

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
March 19, 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 February 19, 2009 Commission Meeting were approved.

2. RETAIL

**A. SOUTHGATE LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Seller/Licensee: Robert M. Jones, II
Buyer/Applicant: Private Reserve, LLC
Members: Timothy Wilson, Dawn Kinard, Kelly Wilson

Before the Commission is a request for a transfer of ownership of the retail store located at 1789 S. Third Street in Memphis, Tennessee. Timothy Wilson (manager), Dawn Kinard, and Kelly Wilson wish to purchase the business for \$520,000, and if approved, operate the business as a LLC. Financing is based upon a promissory note with the current licensee, to be paid in full by 2012. Dawn Kinard would own 50%; Kelly Wilson, 49%, and Timothy Wilson, 1%, if approved. Mr. Jones has assigned the lease to the applicant, and has permission of Belz Invest Co, LP (landlord). All documentation has been furnished with the exception of the following:

- a. Outstanding citation paid;
- b. Copies of the various lease assignments;
- c. Signatures on the bill of sale and promissory note;
- d. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the pending documentation:

- a. Outstanding citation paid;
- b. Copies of the various lease assignments;
- c. Signatures on the bill of sale and promissory note;
- d. Use and Occupancy permit.

Commissioner Bond made a motion to approve upon submission of the pending documentation and Commissioner Mathews seconded the motion and it was approved with 3 ayes.

**B. CAMPBELL STATION
FARRAGUT, TENNESSEE (KNOX COUNTY)**

Seller/Licensee: Vol Light, Inc.
Stockholder: Jean Fowler
Applicant: Silver Linings, LLC
Members: Gene and Pamela Treacy

Before the Commission is a request for a transfer of ownership of the retail store located at 707 North Campbell Station Road, in Farragut, Tennessee. Gene and Pamela Treacy wish to purchase the business and property for \$2,115,000 (\$1.5 million for the property). Financing is based upon the re-financing of two homes and a loan for \$1,275,000 with FSG Bank. Upon purchase of the property, the Treacys would incorporate and own the property through Kalu, LLC, and lease it to Silver Linings, LLC. All documentation has been submitted with the exception of the following:

- a. Deed to Kalu, LLC;
- b. Lease to Silver Linings, LLC;
- c. Loan agreement with FSG Bank

Discussion/Action Taken:

Gene and Pamela Treacy were present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the deed to Kalu, LLC and Loan agreement with FSG Bank. Chairman Jones made a motion to approve and Commissioner Bond seconded the motion and it was approved with 3 ayes.

**C. LIQUOR WORLD
GALLATIN, TENNESSEE (SUMNER COUNTY)**

Seller/Licensee: Surekhuben D. Patel
Buyer/Applicant: Rupal A. Amin

Before the Commission is a request for a transfer of ownership of the retail store located at 136 North Belvedere Drive, in Gallatin, Tennessee. Rupal Amin will purchase the business for \$600,000. Financing is based three promissory notes: Surekhaben Patel (previous licensee) for \$115,000; Pravinbhai H. Patel for \$150,000; and Rashmi Patel for \$425,000. The applicant will be leasing the business

from Archwood Apartments, LP at \$3850/month for a period of five years. It should be noted that the sale actually occurred in November, 2007. All documentation has been submitted with the exception of the following:

- a. TABC Inspection
- b. Acknowledgement of the rules/regulations;
- c. Financial and bank check on Pravinbhai Patel;
- d. All exhibits to purchase agreement and signatures;
- e. Deed to Archwood Apartments, LP
- f. Payment of fine for transferring ownership

Discussion/Action Taken:

William Cheek, III, Rupal Amin and Surekhuben Patel were present at the meeting. Director Elks reviewed the application to the Commissioners and recommended approval upon submission of the following documentation:

- a. TABC Inspection
- b. Acknowledgement of the rules/regulations;
- c. All exhibits to purchase agreement and signatures.

Commissioner Mathews made a motion to approve upon submission of the pending documentation and Commissioner Bond seconded the motion and it was approved with 3 ayes.

**D. NASHVILLE POST EXCHANGE
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Applicant: Army & Air Force Exchange Service

Before the Commission is a request for a new retail store to be located on the National Guard base at Building 140, Armory Drive, in Nashville, Tennessee. The base would like permission to sell alcohol at retail pursuant to T.C.A. §57-3-110. All documentation has been submitted with the exception of the following:

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

Discussion/Action Taken:

Director Elks reviewed the application to the Commissioners and stated that T.C.A. §57-3-110 that allows armed forces agencies to hold retail licenses. Director Elks stated that pursuant to the statute, the fees and the taxes do not have to be paid. The armed forces have to obtain a special permit issued by the TABC Commission. Director Elks stated that such things as the Certificate of Compliance and things such as that nature are not required for this application. Director Elks stated that they have acknowledged that they have a Memorandum of Understanding (MOU) to take place of the Deed and Certificate of Occupancy. Director Elks stated that there needs to be a TABC Inspection and Acknowledgment of the Rules and Regulations. Director Elks stated that deliverance of the alcoholic beverages will have to take the most direct route to the location.

Commissioner Mathews made a motion to approve and Commissioner Bond seconded the motion and it was approved with 3 ayes.

3. ADMINISTRATIVE CITATIONS

- 4. BUDGET** – Director Elks stated that the staff will appear before the House Finance Ways and Means Committee to discuss the TABC’s upcoming budget on March 25 and will appear before the Senate Finance Ways and Means Committee on April 14.

5. CONSENT ORDERS

6. PENDING MATTERS LIST

7. MISCELLANEOUS

A. Attorney General Opinion related to Direct Shipment

Discussion: Director Elks stated that on February 24, 2009 that the Attorney General’s office issued an Opinion regarding direct shipment of alcohol. Director Elks stated that state that there is a federal statute that states that if you go to an out-of-state winery and make a face to face purchase, and if your home state allows the shipment back into the home state, then you are allowed to direct ship the wine back into your home state. Director Elks stated that Tennessee does not allow direct shipment and opined that it would be against any state law to bring in any out-of-state alcohol from out of state. Director Elks stated that it is consistent with what the TABC has upheld in past years.

NCSLA – Director Elks stated the National Conference of State Liquor Administrators will be holding their national conference at the Lowe’s Vanderbilt Hotel in Nashville, Tennessee on June 14 thru 18, 2009.

Financial Status of TABC

Director Elks stated that a plan is in place, if necessary, to cut the agency’s budget pursuant to the request from the Governor’s office. Chairman Jones requested that the staff provide a report on what impact the deep recession has had directly on the agency in terms of economics, finances and how the staff is managing what turmoil may exist. Director Elks stated the cuts, if requested, will be in two tiers: Director Elks stated the first tier would cut the budget by 7½ % and the second tier will be approximately the same amount. Director Elks stated that the reduction in budget would be achieved by cutting vacant positions and positions that have not yet established or that are currently vacant. Director Elks stated that the Nashville office has two administrative staff positions that are vacant.

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

John A. Jones
Chairman

Shari Danielle Elks
Executive Director