

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
June 17, 2010
10:30 a.m.

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, March 25, 2010 in Nashville, Tennessee at 1:30 p.m. Chairman Jones, Commissioner Mathews and Commissioner Cynthia Bond were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith and CLEO Mark Hutchens present.

1. The Minutes for April 22, 2010, and May 20, 2010 Commission Meeting was approved. Commissioner Jones stated that the Commission did not meet for the May Commission meeting due to the excused absences of Commissioner Mathews and Commissioner Bond.

2. OLD BUSINESS:

A. RETAIL

1. CORSAIR ARTISAN, LLC (Con't from April, 2010)

Applicant: Corsair Artisan, LLC
Members: Darek Bell and Andrew Webber

Before the Commission is a request for a new retail store to be located on the premises of a new distillery, (see April 22, 2010 regular agenda). T.C.A. §57-3-204(f) allows a manufacturer to be issued a retail license to be located on the manufacturer's premises—irrespective of whether the municipality has passed a retail referendum and irrespective of residency. However, such retailer may only sell special novelty decanters in a 750ml size only. Corsair Artisan is an existing business in Kentucky; as such, Mr. Bell and Mr. Webber invested \$44,277 from personal savings in 2008. Additionally, a line of credit in the amount of \$125,000 and a loan for \$50,000 from The Bank of Nashville exists. The applicant LLC will be leasing the property from Barry Walker, d/b/a Marathon Village for a period of 4 years (with an option to renew): monthly rental will begin at \$3150 and increase to \$4200. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Certificate of compliance;
- d. Affidavit of publication and a copy of the newspaper notice;

- e. Copies of the line of credit and loan agreement;
- f. Bank credit check.

Action Taken April 22, 2010:

Henry Hildebrand, III objected to the issuance of the license because he has concerns that this matter was not given advance notice. Mr. Hildebrand stated that he will probably have no objection to the issuance of the distillery license; but that the retail package store at the location of the distillery did not have notice of this matter and it should be disclosed to the retail package

stores within the area. His second objection was that the statute which allows Jack Daniels Distillery in Moore County to have a retail package store which was addressed by Director Elks indicates that there has to be a local option election to permit the retail package store to be located at the distillery. Mr. Hildebrand stated that he did not know if Davidson County had that referendum.

Chairman Jones made a motion to defer the matter to the May Commission meeting. Commissioner Mathews seconded the motion and it passed with 3 ayes.

Discussion/Action Taken:

William Cheek, III, attorney was present at the meeting. William Cheek stated that the establishment has not been issued a Certificate of Compliance; therefore he requested that the matter be continued to the July Commission meeting.

Commissioner Bond made a motion to defer this matter to the July Commission meeting. Commissioner Mathews seconded the motion and it passed with 3 ayes.

2. CREATE-A-WINE PROPOSAL—JOHN MANIS (Con't from April, 2010)

John Manis was present at the meeting. Director Elks advised the Commission that she has concerns that this business would be legally able to operate under the laws of Tennessee without a winery license. Director Elks summarized Mr. Manis's operation as a business that sells wine making equipment and other associated materials, and provides instruction for individuals on the process of how to make wine. The individuals that would come to the business and would sign a contract with Mr. Manis and would that this alcohol was not for resale and is for home consumption and home

purposes only. Mr. Manis, for a charge, would sell wine making equipment to the individual and would instruct them on how to make the wine on his premises and, if necessary, would store the wine and allow it to ferment on the licensed premises until such time as the individual takes the product away.

Director Elks previously advised Mr. Manis that the staff believed he would have to obtain a winery license before this could take place because the winemaking was actually taking place away from the individual's home.

Chairman Jones made a motion to continue this matter to the May Commission meeting because this issue needed additional time for review.

Discussion/Action Taken:

After discussion with John Manis and he indicated that he did not want to go forward with this request and he will have someone contact the Attorney General's office for an Opinion.

3. NEW BUSINESS

1. RETAIL MATTERS

**A. LIQUOR WORLD OF LEBANON (Con't from May, 2010)
LEBANON, TENNESSEE (WILSON COUNTY)**

Licensee/Seller: Navin Patel
Applicant/Buyer: Diana Patel

Before the Commission is a request for a transfer of ownership of the retail store located at 623 South Cumberland Street, in Lebanon, Tennessee. On January 26, 2009, Mr. Navin Patel pled guilty to two felonies—specifically, theft over \$10,000 and tax evasion. Mr. Patel received a three year sentence, but was subject to post trial diversion pursuant to T.C.A. §40-35-313. On November 25, 2009, Mr. Patel passed away, and pursuant to his will, his wife would inherit all his assets (including the retail store). Mrs. Patel is now making application to transfer ownership. It should be noted that the store owes the Department of Revenue over \$360,000. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Lease/Deed to Diana Patel;
- d. Partial pay agreement with the Department of Revenue;
- e. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of a copy of the following documentation:

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- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Lease/Deed to Diana Patel;
- d. Partial pay agreement with the Department of Revenue;
- e. Use and Occupancy permit.

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

**B. OLE SMOKY BOTTLE SHOP (Con't from May, 2010)
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

**** (To be heard after Distillery Application below)**

Applicant: Ole Smoky Distillery, LLC
Members: Joesph Andrew Baker, Tony Wayne Breeden, John Cory Cottongim

Before the Commission is a request for a new distillery to be located at 903 Parkway, Suites 128 and 129, in Gatlinburg, Tennessee. Mr. Baker wishes to initially invest approximately \$154,000; Mr. Breeden and Mr. Cottongim will not initially invest any money. (Mr. Baker has loaned the LCC the \$154,000 as evidenced by promissory notes.) If approved, Mr. Baker will own 70% of the stock; Mr. Breeden and Mr. Cottongim will each own 15% of the stock. The LLC applicant is leasing the property from MacKinnon Development, LLC for a period of ten years with rent beginning at \$1426.25/month and increasing to \$1497.56/month. In addition to the base rental amounts, the LLC is also required to pay 2% of its gross sales monthly to the landlord as additional rents. All documentation has been submitted with the exception of the following:

- a. Lease to MacKennon Development from ILM Rentals, LP.

Discussion/Action Taken:

Tony Breeden was present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval.

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

**C. LAURA’S LIQUOR & WINE STORE
HARRIMAN, TENNESSEE (ROANE COUNTY)**

Licensee/Seller: Laura Overstreet
Applicant/Buyer: Meera Priya, Inc.
Stockholders: Vijay Patel and Monoj Patel

Before the Commission is a request for a transfer of ownership of the retail store located at 1034 South Roane Street in Harriman, Tennessee. Mr. Vijay Patel and Mr. Monoj Patel wish to purchase the business for \$325,000 (which includes the inventory). They are also wishing to purchase the property on which the store is located for \$925,000 and be owned by a separate corporation, Krishna Mutri, Inc. Krishna Mutri, Inc. will be leasing the property to the applicant corporation for a period of ten years at \$2500/month. Financing is based upon personal loans and loans with two banks, First People Bank and National Bank of Tennessee. Mr. Vijay Patel has a personal loan for \$150,000 with Ajay Patel; Mr. Monoj Patel has a personal loan with Romesh Patel for \$130,000. Vijay Patel and Monoj Patel would each own 50% of the stock. All documentation has been submitted with the exception of the following:

- a. Sales Tax Number;
- b. Deed to Krishna Mutri, Inc.
- c. Signature pages for Bill of Sale for business and for property;
- d. Questionnaires and financial checks conducted on both Romesh Patel and Ajay Patel.
- e. Loan agreements with First People Bank and National Bank of Tennessee.
- f. TABC Inspection;
- g. Acknowledgment of the rules/regulations.

Discussion/Action Taken:

Tucker Herndon, attorney, was present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the following documentation:

- a. Signature pages for Bill of Sale for business and for property;
- b. Questionnaires and financial checks conducted on both Romesh Patel and Ajay Patel.
- c. Loan agreements with First People Bank and National Bank of Tennessee.
- d. TABC Inspection.

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

**D. ROSY’S WINE AND SPIRITS
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Licensee/Seller: Amy Lynn Dever
Applicant/Buyer: John Plummer

Before the Commission is a request for a transfer of ownership of the retail store located at 5030 Clinton Highway in Knoxville, Tennessee. Mr. Plummer wishes to purchase the business for \$200,000. Financing is based upon a loan for \$195,000 from his father, Mike Plummer. Mr. John Plummer will be leasing the property from Sandmar Properties for a period of five years, with monthly rent beginning at \$2291.67 and increasing to \$2579.29 over the course of the lease. All documentation has been submitted with the exception of the following:

- a. Outstanding citations paid on behalf of current licensee;
- b. Financial check and questionnaire on Mike Plummer;
- c. TABC Inspection;
- d. Acknowledgment of the rules/regulations.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the following documentation:

- a. Outstanding citations paid on behalf of current licensee;
- b. TABC Inspection;
- c. Acknowledgment of the rules/regulations.

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

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

Licensee: Nashville Wine & Spirits, LLC
Members: Bill Byrant

Before the Commission is a request for a temporary transfer of location of the retail store previous located at 4556 Harding Pike in Nashville, Tennessee. Due to the flood in Nashville that occurred in May, 2010, the entire premises of this retailer was flooded. The licensee seeks permission to move to 4550 Harding Pike, in Nashville, Tennessee. All documentation has been submitted.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners. Director Elks stated that Mr. Bryant's landlord offered Mr. Bryant a space on the second floor of the shopping center. Mr. Bryant requested to move to this location on a temporary basis only. Director Elks stated that because of the timing, the Commission was not due to meet for several weeks and because of the exceptional circumstances created by the flooding and businesses being lost and people being placed out of their jobs, she stated she took it upon herself to temporarily approve the issuance of this license upon receipt of a Certificate of Compliance issued by the City. Commissioner Jones stated that Director Elks did talk to him regarding this matter. Director Elks stated that due to the circumstances, she recommends approval.

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

**F. CROWN LIQUOR
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Robi, Inc.
Stockholders: William Klibanoff
New Stockholder: Pamela Klibanoff

Before the Commission is a request to add Mr. Klibanoff's wife, Pamela as a stockholder in the corporate licensee. It is staff's understanding that Mr. Klibanoff has an illness and is wishing to add his wife as part owner. All documentation has been submitted with the exception of the following:

- a. Document indicating percentage of ownership;
- b. Document showing transfer of interest.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the following documentation:

- c. Document indicating percentage of ownership;
- d. Document showing transfer of interest.

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

**E. CEDAR CHEST LIQUORS
SAVANNAH, TENNESSEE (HARDIN COUNTY)**

Licensee: Conway Family Investments, Inc.
Stockholders: Terry Conway, Sr.

Before the Commission is a request for a transfer of location of the retail store currently located at 930 Florence Road in Savannah, Tennessee. Mr. Conway is requesting a transfer to 1615 Wayne Road in Savannah, Tennessee. The request is based upon decreased business due to the closing of several businesses/industries near the current location. Mr. Conway would own the property at the proposed new location. All documentation has been submitted with the exception of the following:

- a. TABC Inspection.

Discussion/Action Taken:

Mr. Terry Conway, Sr. was present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the TABC Inspection.

Chairman Jones made a motion to approve upon submission of the pending TABC Inspection. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**F. WINE AND SPIRIT SHOPPE
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: Vinh Tran
Applicant/Buyer: Binh Tran

Before the Commission is a request for a transfer of ownership of the retail store located at 1711 E. Holmes Road in Memphis, Tennessee. Mr. Vinh Tran wishes to sell the business to his son-in-law, Binh Tran, for \$120,000—including inventory. Mr. Binh Tran has been assigned the lease with Joe Poppenheimer Management, LLC: this lease has four years

remaining on it, and monthly rent begins at \$1080/month and increases to \$1125 over the remaining term of the lease. Financing is based upon a promissory note with the current owner. All documentation has been submitted with the exception of the following:

- a. Acknowledgement of the rules/regulations.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the acknowledgement of the rules/regulations.

Commissioner Bond made a motion to approve upon submission of the pending acknowledgement of the rules and regulations. Commissioner Mathews seconded the motion and it passed with 3 ayes.

4. DISTILLERY MATTERS

**A. OLE SMOKY DISTILLERY (Con't from May, 2010)
GATLINBURG, TENNESSEE (SEVIER COUNTY)**

Applicant: Ole Smoky Distillery, LLC

Members: Joesph Andrew Baker, Tony Wayne Breeden, John Cory Cottongim

Before the Commission is a request for a new distillery to be located at 903 Parkway, Suite 128 and 129, in Gatlinburg, Tennessee. Mr. Baker wishes to initially invest approximately \$154,000; Mr. Breeden and Mr. Cottongim will not initially invest any money. (Mr. Baker has loaned the LCC the \$154,000 as evidenced by promissory notes.) If approved, Mr. Baker will own 70% of the stock; Mr. Breeden and Mr. Cottongim will each own 15% of the stock. The LLC applicant is leasing the property from MacKinnon Development, LLC for a period of ten years with rent beginning at \$1426.25/month and increasing to \$1497.56/month. In addition to the base rental amounts, the LLC is also required to pay 2% of its gross sales monthly to the landlord as additional rents. All documentation has been submitted with the exception of the following:

- a. Lease to MacKennon Development from ILM Rentals, LP.

Discussion/Action Taken:

Tony Breeden was present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval.

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

5. PRIVATE CLUBS

**A. FAIRVUE CLUB PROPERTIES, LLC
D/B/A THE CLUB AT FAIRVUE PLANTATION
GALLATIN, TENNESSEE**

Applicant: Fairvue Club Properties, LLC

The Club at Fairvue Plantation is located at 981 Plantation Blvd, Gallatin, Tennessee and is applying for two private club licenses due a transfer of ownership of the club. The first license is for the clubhouse and the second is for the pool area. All documentation has been submitted with the exception of the following:

- a. TABC Inspections;
- b. Acknowledgements of TABC Rules and Regulations;
- c. Bonds;
- d. Written statements that no alcohol will be directly transferred from the prior licensee to the applicants;
- e. Use and occupancy certificates;
- f. Certificates of good moral character;
- g. Affidavits verifying newspaper notices

Discussion/Action Taken:

Assistant Director Smith reviewed the matter to the Commissioners and stated recommended approval upon submission of the following documentation:

- a. Acknowledgements of TABC Rules and Regulations;
- b. Bonds;
- c. Use and occupancy certificates;
- d. Certificates of good moral character.

Commissioner Mathews made a motion to approve the transfer of ownership for the clubhouse upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

6. WHOLESALE MATTERS

**A. AJAX TURNER BEVERAGES, LLC
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: Ajax Turner Beverages, LLC
Members: Ajax Turner Beverages, Inc.
(Scott Turner; Todd Williams; Jack Turner; Jill Crow)

Before the Commission is a request for a temporary transfer of location of the wholesaler previously located at 1045 Visco Drive in Nashville, Tennessee. Due to the flood in Nashville that occurred in May, 2010, the entire premises of this wholesaler was flooded. The licensee seeks permission to move to 1501 Corporate Place in LaVergne, Tennessee. Tax records verify that, although the mailing address is Lavergne, the physical location is within Davidson County. The wholesale licensee is leasing the premises through a series of sub-leases, ultimately from PLDSPE, LLC. The lease is a month-to-month lease for \$1000/month. All documentation has been submitted.

Discussion/Action Taken:

William Cheek, III, attorney, was present. Director Elks reviewed the matter to the Commissioners and recommended approval.

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

7. BUDGET

8. CONSENT ORDERS

9. PENDING MATTERS LIST – Chairman Jones requested to receive copies of the Pending Matters Lists.

10. MISCELLANEOUS

A. Monthly Summary of TABC Activity

B. Legislation - The Legislature passed a bill regarding the restaurant definition and allows for a limited service restaurant which provides that if an establishment has 50% food sales a month, they qualify for a restaurant license. With decreased amounts of food down to 15%, there are various steps where they are able to qualify for a limited services restaurant. The lesser amounts of food they sell over a given amount of time, the more their license fee.

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The Legislature extended the Tennessee Alcoholic Beverage Commission one more year.

- 11. DATE OF NEXT MEETING** – Thursday, July 22, 2010 at 10:30 a.m. and Thursday, August 19, 2010 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director