

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes
April 23, 2009
1:30 p.m.**

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, February 19, 2009 in Nashville, Tennessee at 1:30 p.m. Chairman Jones, Commissioner Harlan Mathews and Commissioner Cynthia Bond were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith and CLEO Mark Hutchens were present.

1. The Minutes for March 19, 2009 Commission Meeting were approved.

2. RETAIL

**A. PARK LIQUOR
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

**Seller/Licensee: Dianne Knipp and Earl Ogle
Buyer/Applicant: Dianne Knipp**

Before the Commission is a request for a transfer of ownership of the retail store located at 1235 E. Parkway, Suite 1, in Gatlinburg, Tennessee. Dianne Knipp wishes to purchase her partner's interest (Earl Ogle), and if approved, operate the business as a sole proprietorship. Purchase price is \$150,000, plus an additional \$150,000 for a covenant not to compete for ten years. Financing is based upon a promissory note with the Mr. Ogle, to be paid in full within ten years. All documentation has been furnished.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval. Chairman Jones made a motion to approve and Commissioner Mathews seconded the motion and it passed with 3 ayes.

**B. JAN'S WINE AND LIQUOR
CROSSVILLE, TENNESSEE (CUMBERLAND COUNTY)**

Applicant: Janet Oakes

Before the Commission is a request for a new retail store to be located at 957 West Avenue, Suites 107 and 109, in Crossville, Tennessee. Janet Oakes wishes to

initially invest approximately \$130,000 to operate the business. Financing is based upon a loan with Citizens First Bank. Ms. Oakes is leasing the property from Tollett Development for a period of two years at \$2200/month. It should be noted that the newspaper notice ran by Ms. Oakes ran for only two consecutive issues: TABC rules require that the newspaper notice run in three consecutive issues. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Loan agreement with Citizens' First Bank;
- d. Tennessee Sales Tax Number

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and stated that the newspaper ad ran for only two consecutive issues. Director Elks recommended approval upon submission of the Tennessee Sales Tax Number. Chairman Jones stated that he could approve the two day notice in the newspaper ad because the City of Crossville issued the Certificate of Compliance. Commissioner Mathews made a motion to approve and Commissioner Bond seconded the motion and it passed with 3 ayes.

**C. D & D LIQUOR
CROSSVILLE, TENNESSEE (CUMBERLAND COUNTY)**

Applicant: D & D Liquor, LLC
Members: Doanld and Delores Haberman

Before the Commission is a request for a new retail store to be located at 32 Crossings, in Crossville Tennessee. The Habermans wish to initially invest approximately \$250,000—source of the financing being savings and stock. The applicant is leasing the property from Baruh Investment Partnership—Crossville for a period of three years (with an option to renew), with monthly rent beginning at \$1100.month and increasing over the term of the lease to \$1300. All documentation has been submitted with the exception of the following:

- a. TABC Inspection
- b. Acknowledgement of the rules/regulations;
- c. Landlord's signature on lease.
- d. Tennessee Sales Tax Number

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the Tennessee Sales Tax Number and the landlord's signature on the lease. Commissioner Mathews made a motion to approve and Commissioner Bond seconded the motion and it passed with 3 ayes.

**D. OLD RAILROAD SPIRITS
BRUCETON, TENNESSEE (CARROLL COUNTY)**

Applicant: Betty Miller

Before the Commission is a request for a new retail store to be located on the 29795 Broad Street, in Bruceton, Tennessee. Ms. Miller wishes to initially invest approximately \$50,000. Financing is based upon a loan with First Bank. Ms. Miller owns the property where the store will be located. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval. Commissioner Bond made a motion to approve and Commissioner Mathews seconded the motion and it passed with 3 ayes.

**E. GREENACRES PACKAGE STORE
KINGSPORT, TENNESSEE (SULLIVAN COUNTY)**

Licensee: Kenneth Glass

Before the Commission is a request for a transfer of location. At the February, 2009, meeting, the Commission approved a transfer of ownership to Mr. Glass. Mr. Glass is now wishing to transfer location from 1001 N. Eastman, Suite C in Kingsport, to 1229 N. Eastman Road, Suite 220 and 225 also in Kingsport. Mr. Glass will be renting the property from Glenwood Crown Point Company, LLC for a period of five years at \$3200/month. All documentation has been submitted with the exception of the following:

- a. Letter of explanation for transfer of location.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and stated that Kenneth Glass was approved for a retail package store license in February, 2009. Director Elks stated that immediately after receiving conditional approval subject to receipt of certain documentation, Mr. Glass submitted a request to transfer locations. Director Elks stated that ironically during the same time period, Mr. Glass was arrested and charged with various felonious charges which involved drug charges and possession of moonshine two days after the application was approved conditionally. Director Elks stated that all the charges that would have prohibited him from obtaining a license have been dismissed. Further, Mr. Glass plead guilty to the misdemeanor charge of possession of moonshine. Director Elks stated that the staff has issued the license at the old location. Because the criminal charges have been dismissed, Director Elks stated that no issue exists with issuing the license to Mr. Glass, and that all of the documentation has been submitted. Commissioner Mathews stated that the Commission has reviewed this application very thoroughly and the Commission's actions are based on the Certificate of Compliance being issued by the City of Kingsport and specific knowledge of the Commission in this transaction. Chairman Jones made a motion to approve and Commissioner Mathews seconded the motion and it passed with 3 ayes.

**F. EASTSIDE LIQUOR
LEWISBURG, TENNESSEE (MARSHALL COUNTY)**

Licensee: Tammy Derryberry

Before the Commission is a request for a transfer of location of the above retail store from 245 East Commerce Street to 222 East Commerce Street. Ms. Derryberry and her husband own the property where the store will be located. All documentation has been submitted with the exception of the following:

- a. Letter of explanation for transfer of location
- b. Lease
- c. TABC Inspection

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the letter of explanation for transfer of location, lease and TABC Inspection. Commissioner Mathews made a motion to approve and Commissioner Bond seconded the motion and it passed with 3 ayes.

3. ADMINISTRATIVE CITATIONS

- **ALMON MORRIS**

On March 10, 2009, TABC Agent Nina Williamson observed the Respondent sell an alcoholic beverage to the nineteen year-old confidential operative at the retail establishment doing business as Bud and Hal's Liquors, in Memphis, Tennessee. An administrative citation was issued, and remains unresolved at the time of this agenda.

Discussion/Action Taken:

Director Elks stated that Mr. Almon Morris has paid his administrative citation; therefore, no action is necessary.

- 4. BUDGET** – Director Elks stated that the staff reviewed the numbers of new licensees that have been issued for liquor-by-the-drink as well as the number of licensees that have been closed since 2006 by calendar year. Director Elks stated that the numbers for such licenses for the retail package stores have remained consistent.

According to tax information beginning in 2004, compiled by the Department of Revenue, approximately \$40.5 million dollars in LBD taxes were collected in 2004. These numbers have increased almost \$55 million dollars in 2008. Director Elks stated that for the fiscal year of 2008-2009 there have been \$40 million dollars collected thus far.

Further, the gallonage taxes for the importation of alcohol spirits have remained consistent. There was \$3.6 million dollars collected last year per month, and approximately 3.7 million per month this year.

The wholesale taxes appropriated to the TABC, have remained also consistent. In 2007 collections averaged approximately \$70,300 per month, and are now averaging approximately \$74,000 per month.

Director Elks stated that the number of cities/towns has passed liquor by the drink and/or retail stores over various years. Since 1995, there has been a 70% increase in cities/towns that have passed liquor by the drink and almost 65% increase in the number of retail stores that have passed retail sales. The number of liquor by the drink licensees have also increased since that same time period. In 1995 the number of LBD licensees has increased almost 44% and the number of retail stores licensees has increased by 14%; however, the number of agents has remained the same during the same time period. The TABC has 36 agents with 5 vacancies. National studies have been conducted that indicate that due to the economy that

individuals may not be drinking at restaurants/bars because the price of the drinks are too high and instead they may be going to the retail store to purchase the bottle and drinking at home. Tennessee statistics similarly reflect national trends.

5. **CONSENT ORDERS**

6. **PENDING MATTERS LIST**

7. **MISCELLANEOUS - Rulemaking Matters:** Director Elks stated that in the May Commission meeting that the proposed new TABC Rules will be brought before the Commission.

8. **DATE OF NEXT MEETING** – Thursday, May 21 and Tuesday, June 23, 2009 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director