every city in the state - and keep in mind as Captain Alexander pointed out, he's got 40 agents to serve five million people - if you look at the violations and the businesses that are cited and violated and penalized, it's truly extensive and there is no hesitation on either his part or the chief's part to do whatever it takes to sanction those people.

MR. PERRY: Don't get me wrong. I'm not downgrading any of your...

MR. SELIGER: Enforcement is energetic but it seems to be a fact of not just urban life, but particularly we are dealing with sort of an urban problem here because it's a problem of concentrations, that it is an ongoing struggle and will continue to be.

MR. PERRY: Right. What I'm asking from you all is to work more closely with the local authorities before we start granting any kind of licenses. Maybe we are. I don't know. All I know is we have got an infestation and an unfair allocation of sexually oriented businesses and alcohol establishments in our immediate neighborhood. I am most concerned about that because of the children for one thing. These kids are seeing nothing but sex. Right at the corner - I'm taking longer than three minutes...

MR. HAMILTON: He's asking questions.

MR. PERRY: Thank you. I was just told this weekend by a neighbor of mine that she and her husband went up to have a drink at Monroe and Walnut Hill. What was standing on the street? A completely nude black female prostituting herself at the 7-11 store. Would any of you want your child to see that? I ask that question. If anybody can answer yes, then I'm sorry. This is common every day occurrence. I can't even go to the car wash without being solicited for sex.

MR. SELIGER: Who was called?

MR. PERRY: The police were called.

MR. SELIGER: Exactly, that's my point, the Dallas police.

MR. PERRY: I'm saying all of this brings together a criminal element, granting of licenses, zoning, all of that is interrelated. That's why it's so critical that we all and you all, as an agency, work very closely at the local level before granting these licenses. I've probably said too much.

MR. SELIGER: Not at all.

MS. MADDEN: Thank you. You are very passionate and we appreciate that.

Bill Lewis, Mothers Against Drunk Driving, TABC/Education.

MR. LEWIS: Thank you for coming to Dallas. I'm the person whose pleasure it was to work with Steve Wolens on the bill that you talked about - maybe I should say worked for Steve Wolens on that bill. When you work with him, you have your work cut out for you.

I want to thank you for all the educational and the intervention efforts that TABC makes with MADD and with several groups within MADD. As you just heard, one of the big problems is that your agents cannot put out all the fires there are to be put out in Dallas and the agents across the whole state can't put out all the fires. One thing that we can do, it has to do somewhat with the bill that Mr. Wolens worked on, it is to help stop this problem before it comes up. You can't stop every person who is underage from going into a convenience store and buying a beer. One thing you can do, though, and that's what you are doing more and more, and that's what I'm here to commend you for, is to help educate those young people about why they cannot go into that convenience store in the first place and try to buy that beer and why the owners of that convenience store cannot sell that beer to that person. I mostly want to just commend you for those sorts of efforts. I know that enforcement is a big deal to some people here, especially those who would like to stand up at the drop of a hat, but the bigger challenge and the better thing for TABC to concern itself with is to persuade people not to violate the laws in the first place, and I commend you for those efforts. Thank you very much.

MS. MADDEN: Thank you, we appreciate it. Linda Neel, president of the Bachman Community Association.

MS. NEEL: My name is Linda Neel. I am the president of the Bachman Community Association. That is in the 75220 zip code. I live immediately in that area at 2927 Kendall Drive. We do want to thank you very much for holding your meeting in Dallas. It makes it available for us to come and talk with you when normally we cannot take the time away from our jobs to go to Austin to be heard.

What we would like to ask is that the commission work more closely with the citizens. Quite often, the club operators have a lot of money to pay lobbyists, to pay dues to organizations of their industry, to pay attorneys to know all the ends and outs of the legal system. They know how to work the system. We are just common everyday people with other types of jobs that are not related to night clubs and alcoholic beverages, so we don't know how to work the system ourselves. When we have noncompliant businesses in our neighborhood, when there are many TABC violations, we don't know how to come and protest. We don't know how to present our case to you all or to which authority within the TABC we should complain to. Of course, we have worked very closely with Captain

Alexander and also the area's attorney for TABC, Tim Griffith, who is also here today. We don't know what to do next, so we are asking for a little more education, what kind of forms to fill out. What can we do to complain about clubs in our neighborhood which are predominately noncompliant, by the way. It feels like the system is a little more geared towards the club operators than the citizens of Texas.

One example is an SOB or a sexually oriented business in our neighborhood which is Baby Dolls which you heard someone else speak about earlier today. We have been fighting them for over 15 years. We are in a community retail neighborhood. They are not even supposed to be there but, there again, they take in so much money, they can fight the system, not just through TABC but also through the city and other government agencies. They have had so many violations. They have been supposed to have an administrative hearing since 1998. That hearing was finally heard earlier this year, so obviously they were not one of the 88 percent that was closed down within 60 days for violations. When they were heard earlier this year, they were given an additional year by TABC for a winding down period. They are still operating regardless of their TABC violations and, of course, local violations. What we are asking today is - they were given until June 15th next year - we are asking today that the commission at least adhere to that enforcement date and not let them work the system further and that you work with us as citizens so we might know how to protest this. Again, we thank you for coming to Dallas.

MR. SELIGER: Thank you.

MS. MADDEN: Thank you. Ms. Fox, maybe you need to speak with this lady after the meeting. That would probably be a great help to her.

Tim Dickey - tougher enforcement.

MR. DICKEY: My name is Tim Dickey. I apologize for my appearance. I came here from a construction site but couldn't miss a chance to thank you for coming to Dallas. I live in the same Bachman Neighborhood that Mike Perry and Linda Neel have spoken about. I just want to start quickly by complimenting the local staff and tell you specifically there are a couple of problem carry-out stores near that elementary school that Mr. Perry was referring to where they drink on the parking lot. At one point I wanted to protest. I know their license date was January 6th, and I found out I had to go to Austin. I didn't do it. Life goes on. I called the TABC. This has been several years ago and told them they are selling to minors, they are drinking on the lot. A week later, on a Friday night, I'm driving down Webb Chapel Road and here comes a pickup out of one of those places, across the median and smashes into a car right in front of me. I get out and stop to go look, and here are two gentlemen with ties there and it turns

out they were TABC who, in response to my complaint, were doing a surveillance which I thought was wonderful. Every time I have ever called your local office, I've been responded to specifically. I just think those guys and women there are great. I know they don't have enough people and I just want to make that compliment. I think they work really hard to work with us.

Having said that, a few years ago, I used to be an investigative reporter at a local television station and I wanted to do a story about TABC enforcement at Baby Dolls which is also in my neighborhood. I did an open records request of TABC for the TABC activity for that club from 1993, January 1st, to I think it was September 1, 1995. Page after page of violations - selling to a minor, public lewdness - many of the cases being made by the Dallas Police Department in there and they became TABC cases. At the end of the whole thing, it was all settled. After all of this activity, it was a fine of 3,500 dollars after two and a half years. I was told that was a statutory thing. There was nothing that could be done. That concerned me then. I don't know if legislation has been enacted to make it stronger, but I think that's a real shame and what Linda Neel referred to is the constant delays in trying to get enforcement. The liquor license and the beer and wine license is the key thing. This 7-11 store near my house where the prostitutes hang out in the parking lot, hook up with the "Johns," come in front of my house, do their thing, throw the condoms in front of my house. I've got video tape. It really is happening. We've got video tape of the 7-11 store a mile north on Harry Hines, the subject of a lawsuit where a clerk was killed because, God bless him, he refused to sell beer to a guy at two thirty in the morning, enforcing state laws and helping our neighborhood and they came back and shot him. 7-11 continues to have their permits renewed and I think they are a big company. It's hard for us to fight them. This is the thing about helping us out. We need help. We'd like to go to a big company like 7-11 or Baby Dolls and do something about their continued renewals. If you've got any people that can work with us and help us on that because we are just citizens and don't know the ropes, I would greatly appreciate it. Thank you.

MR. SELIGER: Thank you, Mr. Dickey.

MS. MADDEN: Thank you.

Do we need to go into executive session?

MR. GARZA: Yes, ma'am.

MS. MADDEN: Thank you all for coming. I want to thank everyone for their public comment, too.

The commission will now go into executive session with legal counsel pursuant to Texas Government Code, Section 551.071, regarding statutory and constitutional standards relating to arrest, search and seizure and Hall versus TABC.

The commission convened in executive session at 11:10 a.m. and reconvened in open meeting at 11:40 p.m.

MS. MADDEN: The commission meeting of October 28, 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.

Do I have a motion to adjourn?

MR. SELIGER: So moved, Madam Chairman.

MS. MADDEN: Thank you very much. This meeting is adjourned.

The meeting adjourned at 11:41 a.m.