

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
July 25, 2012
1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, July 25, 2012, in Nashville, Tennessee at 1:30 p.m. Chairperson Mary McDaniel, Commissioner John Jones and Commissioner Bryan Kaegi were present. Executive Director Danielle Elks, Assistant Director Keith Bell, CLEO Mark Hutchens and Ginna Winfree, Attorney 2, were present.

1. The Minutes for June 27, 2012 Commission Meeting were approved.

A. RETAIL

1. YORKSHIRE LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)

Licensee/Seller: Ruth Monroe
Applicant/Buyer: EDISON & HOWELL (Candice M. Eidson and Jeffrey Howell)

Before the Commission is a request for a change in ownership of the retail business located at 5669 Quince Road in Memphis, Tennessee. Ms. Ruth Monroe was the licensee at this location; however, Ms. Monroe passed away on June 15, 2012 from lung cancer. On May 18, 2012, Ms. Monroe sold her interest in the store to Candice Eidson (her daughter) for \$1. Concurrently with the purchase, Ms. Eidson filed her application with the Memphis office of the TABC. Ms. Eidson seeks approval for the change in ownership to her and then requests to add Jeffrey Howell as part owner. Eidson and Howell will assume the lease with 2 1/2 years remaining; monthly rent will range from \$2873.48/month to \$3135/month. They will operate the business as a general partnership. The partnership agreement indicates that Ms. Eidson will own 98% and Mr. Howell will own 2%; however, this designation is for tax purposes only and the profits will be divided equally. All documentation has been provided with the exception of the following:

- a. Sales Tax number;
- b. Payment of outstanding citations, if any.

Discussion/Action Taken:

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

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 3 ayes.

**2. ZIGGY’S PACKAGE STORE
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee/Seller:	Estate of Ralph Zigner
Applicant/Buyer:	Ziggy’s Package Store, LLC
Member:	Wanda Cagle

Before the Commission is a request for a change in ownership of the retail business located at 607 Cherokee Boulevard in Chattanooga, Tennessee. Mr. Zigner passed away on November 26, 2010. (The license was transferred to the estate on April 21, 2011.) Prior to his death, Mr. Zigner entered into an agreement with Mr. Roy Williams to sell his personal property and the business for \$125,000. Mr. Williams had been providing Mr. Zigner personal loans, and Mr. Williams continued to pay the taxes and bills for the business after Mr. Williams’ death and prior to the license being transferred to the estate. It was Mr. Zigner’s desire that Mr. Williams be able to purchase the business, be reimbursed for any debts owed to Mr. Williams, and then have Mr. Williams sell the business to Ms. Cagle. This was disclosed to the Commission upon the transfer to the estate.

In a document dated March 16, 2012, Ms. Cagle, as Executrix of Mr. Zigner’s estate, sells the business and personal property to Williams Development and Rentals, LLC. In a document dated May 1, 2012, Williams Development and Rentals apparently sells the business to Ms. Cagle for \$1, and allows her to rent the property for five years at \$700/month.

The issue before the Commission is to determine whether Mr. Williams should submit an application to obtain ownership interest prior to approving the sale to Ms. Cagle. All documentation has been submitted with the exception of the following:

- a. Verification that the purchase price is \$1 for the assets of the business, and the rent of \$700/month is not part of the purchase price;
- b. Signatures on lease;
- c. Payment of outstanding citations, if any.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and explained that Mr. Williams could not, at this point, sell Ms. Cagle the business because he had never submitted an application for ownership and never been approved to operate the business. Ms. Elks further explained that two options existed for this business: (1) Mr. Williams could make application for the transfer of ownership to his name, be approved and then sell the business to Ms. Cagle—subject to the Commission’s approval; or (2) The estate and Mr. Williams could repudiate the sale of the business (not to the property) to Mr. Williams, and the estate could sell the business to Ms. Cagle. Chairman McDaniel expressed concern that TABC staff was offering legal advise to the parties; however, Director Elks explained that staff would only present options available to the parties involved. Director Elks recommended the Commission defer the matter.

Commissioner Kaegi made a motion to continue pending discussion of the options with Ms. Cagle. Commissioner Jones seconded the motion and it passed with 3 ayes.

**3. CHARLIE BURSI LIQUOR
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Nancy Jane Curtis

Before the Commission is a request for transfer of location of the retail business currently located at 2344 Deadrick Road, in Memphis, Tennessee. Ms. Curtis wishes to transfer location to 2306B Lamar Avenue in Memphis, Tennessee. This request is because the landlord has sold the property to another entity. (Ms. Curtis was operating the business pursuant to a month-to-month lease.) She will be leasing the new property from Lamar Petroleum, Inc. for a period of two years at \$1000/month and increasing to \$1500/month over the term of the lease. All documentation has been submitted with the exception of the following:

- a. Use and Occupancy permit;
- b. TABC Inspection;
- c. Payment of outstanding citations, if any.

Discussion/Action Taken:

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

Commissioner Jones made a motion to approve upon submission of the pending documentation. Commissioner Kaegi seconded the motion and it passed with 3 ayes.

**4. THE RESERVE, HOME OF FINE WINE & SPIRITS
MARYVILLE, TENNESSEE (BLOUNT COUNTY)**

Licensee: The Reserve Wine & Spirits, LLC

Members: Kellie Calloway and Julia Hunt

Proposed New Member: Emily Hunt

Before the Commission is a request for a change in ownership of the retail store located at 2025 East Hunt Road in Maryville, Tennessee. Ms. Calloway and Julia Hunt each own 50% interest in the business. Julia Hunt wishes to sell her interest in the business to Emily Hunt for \$1, plus other consideration. Upon approval, Ms. Emily Hunt would own 50%, and Ms. Calloway would continue to own 50%. All documentation has been submitted with the exception of the following:

- a. Explanation of “other consideration”;
- b. Payment of any outstanding citations, if any.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the explanation of “other consideration”. Director Elks indicated that she believed that this was a transaction between family members, but wanted to insure there was no other consideration.

Commissioner Jones made a motion to approve upon submission of the pending documentation. Chairperson McDaniel passed on the vote. Commissioner Kaegi seconded the motion. The motion passed with 2 ayes.

3. WINERY MATTERS

**A. WATAUGA LAKE WINERY
BUTLER, TENNESSEE (JOHNSON COUNTY)**

Applicant: Robert Wayne Gay and Linda Ella Gay

Before the Commission is a request for a new winery to be located at 1877 Dry Hill Road in Butler, Tennessee, Tennessee. Robert Wayne Gay and Linda Ella Gay will be initially investing \$150,000 to operate the winery. Robert Wayne Gay and Linda Ella Gay are trustees for the trusts that own the property. All documentation has been submitted with the exception of the following:

- a. TABC Inspection.

Discussion/Action Taken:

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

Commissioner Jones made a motion to approve upon submission of the pending documentation. Commissioner Kaegi seconded the motion and it passed with 3 ayes.

**B. SPOUT SPRING ESTATE VINEYARD
BLAINE, TENNESSEE (GRAINGER COUNTY)**

Applicant: Ned Warren Belt and Alice Belt

Before the Commission is a request for a new FARM WINERY LICENSE to be located at 430 Riddle Lane in Blaine, Tennessee. The Belts have contracted with Hillside Winery in Sevierville to produce the wine on behalf of Spout Spring Estate Vineyard. The Belts own the property on which the business is located. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgment of the rules and regulations.

Discussion/Action Taken:

Ned Belt was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon

submission of the TABC Inspection and the Acknowledgment of the rules and regulations.

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

4. PRIVATE CLUBS

**A. VFW POST NO. 4728
3250 MAIN STREET
HUMBOLDT, TN 38343**

**Applicant: Harry & James Taylor VFW Post No. 4728
Owners: Harry & James Taylor VFW Post No. 4728
Mike McFadden, Commander
Billy Vinson, Sr., Vice Commander
John Butler, Jr., Vice Commander
Jimmy Cupples, Quartermaster
Cynthia Darlene Reece, Manager of Operations**

Before the Commission is a request of the Private Club, Harry & James Taylor VFW Post No. 4728, located at 3250 MAIN STREET, HUMBOLDT, GIBSON COUNTY, TN 38343, for an On Premise Permit to sell alcoholic beverages pursuant to T.C.A. §57-4-102(8). This organization is a non-profit association existing under the laws of the State of Tennessee for at least two (2) years prior to this application. The organization has two hundred thirteen (213) members, which exceeds the statutory requirement of at least one hundred (100) members. The organization is operated exclusively for pleasure, recreation and other non-profit purposes of its members and no part of the net earnings inures to the benefit of any shareholder or member. The organization has adequate space for the reasonable use of its members with a suitable kitchen and dining room and with sufficient employees for cooking, preparing and serving meals for its members and guests. No member, officer, agent or employee of this Private Club is paid directly, indirectly nor do any of the aforementioned parties directly or indirectly receive in the form of salary or other compensation, any profits from the sale of spirituous liquors, champagnes or malt beverages beyond the amount of such salary as may be fixed by the members at an annual meeting or by its governing body out of the general revenue of the club.

All documentation has been submitted.

Discussion/Action Taken:

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

Commissioner Kaegi made a motion to approve. Commissioner Jones seconded the motion and it passed with 3 ayes.

**B. WESTHAVEN GOLF CLUB, LLC
4100 Golf Club Drive
Franklin, TN 37064**

**Applicant: Westhaven Golf Club, LLC
Owners: Westhaven Golf Club, LLC
Timothy Downey, Chief Manager/President
Donald W. Caire, Vice President and Secretary
A. Chadwell Fitzhugh, Vice President and Treasurer
Brian S. Sewell, Vice president
David Wilson, Vice President
Ken Howell, Secretary/Treasurer
Ernest M. Micelli, General Manager**

Before the Commission is a request of the Private Club, Westhaven Golf Club, LLC, located at 4100 Golf Club Drive, Franklin, Williamson County, TN 37064, for an On Premise Permit to sell alcoholic beverages pursuant to T.C.A. §57-4-102(8)(F). This organization is a for-profit limited liability company existing under the laws of the State of Tennessee for at least five (5) years prior to this application. The organization has three hundred five (305) active members, each paying annual membership dues in excess of three hundred dollars (\$300.00), which exceeds the statutory requirement of at least two hundred twenty-five (225) members. The organization is operated exclusively for pleasure, recreation and other purposes of its members and no part of the net earnings inures to the benefit of any shareholder or member. The organization has adequate space for the reasonable use of its members with a suitable kitchen and dining room and with sufficient employees for cooking, preparing and serving at least one (1) meal daily, five (5) days a week for its members and guests. No member, officer, agent or employee of this Private Club is paid directly, indirectly nor do any of the aforementioned parties directly or indirectly receive in the form of salary or other compensation, any profits from the sale of spirituous liquors, champagnes or malt beverages based upon the volume of such beverages sold or do they receive compensation beyond the amount of such salary as may be fixed by the members at an annual meeting or by its governing body out of the general revenue of the club. The organization has a clubhouse with not less than five thousand square feet (5,000 sq. ft.), and a

golf course containing at least eighteen (18) holes, collectively, for the use of its members and guests. The organization does not discriminate against any patron or potential member on the basis of gender, race, religion or national origin. Additionally, the organization acknowledges that it is the express intention of the general assembly that the provisions of law concerning the purchase or possession of alcoholic beverages by persons under twenty-one (21) years of age shall be strictly enforced in such clubs.

All documentation has been submitted except the following:

1. Copy of published newspaper notice
2. Certificate of Occupancy
3. Tennessee Department of Revenue Bond
4. Inspection
5. Acknowledgement of Rules and Regulations
6. Questionnaires of WGC, LLC Members: Caire, Fitzhugh, Sewell & Wilson

Discussion/Action Taken:

Austin McMullen was present. Assistant Director Bell reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

1. Copy of published newspaper notice
2. Certificate of Occupancy
3. Tennessee Department of Revenue Bond
4. Inspection
5. Acknowledgement of Rules and Regulations
6. Questionnaires of WGC, LLC Members: Caire, Fitzhugh, Sewell & Wilson

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Commissioner Jones seconded the motion and it passed with 3 ayes.

5. **BUDGET**
6. **CONSENT ORDERS**
7. **PENDING MATTERS LIST**
8. **PERSONNEL**

Assistant Director Bell introduced Ginna Winfree, Attorney 2.

MINUTES FOR THE JULY 25, 2012 COMMISSION MEETING – PAGE 9

Chief Hutchens stated that the staff is in the process of filling SAC, ASAC and agent positions in the posts of duty.

Assistant Director Bell stated that Tammy Turner of the Nashville office was promoted to Administrative Assistant 1 in Direct Shipment. Assistant Director Bell stated that the Linda Hale, personnel, has sent out registers to hire a Secretary to fill Tammy Turner's previous position.

Chairperson McDaniel stated that Director Elks submitted a letter to the Commission in June indicating that she would be retiring effective October 31, 2012. Chairperson McDaniel stated that the Commission wishes Director Elks well in her future endeavors and thanked Director Elks for the lengthy amount of service with the TABC. Chairperson McDaniel stated as of July 1, 2012 based on the receipt of the letter from Director Elks that Assistant Director Bell will handle the personnel matters going forward.

Director Elks suggested that in light of her last day of employment being October 31, Assistant Director Bell should work on the budget because the budget will be presented in November, 2012 before Finance Administration, and then in February, 2013, before the Legislature. The Commission agreed with Director Elks' suggestions.

9. MISCELLANEOUS

A. Monthly Summary of TABC Activity

Director Elks stated that the Comptroller's Office has completed their review on the 2007 TABC audit and they were satisfied with all the corrections the staff made.

10. DATE OF NEXT MEETING Wednesday, August 22, 2012 and Wednesday, September 26, 2012 at 1:30 p.m.

Mary McDaniel
Chairperson

Shari Danielle Elks
Executive Director