

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
April 25, 2012
1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Wednesday, April 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 Doug Duncan were present.

1. The Minutes for March 28, 2011 Commission Meeting were approved.

2. NEW BUSINESS--RETAIL

**A. 1. SOUTHERN SPIRITS
LEXINGTON, TENNESSEE (HENDERSON COUNTY)**

Applicant: LANNY JONES

Before the Commission is a request to open a new retail store at 902 S. Broad Street in Lexington, Tennessee. Mr. Jones plans to initially invest \$150,000 to operate the business. Financing is based upon a loan with First Bank. Mr. Jones and his wife own the property where the business will be located and are leasing the property to Mr. Jones for a period of two years at \$800/month. All documentation has been submitted with the exception of the following:

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

Discussion/Action Taken:

Lanny Jones 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/regulations.

Commissioner Kaegi made a motion to approve upon submission of the pending documentation. Chairperson McDaniel seconded the motion and it passed with 2 ayes. Commissioner Jones requested to be counted as present and passing.

**2. CJ'S LIQUORS
HIXSON, TENNESSEE (HAMILTON COUNTY)**

Licensee/Seller: Walter L. Pettit, Jr.
Applicant/Buyer: JGH Enterprises, LLC
Members: James Hayes, II

Before the Commission is a request for a change in ownership of the retail business located at 6401 Hixson Pike, Suite A in Hixson, Tennessee. Mr. Hayes wishes to purchase the business from Mr. Pettit for \$50,000 plus the value of the inventory. Financing is based upon existing personal funds. If approved, the business will operate as a LLC. The LLC is leasing the property from Michael Wolff, Sr. and Karen Pettit Wolff for a period of two years at \$1400/month. All documentation has been submitted with the exception of the following:

- a. Bank statements for the past three months.
- b. Payment of outstanding citations, if any.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the bank statements for the past three months.

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

**3. HURRICANE WINE AND SPIRITS
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Licensee/Seller: Hurricane Wine and Sprints, LLC
Members: James Kinsella, William Woosley, David Whitener
Proposed Members: James Kinsella and William Woosley

Before the Commission is a request for a change in ownership of the retail business located at 8652 E. Brainerd Road, Suite 118 in Chattanooga, Tennessee. Mr. Whitener wishes to sell his 25% interest in the business to Mr. Kinsella (8 1/3 % interest) and Mr. Woosley (16 2/3% interest) so that Mr. Kinsella and Mr. Woosley would own 50% each. All documentation has been submitted with the exception of the following:

- a. Bill of Sale indicating purchase price.
- b. Payment of outstanding citations, if any.

Discussion/Action Taken:

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

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

**4. HIGHLAND PARK LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: S & P Investments, Inc.
Stockholders: Vincent Strong and Samuel Posey
Applicant/Buyer: Highland Park Liquors, LLC
Members: Farah Cardosi

Before the Commission is a request for a change in ownership of the retail business located at 902 S. Highland in Memphis, Tennessee. Ms. Cardosi wishes to purchase the business for \$140,000. Financing is based upon a promissory note with Damon Waxler. The applicant LLC is leasing the property from Malkin Management and Investment Company for a period of five years, with monthly rent beginning at \$700/month and increasing to \$750 over the term of the lease. Ms. Cardosi would be the sole member. All documentation has been submitted with the exception of the following:

- a. Specific interests of Harry Cardosi, John Maxwell and Sam Posey in other liquor licenses and their relation to the applicant;
- b. Verification of any missing paragraph on page 6 of the lease;
- c. Assignment of the lease to the applicant LLC;
- d. Signatures on loan agreement and bill of sale;
- e. TABC Inspection.
- f. Payment of outstanding citations, if any.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commission and recommended approval upon submission of the signatures on the loan agreement and bill of sale.

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. 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:

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.

**6. LAVERGNE BEVERAGE DEPOT
LAVERGNE, TENNESSEE (RUTHERFORD COUNTY)**

Licensee/Seller: Shaan, Inc.
Stockholders: Gaurang Patel and Natvar Patel
Applicant/Buyer: Shaan, Inc.
Stockholder: Niki Patel and Natvar Patel

Before the Commission is a request for a partial change in stock ownership of the current licensee, Shaan, Inc. The retail business is located at 5033-B Murfreesboro Road in LaVergne, Tennessee. Gaurang Patel (80%) and Natvar Patel (20%) are the current stockholders of the licensee. Gaurang Patel wishes to sell his interest in the business to Niki Patel for zero consideration. However, Niki Patel's questionnaire indicates she is investing \$367,497.21 to be financed by a promissory note with Natvar Patel. Natvar Patel will continue to own 20% of the business and the licensee will remain the same. All documentation has been submitted with the exception of the following:

- a. Loan agreement with Natvar Patel;
- b. Explanation of why Gaurang Patel is giving applicant 80% of the business as a gift, but a promissory note exists for \$380,000;
- c. Payment of outstanding citations, if any.

Discussion/Action Taken:

Gaurang and Niki Patel were present at the meeting. Gaurang Patel stated that the reason he is giving Niki Patel 80% of the business as a gift is because his father is not doing well and he is having to go back and forth to India. Director Elks reviewed the matter to the Commission and recommended approval subject to receipt of requested documentation.

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

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

Licensee/Seller: The Reserve, Wine and Spirits, LLC
Members: William Riley, Kellie Calloway, and Julia Hunt
Proposed Members: Kellie Calloway and Julia Hunt

Before the Commission is a request for a partial change in stock ownership of the current licensee, The Reserve, Wine and Spirits, LLC—located at 2025 East Hunt Road in Maryville, Tennessee. William Riley, Kellie Calloway and Julia Hunt currently each own one third interest in the

business. Mr. Riley wishes to sell his interest equally to Ms. Calloway and Ms. Hunt so that the remaining members will own 50% each. Total purchase price is \$1,250. All documentation has been submitted.

Discussion/Action Taken:

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

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

**8. SOMERVILLE WINES AND SPIRITS, LLC
SOMERVILLE, TENNESSEE (FAYETTE COUNTY)**

Licensee/Seller: Somerville Wines and Spirits, LLC
Members: Samuel Wolfe and Wallace Johnson
Proposed New Members: Glenn Stewart

Before the Commission is a request for a change in stock ownership of the current licensee, Somerville Wine and Spirits, LLC. The TABC has as current members of the LLC licensee, Samuel Wolfe and Wallace Johnson—each owning 50%. Without approval from the TABC Samuel Wolfe sold his 50% interest to Wallace Johnson on June 20, 2011 for \$15,000. On July 1, 2011, Wallace Johnson sold 99% of his ownership interest to Glenn Stewart. Glenn Stewart is now seeking to become a lawful member of the licensee LLC. A bill of sale indicating the purchase price of the transaction has not been submitted; however, the questionnaire indicates that Mr. Stewart is investing \$165,000. Financing is based upon personal funds and a bank loan with Suntrust Bank. All documentation has been submitted with the exception of the following:

- a. Payment of \$1500 fine for the transfer of stock ownership from Wolfe to Johnson without approval;
- b. Payment of \$1500 fine for the transfer of stock ownership from Johnson to Stewart without approval;
- c. Payment of \$500 fine for late renewal of the license;
- d. Copy of newspaper affidavit notice;
- e. Acknowledgement of the rules/regulations;
- f. Written acknowledgment from the landlord they will allow assumption of lease;
- g. Bill of Sale indicating purchase price;
- h. Loan Agreement with bank.
- i. Payment of outstanding citations, if any.

Discussion/Action Taken:

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

- a. Payment of \$1500 fine for the transfer of stock ownership from Wolfe to Johnson without approval;
- b. Payment of \$1500 fine for the transfer of stock ownership from Johnson to Stewart without approval;
- c. Payment of \$500 fine for late renewal of the license;
- d. Copy of newspaper affidavit notice;
- e. Acknowledgement of the rules/regulations;
- f. Written acknowledgment from the landlord they will allow assumption of lease;
- g. Bill of Sale indicating purchase price;
- h. Loan Agreement with bank.

Commissioner Kaegi made a motion to continue this matter till payment of the fines. Commissioner Jones seconded the motion and it passed with 3 ayes.

**9. LENO’S LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee/Seller: Leno’s Liquors, Inc
Stockholders: Teresa Bertasi and Diana Manneken
Applicant/Buyer: Swami Bapa of Memphis, LLC
Stockholders: Satiskumar Patel, Anil Amini and Rohan Patel

Before the Commission is a request for a change in ownership of the retail business located at 5933 Summer Avenue. Satiskumar Patel (40% ownership interest and \$130,000), Anil Amini (30% ownership interest) and \$97,500) and Rohan Patel (30% ownership interest and \$97,500) wish to purchase the business for \$325,000. Financing is based upon existing personal funds and a loan to Satiskumar Patel from Ketan Pama for \$25,000. The applicant LLC will be leasing the property from Leno Patners, LLC for a period of one year at \$1600/month. All documentation has been submitted with the exception of the following:

- a. Satiskumar Patel’s bank statements for July, August and September, 2011;
- b. Verification of sources of each applicants’ money for investment;
- c. Income tax returns for each applicant for 2010 and 2011;

- d. Use and Occupancy permit;
- e. TABC Inspection;
- f. Acknowledgement of the rules and regulations;
- g. Questionnaire for Ketan Rama with financial background check and bank credit check;
- h. Payment of outstanding citations, if any.

Discussion/Action Taken:

Rob Pinson, attorney, was present at the meeting. Director Elks reviewed the matter to the Commission and recommended approval upon submission of the following documentation:

- a. Verification of sources of each applicants' money for investment;
- b. TABC Inspection;
- c. Acknowledgement of the rules and regulations;
- d. Questionnaire for Ketan Rama with financial background check and bank credit check;

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

3. WINERY MATTERS

**A. CREATE-A-WINE
TULLAHOMA, TENNESSEE (COFFEE COUNTY)**

Applicant: Cathy Manis

Before the Commission is a request to open a new business with a new type of license to be issued by this agency. Legislation was passed during the last legislative session to allow for a “winemaking on premises facility license”. (See T.C.A. §57-3-218.) This provision allows for individual customers to purchase ingredients and rent equipment, time and space to manufacture wine for personal use. Complimentary samples for tasting may be conducted at the facility and may be consumed by consumed by individuals who have contracted with the licensee to manufacture their wine. For the purposes of expediency, TABC staff has treated this application as a winery application. All documentation has been submitted with the exception of the following:

- a. Question 8 on application;
- b. Use and Occupancy permit;
- c. TABC Inspection;
- d. Acknowledgement of the rules and regulations;

- e. Certification from the Department of Agriculture or a letter indicating that certification is not necessary.

Discussion/Action Taken:

Cathy Manis was present at the meeting. Director Elks reviewed the matter to the Commission. Director Elks informed the Commission that the applicant attempted to obtain a license for her business approximately a year ago but was told an appropriate license did not exist. Upon recommendation from staff, the applicant was able to get legislative relief and a new license was defined. She recommended approval upon submission of the Use and Occupancy permit and answering question 8 on the actual application.

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

4. DISTILLERY MATTERS

**A. EAST TENNESSEE DISTILLERY—Continued 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.

**B. 21st AMENDMENT BREWERY
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: 21st Amendment Brewery Café, LLC
Managers: Shawn O’Sullivan and Nicolas Freccia

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.

21st Amendment Brewery 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:

Director Elks explained the concept of alternating proprietorship agreements. She advised that conversations had occurred between herself, Chairperson McDaniel, Blues City Brewery and potential alternating proprietorships providing an opportunity for a more detailed clarification on this new concept. Director Elks then indicated the advantages of this concept to the Commission as set forth previously in the agenda. By approving this concept, significant tax benefits would also result for the alternating proprietorship.

Because alternating proprietorship is a new concept for the TABC, Director Elks indicated that the Commission needed to approve the use of such.

Director Elks then reviewed the application to the Commission and recommended approval upon submission of the TABC Inspection and the Acknowledgement of the rules and regulations.

Commissioner Kaegi made a motion to approve the concept of alternating proprietorship agreements. Commissioner Jones seconded the motion and it passed with 3 ayes.

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

**C. SHIPYARD BREWING COMPANY
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Shipyard Brewing Company, LLC
Officers: Fred Forsley, President

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.

Shipyard Brewing Company 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
- c. List of members and questionnaires for those with greater than 5% interest.

Discussion/Action Taken:

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

- a. TABC Inspection;
- b. Acknowledgement of the rules and regulations
- c. List of members and questionnaires for those with greater than 5% interest.

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

**C. CLASSIC BREWING COMPANY
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Applicant: Classic Brewing Company
Stockholder: Ross Sannes of Lino Lakes, MN

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.

Classic Brewing Company 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
- c. Charter and list of stockholders of Ross Sannes of Lino Lakes, MN

Discussion/Action Taken:

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

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

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

5. SERVER PERMIT CASES

A. JESSICA JOZENS—Continued from March 28, 2012

Before the Commission is a review of the TABC staff's denial of the server permit application submitted by Ms. Jozens on or about February 1, 2012. Ms. Jozens indicated on her application that she had been convicted of felony child neglect in 2008. T.C.A. §57-3-704 prohibits the issuance of a permit for any felony within 4 years of the date of application. Attempts have been made for Ms. Jozens to verify her date of conviction.

Discussion/Action Taken:

Jessica Jozens and Ashley Preston, attorney, were present at the meeting. Assistant Director Bell stated that after research, the staff was not able to find a way to make the matter retroactive to the date of incarceration.

Attorney Preston also stated that after researching the matter, she also was not able to find anything that would be persuasive to make it retroactive to the date of incarceration.

Commissioner Jones made a motion to uphold the staff's denial of the server permit card. Chairperson McDaniel seconded the motion and it passed with 2 ayes. Commissioner Kaegi abstained his vote.

6. BUDGET

7. CONSENT ORDERS

8. **PENDING MATTERS LIST**

9. **MISCELLANEOUS**

A. **Monthly Summary of TABC Activity**

10. **DATE OF NEXT MEETING** - Wednesday, May 23, 2012 and
Wednesday, June 27, 2012 at 1:30 p.m.

Mary McDaniel
Chairperson

Shari Danielle Elks
Executive Director