

# TENNESSEE ALCOHOLIC BEVERAGE COMMISSION



## MINUTES August 23, 2011 1:30 pm

---

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, August 23, 2011, in Nashville, Tennessee at 1:30 p.m. Although Commissioner Bryan Kaegi was not present, a quorum was present with Chairperson Mary McDaniel and Commissioner John Jones and therefore the meeting was conducted. Executive Director Danielle Elks, CLEO Mark Hutchens SAC Brad Allison, ASAC Carrie Webb, SA Eric Thomas and SA Juan Gomez were present.

---

1. **The Minutes for the July 27, 2011 Commission Meeting was approved.**

2. **RETAIL MATTERS**

A. **SUNSET WINE AND SPIRITS  
MADISONVILLE, TENNESSEE (MONROE COUNTY)**

**Applicant:** TLM, INC.  
**Stockholders:** Timothy Maxwell and Angelia Long

Before the Commission is a request for a new retail store to be located at 4435 Highway 411, in Madisonville, Tennessee. Timothy Maxwell and Angelia Long intend to initially invest \$400,000 to operate the business. Financing is based upon the following: Timothy Maxwell is selling 51% of the applicant corporate stock to his sister, Angelia Long for \$200,000: a promissory note reflects between the two reflects the transaction. Mr. Maxwell is financing the remainder through a home equity line of credit, and will own 49% of the stock. The City of Madisonville requires an owner having at least 51% to be a resident of the city. Ms. Long meets the residency requirement. Although Mr. Maxwell is not a resident of the city, he is not required to be a resident because he owns less than 51% interest. The corporate applicant is leasing the property from Timothy Maxwell for a period of ten years at \$2500/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit and
- c. Verification Madisonville Golf Center does not have a liquor by the drink license.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission. Director Elks recommended approval upon submission of the TABC Inspection and the Use and Occupancy permit.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**B. MIDTOWN WINE AND SPIRITS  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Licensee/Seller: Patricia Jennings and Cynthia Delong**  
**Applicant/Buyer: Donald Miller**

Before the Commission is a request for a change in ownership of the retail store located at 2541 Poplar Avenue in Memphis, Tennessee. Donald Miller wishes to purchase the business for \$30,000 plus the value of the inventory (estimated value \$50,000). Financing is based upon a loan with Mr. Miller's father, Duane Miller. Mr. Miller is leasing the property from Ready Teddy, Inc. for a period of three years at \$2200/month. All documentation has been provided with the exception of the following:

- a. Bank and financial check on Duane Miller;
- b. Questionnaire for Duane Miller;
- c. Sales tax number;
- d. TABC Inspection;
- e. Written acknowledgment of the rules and regulations.

**Discussion/Action Taken:**

Donald W. Miller was present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks recommended approval upon submission of the following documentation:

- a. Bank and financial check on Duane Miller;
- b. Questionnaire for Duane Miller;
- c. Sales tax number;
- d. TABC Inspection;
- e. Written acknowledgment of the rules and regulations.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**C. DEPOT DISCOUNT LIQUORS AND WINES  
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Applicant: Depot Discount Liquors and Wines, Inc.**  
**Stockholders: Michael Shields, Sr.**

Before the Commission is a request for a new retail store to be located at 3920 Clarksville Pike in Nashville, Tennessee. Michael Shields wishes to initially invest \$40,000 to operate the business as a corporation. Financing is based upon a promissory note with Katherine Shields. The corporate applicant is sub-leasing the property from Intercept Service Agency, Inc. (which is leasing the property from The Stuart Family Trust) for a period of three years at \$1925/month. During the initial preliminary inspection, it was determined that the main entrance of the business did not comply with T.C.A. §57-3-404(f), which requires the one main entrance opening to open facing a public street, or in the instance of a shopping mall, open onto the parking area. Discussions were conducted with three options provided to the applicant. Construction is occurring to rectify this situation. All documentation has been provided with the exception of the following:

- a. TABC Final Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Financial, bank check and questionnaire for Katherine Shields.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission. Director Elks recommended approval upon submission of the financial bank check and questionnaire for Katherine Shields.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**D. FRANKLIN WINE AND SPIRITS  
FRANKLIN, TENNESSEE (WILLIAMSON COUNTY)**

**Applicant: JDC Wines and Spirits, LLC**  
**Member: James David Clark**

Before the Commission is a request for a new retail store to be located at 1400 Liberty Pike, Suite 300 in Franklin, Tennessee. James David Clark wishes to initially invest \$500,000 to operate the business as a LLC. Financing is based upon existing personal funds, and a loan for \$200,000

with Green Bank. The applicant LLC is leasing the property from McKay Mill Holdings, LLC for a period of five years with monthly rent beginning at \$5751.67 and increasing to \$6225.79 over the term of the lease. Applicant has one five year option to extend the lease. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Acknowledgment of the rules/regulations.

**Discussion/Action Taken:**

James David Clark was present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks recommended approval upon submission of the pending documentation:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Acknowledgment of the rules/regulations.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**E. HUMPHREY’S WINE AND SPIRITS  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Licensee: Tien Quang Tran**

Before the Commission is a request for a transfer of location of the retail business currently located at 50 Humphrey’s Center #2 in Memphis, Tennessee. Mr. Tran wishes to transfer location to 476 Perkins Extended in Memphis, Tennessee because their current landlord would not renew their lease. Mr. Tran will be leasing the proposed property from J. H. Mednikow and Company, Inc. for a period of ten years with monthly rent at \$4610. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Acknowledgment of the rules/regulations.

**Discussion/Action Taken:**

Tien Quang Tran was present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks recommended approval upon submission of the following documentation:

- a. TABC Inspection;
- b. Use and Occupancy permit;
- c. Acknowledgment of the rules/regulations.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**F. TURNPIKE WINE & SPIRITS  
OAK RIDGE, TENNESSEE (ANDERSON COUNTY)**

**Licensee: Turnpike Wine and Spirits, Inc.**  
**Stockholders: Patricia Gettys, Elizabeth Davis, Lloyd Davis, Sr.,  
and Don Kittrell**

**Proposed Stockholders: Patricia Gettys and Catherine Pattison**

Before the Commission is a request for a partial change in ownership of the retail store located at 331 Oak Ridge Turnpike in Oak Ridge, Tennessee. The current stockholders of the corporate licensee are as follows: Patricia Gettys (25%); Elizabeth Davis (30%); Lloyd Davis, Sr. (30%) and Don Kittrell (15%). Elizabeth Davis wishes to sell all of her interest and Lloyd Davis, Sr. wishes to sell part of his interest to Catherine Pattison so that Ms. Pattison would have 510 shares or 51% interest in the corporate licensee. Mr. Davis would sell his remaining interest and Mr. Kittrell would sale all of his interest in the business to Patricia Gettys so that she would own 490 shares or 49% of the business. Financing for the transaction is based upon existing personal funds. All documentation has been submitted with the exception of the following:

- a. Actual sales price of the stock.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission. Director Elks recommended approval.

Commissioner Jones made a motion to approve. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**G. RED SPIRITS AND WINE  
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Licensee:** Bellevue Wine and Spirits, LLC  
**Members:** Allen McDonald; David Baker, III; John Thomas Trent, Jr.; David Rutter; Gregory Burns; William Earthman; Gwen Lukner Gordon; Julie Gordon; Jeffrey Jacobs; Michael Noble; Thomas Nolen; Sandra Sangervasi; Timothy Schoettle; Andrew Schwarcz; Chloe Shafer; Joseph Wimberly, and Wesley Weeks

Before the Commission is a request for a new retail store to be located at 7066 Highway 70 South in Nashville, Tennessee. (Bellevue Wine and Spirits, LLC d/b/a Bellevue Wine and Spirits appeared before the Commission in March, 2011. However, the business was unable to open within the requisite period of time (90 days). Therefore, a new application has been submitted/supplemented with thirteen new members with additional capitalization, and new business name.) The original four members had the following investment: Allen McDonald, David Baker, III, John Thomas Trent, Jr., and David Rutter each wish to initially invest \$20,000 to operate the business. The proposed thirteen new members will represent a total additional funding of \$840,000. If approved, each member would own the following percentage of stock: Allen McDonald (13.16%); David Baker, III (14.73%); John Thomas Trent, Jr.(14.73%); David Rutter (13.16%); Gregory Burns (3.16%); William Earthman (5.79%); Gwen Lukner Gordon (1.93%); Julie Gordon (1.93%); Jeffrey Jacobs (1.93%); Michael Noble (1.58%); Thomas Nolen (5.79%); Sandra Sangervasi (5.79%); Timothy Schoettle (5.79%); Andrew Schwarcz (1.58%); Chloe Shafer (1.58%); Joseph Wimberly (5.79%), and Wesley Weeks (1.58%). The corporate applicant is leasing the property from BSM Belle Forrest, LLC for a period of ten years at \$11,458.33/month. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Acknowledgment of the rules and regulations.

**Discussion/Action Taken:**

Michael Noble and William Cheek, III, attorney, were present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks recommended approval upon submission of the Use and Occupancy.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**H. LAKEWOOD LIQUORS  
OLD HICKORY, TENNESSEE (DAVIDSON COUNTY)**

**Licensee/Seller: Dilip Amin**  
**Applicant/Buyer: Old Hickory Wine & Spirits, Inc.**  
**Stockholder: Neil Dilip Amin**

This change in ownership was approved at the April, 2011 Commission meeting. In conjunction with the change in ownership, the new corporate applicant requested a change of location to 3838 Old Hickory Boulevard in Old Hickory, Tennessee. Due to complications in improvements at the new location, the store has been unable to open within the requisite period of time (90 days). TABC staff has approved one thirty (30) day extension. As has been procedure in the past, the applicant is requesting his last thirty day extension from the Commission.

**Discussion/Action Taken:**

Rob Pinson, attorney, was present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks stated that if the extension is approved, that will be the last extension for the applicant.

Commissioner Jones made a motion to approve the 30 day extension. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**3. WHOLESALE MATTERS**

**A. EAGLE BEVERAGES  
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

**Licensee: Eagle Beverages, Inc.**  
**Former Stockholders: Eagle Distributing Company, Inc.**  
**New Stockholders: Elizabeth Craig**

At the June, 2011 Commission meeting, a review of an Attorney General's Opinion was discussed. At this time, staff indicated that the agency had requested an Attorney General's Opinion in March regarding Eagle Distributing Company. Eagle Distributing Company owned a beer distributorship in Knoxville and they were requesting a separate and distinct wholesale license to distribute liquor and wine. Questions arose whether a corporation could be the sole stockholder of the corporate applicant and their was opposition as to the structure of the application and as a result of this, the Commission gave the applicant a temporary license that was good for six months until the Attorney General's Opinion was issued. The Attorney General Opinion stated that a corporation could not be the sole stockholder

of a wholesale license. Therefore, Eagle Beverages, Inc. has submitted a new application re-structuring their ownership pursuant to the Attorney General Opinion. This new application is before the Commission for review.

Before the Commission is a request for a change in ownership of the wholesale business located at 310 Radford Place in Knoxville, Tennessee. The current licensee (Eagle Beverages, Inc.) would remain in effect as the licensee; however, Ms. Elizabeth Craig would become the sole stockholder of the corporation. Mr. Raymond Hand would be the President of the corporation, and Lucy Hand would be the corporation's Secretary. All documentation has been submitted with the exception of the following:

- a. Document indicating the transfer of stock from Eagle Distributing Company, Inc. to Elizabeth Craig.

**Discussion/Action Taken:**

Rob Pinson, attorney, was present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks recommended approval.

Commissioner Jones made a motion to approve. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

4. **BUDGET:** Details of TABC's \$1.6 million Reversion representing 26% of its total budget.

**Discussion:**

Director Elks stated that the staff has submitted a plan for the reversion. Director Elks stated that the staff has 10 agent positions that are either vacant or have not been established. Therefore, the agency will not fill those 10 agent positions. Further, 3 support staff positions are also vacant and will not be filled: Training Specialist, Auditor and the Attorney positions also will not be filled. Director Elks stated that will cover approximately \$600,000 of the reversion.

The balance of the reversion will be generated from over collecting and a reduction in the supplies. Specifically, that TABC is going to over collect by \$855,735. In Fiscal Year 2010-2011, the Legislature approved a \$520,000 expansion. Director Elks stated since the staff is unable to fill the vacant positions and with the \$520,000, the staff will be able to generate that money again this year and give the money back to the State general fund. The remaining balance for over-collections will come from the Limited



Services Restaurants that generates approximately \$300,000 annually. Director Elks stated with these increased fees, \$855,735 will be generated. The remaining \$100,000 will be reduction in the supply money.

Director Elks stated that the amounts total \$1.6 million representing 26% of TABC's existing budget. Director Elks stated pursuant to the \$520,000 expansion, TABC did receive 3 secretary positions that will be used as cashiers in the various district offices. Director Elks stated that normally the staff would not fill those positions, but due to audit findings in the past and the desire to create separation and distinction between licensing and receipting, the staff has chosen to place the secretary positions in the Memphis, Knoxville and Chattanooga offices.

**5. CONSENT ORDERS**

**6. PENDING MATTERS LIST**

**7. MISCELLANEOUS**

A. Director Elks stated that TABC hired the following agents prior to receiving directs to revert \$1.6 million: SA Juan Gomez and, SA Eric Thomas and SA Robert Honnet were hired.

B. Director Elks stated that staff did have a meeting with members of the Wholesale Association and the Retail Association regarding a new statute that was passed allowing tastings to be conducted on the retail store premises. Director Elks stated staff will review what was submitted by both parties and submit a proposed set of rules for a rulemaking hearing. Director Elks stated that a rulemaking hearing will be conducted and a final set of rules will be brought forth before the Commission for review.

**A. Monthly Summary of TABC Activity**

**8. DATE OF NEXT MEETING - Wednesday, September 28, 2011 at 1:30 p.m. and Wednesday, October 26, 2011 at 1:30 p.m.**

---

Mary McDaniel  
Chairperson

---

Shari Danielle Elks  
Executive Director