

# TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

**Minutes**  
**May 23, 2012**  
**1:30 pm**

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The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, May 23, 2012, 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, Assistant Director Keith Bell, and CLEO Mark Hutchens were present.

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**1. The Minutes for April 25, 2012 Commission Meeting were approved.**

**2. DEFERRED BUSINESS**

**A. DISTILERY**

**1. EAST TENNESSEE DISTILLERY—Con't from March 28, 2012  
PINEY FLATS, TENNESSEE (SULLIVAN COUNTY)**

**Applicant: RMRH Enterprise, LLC**

**Members: Neil Roberson, Gary Melvin, Darrel Hunt and  
Byron Reece**

Before the Commission is a request for a new distillery to be located at 220 Piney Flats, Tennessee. Neil Roberson (\$15,000), Gary Melvin (\$1500), Darrel Hunt (\$1000) and Byron Reece (\$1000) wish to initially invest a total of \$18,500 to operate the business. Each member would own 25% of the membership. The LLC applicant is leasing the property from the Barnett Living Trust for a period of four years, with a monthly rent of beginning at \$500/month and increasing to \$7000/month over the term of the lease. Please note that Sullivan County is within the population restrictions of T.C.A. §57-2-103 and cities within Sullivan County have passed both retail and liquor-by-the-drink sales. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations;
- c. TTB Registration.

**Discussion/Action Taken:**

Rob Pinson, attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and stated that since the TTB has not been submitted, she recommended that the matter be deferred until the TTB registration has been received.

There was no action required by the Commission.

**Discussion/Action Taken: (April 25, 2012)**

Rob Pinson, attorney, was present at the meeting. Rob Pinson requested that the matter be continued to the May Commission meeting.

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

**Discussion/Action Taken: (May 23, 2012)**

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

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. RETAIL**

**1. JAX LIQUOR STORE  
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

**Licensee/Seller: Steve Andrews**

**Applicant/Buyer: 4 Friends, LLC**

**Members: Jitan Patel, Jasmin Patel, and Punit Patel**

Before the Commission is a request for a change in ownership of the retail business located at 216 Market Street in Chattanooga, Tennessee. Jasmin Patel wishes to purchase the business and property (\$1,550,000) for \$1.9 million dollars. If approved, Jitan Patel (50%), Punit Patel (25%) and Jasmin Patel (25%) will own and operate the business as 4 Friends, LLC. Financing is indicated to be personal funds and a bank loan. JJMP, GP will be the landlord of the property and will rent the property to 4 Friends, LLC for a period of five years at \$12,000/month. (It should be noted that the monthly rent for the previous licensee was \$3000/month.) All documentation has been provided with the exception of the following:

- a. Deed to JJMP, GP
- b. Bank loan agreement
- c. Explanation of how the monthly rent was derived
- d. Partnership agreement of JJMP, GP and a list of the partners
- e. Payment of outstanding citations, if any.

**Discussion/Action Taken: (April 25, 2012)**

Director Elks reviewed the matter to the Commission and stated she has a concern regarding the significant increase from the previous tenant. Further, the Director expressed concerns over the ownership of the landlord, JJMP, GP. Without knowing the ownership interest of such, such partners may have an interest in another retail package store.

- a. Deed to JJMP, GP
- b. Bank loan agreement
- c. Explanation of how the monthly rent was derived
- d. Partnership agreement of JJMP, GP and a list of the partners

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

**Discussion/Action Taken: (May 23, 2012)**

Director Elks stated that this matter was continued from the April Commission meeting because questions arose regarding the rental amount of the application and other issues as referenced in the April 25, 2012 Minutes. Director Elks stated she is satisfied with all the issues of the application and that the applicant has submitted written explanations for the TABC's concerns. Therefore, she recommended approval upon submission of the Deed to JJMP, GP.

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

**3. NEW BUSINESS--RETAIL**

**A. 1. MAURY PACKAGE STORE  
COLUMBIA, TENNESSEE (MAURY COUNTY)**

**Licensee/Seller: Maury Package Store Corporation**  
**Stockholders: Gay Bobo**  
**Applicant/Buyer: Patricia Beard**

Before the Commission is a request for a change in ownership of the retail store located at 202 Carmack Boulevard, Suite A, in Columbia, Tennessee. Ms. Beard intends to purchase the business for \$40,000. Financing is based upon the sale of personal property. Ms. Beard is leasing

the property from Marty Irwin for a period of five years at \$1500/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection
- b. Acknowledgement of the rules and regulations
- c. Lease from Steven and Monica Bostelman to Marty Irwin;
- d. Copy of executed contract for sale of property for financing
- e. Payment of outstanding citations, if any.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the pending documentation.

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

**2. HARVEST WINE MARKET  
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

**Applicant:** Harvest Wine Market, LLC  
**Members:** Ames Bailey

Before the Commission is a request for an extension of time to open the retail business located at 6043 Highway 100 in Nashville, Tennessee. Harvest Wine Market was conditionally approved for a retail license at the January, 2012 Commission meeting subject to the receipt of certain documentation including TABC inspection and use and occupancy permit. On April 3, 2012, TABC staff approved a thirty-day extension. Applicant now requests a last thirty day extension from the Commission.

**Discussion/Action Taken:**

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

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

**3. LIQUOR SHACK  
COVINGTON, TENNESSEE (TIPTON COUNTY)**

**Licensee/Seller: Russell McIntosh**  
**Applicant/Buyer: Reneshel Tyus**

Before the Commission is a request for a change of ownership of the retail business located at 1416 Highway 51 in Covington, Tennessee. Ms. Tyus wishes to purchase the business for \$30,000. Financing is based upon existing personal funds and a monetary gift from her husband. She will be leasing the property from Mr. McIntosh for a period of two years at \$700/month. All documentation has been submitted with the exception of the following:

- a. Payment of outstanding citation for late renewal;
- b. Payment of outstanding taxes to Revenue owed by Mr. McIntosh based upon this business.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended approval upon verification from the Tennessee Department of Revenue that all the outstanding taxes have been paid.

Commissioner Jones made a motion to approve subject to verification of payment from the Tennessee Department of Revenue. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**4. KINGS LIQUOR**  
**MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Licensee/Seller: J & R, LLC**  
**Current Members: Jack and Rayanne Segal**  
**Proposed Member: Howard Segal**

Before the Commission is a request for a change of ownership of the retail business located at 4014 Lamar Avenue in Memphis, Tennessee. Jack and Rayanne Segal have owned this business since May 27, 1998. Mr. Segal owned 99% and Mrs. Segal owned 1%. Mr. Jack Segal has passed away, and Mr. Howard Segal wishes to purchase the business from the estate for \$800,000. Upon approval, Mr. Howard Segal will have 100% ownership interest. Financing is based upon an inheritance from his parents. The lease will remain in effect because the licensee will remain the same. All documentation has been submitted with the exception of the following:

- a. Explanation of Mrs. Segal’s one percent interest.
- b. Copy of death certificate;
- c. Copy of will indicating Howard Segal’s inheritance for financing.

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and recommended approval upon the explanation of Mrs. Segal’s one percent interest.

Commissioner Jones made a motion to approve upon explanation of Mrs. Segal’s one percent interest. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**4. WHOLESALE MATTERS**

**A. VINOSLATE IMPORTS AND DISTRIBUTION, LLC  
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

**Applicant: VinoSlate Imports and Distribution, LLC**  
**Members: Russell Morrell**

Before the Commission is a request for a new wholesale business to be located at 1709 MidPark Drive, Suite B in Knoxville, Tennessee. Mr. Russell Morrell wishes to initially invest \$12,600 to operate the business. The applicant LLC is leasing the property from Walgo, LLC for a period of three years with monthly rent at \$1565.09. All documentation has been submitted with the exception of the following:

- a. Explanation of TTB basic permit as importer.

**Discussion/Action Taken:**

Rusty Morrell and Kim Rhoton were present. Director Elks reviewed the matter to the Commission and recommended approval.

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

**B. BETTER BEVERAGE, INC.  
MURFREESBORO, TENNESSEE (RUTHERFORD COUNTY)**

**Applicant: Better Beverage, Inc.**  
**Stockholders: Otis Phillips, Jr.**

Before the Commission is a request for a new wholesale business to be located at 730-A Middle Tennessee Boulevard; Suite 11-A in Murfreesboro, Tennessee. Mr. Phillips wishes to initially invest \$5000 to operate the business. The corporate applicant is leasing the property from Swanson Properties for eight months at \$625 per month. All documentation has been submitted with the exception of the following:

- a. Lease between Tennessee Builders Management Services and Swanson;
- b. Written statement regarding nature of SEC Enterprises, Inc. business and acknowledgement that the two businesses must be operated separately and distinctly;
- c. Acknowledgement of the rules and regulations;
- d. Final TABC inspection.
- e.

**Discussion/Action Taken:**

Ottis Phillips, Jr. was present. Director Elks reviewed the matter to the Commission and recommended approval.

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

**C. TENNESSEE WINE WHOLSALERS  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Applicant: David Anthony Neihoff**

Before the Commission is a request for a new wholesale business to be located at 6937 Stage Road, Unit G196 in Memphis, Tennessee. Mr. Neihoff, a City of Jackson resident, wishes to initially invest \$5000 to operate the business. Mr. Neihoff is leasing a storage unit for \$40/month for the storage of the alcohol on a month to month basis. Mr. Neihoff has indicated that the only product he wishes to distribute would be wine from his uncle's winery in Kentucky. **Issue:** Is a storage facility sufficient to operate a beginning wholesale business? All documentation has been submitted with the exception of the following:

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

**Discussion/Action Taken:**

Director Elks reviewed the matter to the Commission and stated that she has requested a written business plan from the applicant. However, such a plan had not been submitted by the applicant. Therefore, she stated she could not recommend approval.

Commissioner Jones made a motion to continue this matter to the June, 2012 Commission meeting. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**5. DISTILLERY MATTERS**

**A. MARK ANTHONY BREWING  
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

**Applicant: MARK ANTHONY BREWING, INC.**

**Stockholders: Mark Anthony Present, Inc.**

**Officers: Allen Shoup, Anthony Mark von Mandl, Victor Paul  
Giacomin**

Before the Commission is a request for a manufacturer's license to be issued at 5151 E. Raines Road in Memphis, Tennessee. Blues City Brewery, LLC was previously approved for a manufacturer's license at the June, 2011 Commission meeting at this location and will be considered the "host" manufacturer licensee at this location. (During the 2011 legislative session, a bill was passed (HB 986/ SB 1224) which clarified that a manufacturer licensed by the TABC would be able to brew high alcoholic content beer (beer containing greater than 5% alcoholic content by weight. This bill further allows such manufacturer to sell the product at retail and be licensed as a restaurant. Pursuant to that legislation, Blues City Brewery will be manufacturing both regular beer and high alcoholic content beer.)

Federal law allows manufacturers to enter into "Alternating Proprietorship Agreements" with other manufacturers. According to TTB, this agreement is where two or more entities "take turns" using the physical premises of a manufacturer's premises. The contract brewer or host manufacturer produces the product for the alternating proprietor, and is responsible for producing the beer, keeping appropriate brewery records, labeling the beer and paying the tax. This arrangement allows existing manufacturers to use excess capacity and give new entrants to the beer

business an opportunity to begin on a small scale without investing in premises and equipment.

Mark Anthony Brewing, Inc. has entered into an alternating proprietorship with Blues City Brewery to produce their high alcoholic content beer. All documentation has been submitted with the exception of the following:

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

**Discussion/Action Taken:**

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

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

6. **BUDGET** – Director Elks stated that TABC has collected \$6,049,933.00 which represents an over collection of \$400,000 of the total budget of \$5.6 million dollars. Director Elks stated that the TABC still has 2 more months to collect fees and fines. Director Elks estimated that TABC will over collect approximately \$1.8 million dollars this fiscal year.
7. **CONSENT ORDERS**
8. **PENDING MATTERS LIST**
9. **MISCELLANEOUS** - Assistant Director Keith Bell stated the General Assembly has passed HB 3039, (Public Chapter 790) effective on April 23, 2012. Assistant Director Bell stated that one of the issues is the statute would limit and lower the number of Limited Service Restaurants because the requirements have changed. Assistant Director Bell stated that currently the food percentage is 15% to qualify for a Limited Service Restaurant, which is based on total gross prepared food sales and alcoholic beverages sales. Assistant Director Bell stated that in Public Chapter 947 it includes the term beer to be used in the calculation of determining the percentage of food sales as compared to alcohol and beer sales. Such calculation would result in disciplinary action; including revocation for many of the existing Limited Service Restaurants currently licensed.

Commissioner Jones made a motion for the staff to obtain an Attorney General's Opinion to determine which definition is appropriate. Commissioner Jones requested that the letter to the Attorney General be signed by Chairperson

McDaniel, as opposed to staff. Chairperson McDaniel seconded the motion and it passed with 2 ayes.

**A. Monthly Summary of TABC Activity**

- 10. DATE OF NEXT MEETING** – Wednesday, June 27, 2012 at 1:30 pm. and Wednesday, July 25, 2012 at 1:30 p.m.

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Mary McDaniel  
Chairperson

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Shari Danielle Elks  
Executive Director