



COMMISSION MEETING MINUTES

December 19, 2005

The Commissioners of the Texas Alcoholic Beverage Commission met in Regular Session on Monday, December 19, 2005, at the Texas Alcoholic Beverage Commission, 5806 Mesa Drive, Suite 185, Austin, Texas.

PRESIDING: John T. Steen, Jr., Chairman

COMMISSIONERS

PRESENT: Gail Madden
Jose Cuevas, Jr.

STAFF PRESENT: Alan Steen, Administrator
Glenda Baker, Deputy Chief of Enforcement
Carolyn Beck, Public Information Officer,
Executive
Lou Bright, General Counsel, Legal Services
Michael Cady, Attorney, Legal Services
Debbie Dixon, Seller Training, Education and
Prevention
Loretta Doty, Director of Human Resources
Del Drake, Captain, Office of Professional
Responsibility, Executive
David Ferrero, Captain, Austin Enforcement
Jeannene Fox, Assistant Administrator,
Executive
Buck Fuller, Director of Compliance
David Garza, Director of Homeland Security,
Enforcement
Diana Gonzalez, Assistant Director of

Compliance

Russell Gregorczyk, TABC Internal Auditor
Amy Harrison, Director of Licensing
Gary Henderson, Enterprise Operations Team
Leader, Information Resources
Linda Jackson, Administrative Assistant,
Executive
Renee Johnston, Executive Assistant, Executive
Charlie Kerr, Director of Business Services
Robert Saenz, Lieutenant, Austin Enforcement
Garry Sitz, Director of Information Resources
James "Sam" Smelser, Chief of Enforcement
Rod Venner, Deputy Assistant Chief of
Enforcement
Gloria Villasenor, Administrative Assistant,
Education and Prevention

GUESTS PRESENT:

Dewey Brackin, Attorney, Gardere Wynne Sewell
Doug DuBois, Jr., Director of Membership and
Education, Texas Petroleum Marketers and
Convenience Store Association
Kyle Frazier, Representing National Association
of Beverage Importers
Alan Gray, Licensed Beverage Distributors, Inc.
Shaniqua Johnson, Budget Analyst, Legislative
Budget Board
Paul Kipp, City Manager, City of Giddings
Fred Marosko, Texas Package Stores
Association
M. Jack Martin, Attorney at Law
Charles McGrigg, Central States Counsel, Wine
Institute
Lindsay Meche, Republic Beverage
Karen Reagan, Vice President, Texas Retailers
Association
Robert Sparks, Executive Director, Licensed
Beverage Distributors, Inc.
Tom Spilman, Vice President, Wholesale Beer
Distributors of Texas
Don Walden, Attorney, Representing TWGGA

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 NOVEMBER 18, 2005

Chairman Steen called for a motion to approve the TABC Commission meeting minutes of November 18, 2005. **Commissioner Madden so moved, and Commissioner Cuevas seconded. The motion carried.**

ADMINISTRATOR'S REPORT

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

Administrator Steen reported the following activities that have occurred since the previous Commission meeting of November 18:

- A Marketing Practices Bulletin (Attachment 1) was sent out to the industry regarding coupon offers.
- Press conferences have been held around the state regarding Sales to Intoxicated Persons and Minor Stings that TABC will be conducting during the holidays.
- The Austin area employee holiday party was held last week; Administrator Steen thanked Commissioner Madden for contributing the cake for the party.
- TABC offices will be closed this Friday, December 23, and Monday, December 26. Administrator Steen stated that Monday, January 2, is a federal holiday but not a state holiday, and it is not yet known if TABC offices will be closed on that date. He explained that as a general rule, TABC follows the lead of the Governor's Office as to office closures during the holidays.
- Administrator Steen met with various legislators in their district offices to discuss how TABC is spending the additional funds authorized from the last legislative session, with a focus on TABC activities occurring in each legislator's respective district. He has met with State

Representatives Jessica Farrar, Martha Wong, Garnet Coleman, and Rick Noriega.

Administrator Steen concluded his report, wishing everyone a happy holiday season. Commissioner Cuevas noted that the press conferences in Austin and Odessa went very well.

APPROVAL OF PETITION BY THE CITY OF GIDDINGS FOR ORDER PERMITTING ADOPTION OF A CENTRAL BUSINESS DISTRICT ORDINANCE PURSUANT TO §109.35 OF THE ALCOHOLIC BEVERAGE CODE

Chairman Steen called upon Lou Bright, General Counsel, to present the City of Giddings' petition for an order permitting adoption of a central business district ordinance (Attachment 2).

Mr. Bright explained the petition. He stated that the City of Giddings had met the legal requirements for the order and recommended the Commissioners authorize adoption of the order. Paul Kipp, City Manager for the City of Giddings, briefly addressed the Commissioners. He reported that the City of Giddings' police department, downtown merchants, and council are supportive of the ordinance. He added that the ordinance would provide Giddings' law enforcement with a tool to curb problems that have been occurring in the central business district.

Chairman Steen called for a motion. Commissioner Madden moved that the Commission authorize adoption of an ordinance prohibiting possession of open containers of alcoholic beverages in the central business district of Giddings, as described in the city's petition. Commissioner Cuevas seconded the motion. The motion carried.

APPROVAL OF REVISED INTERNAL AUDIT PLAN FOR FY 2006

Chairman Steen called upon Russell Gregorczyk to report on the revised Internal Audit Plan for FY 2006 (Attachment 3).

Mr. Gregorczyk stated that as a result of Chairman Steen's request, Mr. Gregorczyk revised the Internal Audit Plan for FY 2006 to include an audit of the Legal Services Division. The Legal Services Division audit would take a

maximum of 120 hours to complete, at a cost of \$9,600, which would increase the internal audit contract/budget for FY 2006 to \$59,600.

After a brief discussion among the members and Mr. Gregorczyk concerning the audit, Chairman Steen called for a motion. **Commissioner Madden moved that the Commission approve the revised fiscal year 2006 Internal Audit Plan, as presented. Commissioner Cuevas seconded the motion. The motion carried.**

FISCAL STEWARDSHIP REPORT: CONTRACTS AND OFFICE SPACE LEASING

Chairman Steen called upon Charlie Kerr, Director of the Business Services Division, to provide the fiscal stewardship report on contracts and office space leasing.

Mr. Kerr presented the fiscal stewardship report (Attachment 4), briefly reviewing the policies and procedures on various contract requirements and reviewing the list of contracts for FY 2006.

Mr. Kerr discussed House Bill 1516, which requires state agencies to purchase information technology (IT) commodity items through contracts established by the Department of Information Resources (DIR), unless the agency first obtains an exemption. He stated that the IT purchasing requirement has minimal effect on TABC except in the area of telecommunications. He explained that TABC has "off brand" telephone systems in almost every office in the state; therefore, any purchases of the systems must be approved by DIR as exemptions. House Bill 1516 also deals with the consolidation of IT functions in state agencies, which would have a significant impact on the agency. However, the consolidation would not begin for at least a year, and this would be an area for Garry Sitz, Information Resources Director, to report in the future.

Administrator Steen clarified one of the purposes of HB 1516, which is to consolidate the purchasing power of all state agencies into and through DIR so that all agencies may benefit from the discounts of large volumes of purchases. He added that the exemption rules are for those agencies that have systems that are not generally used or that are specific to the agency. He noted that TABC's phone system is very functional, but it is one example of a system that is in use by an agency that is not on DIR's contracts.

In response to a questions posed by the Commissioners, Russell Gregorczyk stated that he would be reviewing the agency's contracting and management procedures as part of the internal audit on the agency-wide contract management system in FY 2006.

AUSTIN SSIPS (STOP SALES TO INTOXICATED PERSONS) OPERATIONS UPDATE

Chairman Steen called upon Captain David Ferrero and Lieutenant Robert Saenz to provide an update on the Stop Sales to Intoxicated Persons Operations (SSIPs) in Austin.

Administrator Steen stated that he wished to introduce the agenda topic; but he first asked General Counsel Lou Bright to introduce new staff in Legal Services. Mr. Bright stated that he hired two new lawyers, Sandra Patton, who will be working in Houston and who could not be in attendance, and Michael Cady, who will be working in Austin. General Counsel introduced Mr. Cady to the Commissioners.

Administrator Steen introduced the agenda item, referring to the news article sent to the Commissioners concerning the Austin SSIPs operations (Attachment 5a). He explained that Austin in Region 4 is the model for the state, because of the full staffing of experienced agents in the Austin area. He expressed his appreciation to Captain Ferrero and Lieutenant Saenz for their work in fine-tuning the project. Captain Ferrero stated that Lieutenant Saenz was the project supervisor, and handed over the presentation to Lieutenant Saenz.

Lieutenant Saenz provided a brief overview of the project (Attachment 5b), explaining that the statistics were compiled from the Austin Police Department's DWI reports, from questions asked by the police to the drivers arrested for suspicion of being intoxicated. The drivers are asked where they had their last drink. This information is extracted into statistics and provided to TABC. Lieutenant Saenz showed a graph indicating promising signs that the top five Austin establishments have experienced a reduction in DWIs from these locations.

Captain Ferrero stated that communication with the local police departments has been key in the operations. He cited Austin Police Chief Knee as very

supportive of this program and even has an alcohol control team within the Austin Police Department.

Chairman Steen expressed his support of the media articles, stating that such media would seem to be an effective deterrent. Lieutenant Saenz agreed and discussed that the intent of the project is for agents to meet individually with the retailers early in the process before there is media activity.

Chairman Steen asked about the statewide effort of the SSIPs project. Administrator Steen stated that the project was the reason TABC was authorized additional FTEs. He stated that the program is statewide, but is an ongoing process that is being fine-tuned, with Austin being the model for the project. Chief of Enforcement Sam Smelser discussed TABC's current efforts in 32 cities in Texas. He explained that staff are planning to meet with various police departments to get the project going full-force throughout the state.

The Commissioners commended Captain Ferrero and Lieutenant Saenz for their efforts.

REGION 1 UPDATE

Chairman Steen called upon Glenda Baker, Deputy Chief of Enforcement, and Buck Fuller, Compliance Division Director, to present the update on Region 1. Administrator Steen explained that Dan Cullers and Larry Howard would have provided the Region 1 update; however, because of inclement weather in Amarillo and Lubbock as well as being so close to the holidays, Administrator Steen advised them to stay home and allow Headquarters staff to provide the update. Ms. Baker and Mr. Fuller provided the update on Region 1 (Attachment 6).

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

2:44 p.m. on December 19, 2005, 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 December 19, 2005, and the time, 3:08 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, January 23, 2006, and that the meeting would begin mid-morning.

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.**