



STATE OF OKLAHOMA
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

MINUTES OF THE ABLE COMMISSION MEETING

February 19, 2016

The filing of the meeting and posting of the agenda was in accordance with the Oklahoma Open Meeting Act. Notice of the meeting was filed with the Secretary of State on October 29, 2015. The agenda was posted on February 17, 2016, on the front and back doors of the 36th Street and Santa Fe Avenue building, the door of the ABLE Commission's Office Reception area, and on the ABLE Commission website.

Chairman Bryan Close called the meeting to order at 10:00 a.m. at the Office of the Alcoholic Beverage Laws Enforcement (ABLE) Commission at 3812 North Santa Fe Avenue, Suite 200, Oklahoma City, OK 73118. A quorum was met with the presence of the following board members: Bryan Close; Devin Graves; Robert Heidlage; Clarence Warner; Joe Forrest; James Maisano; and Harry J. "Trey" Kouri, III. Others present were: Steven Barker, Assistant Attorney General and ABLE General Counsel; Josh Maxey, Oklahoma House of Representatives Fiscal Staff Budget Analyst; Danny Shadid, Attorney; Todd Gayer, Republic National Distributing; J. B. Jarboe, Jarboe Sales Company; Cynthia Santos, E-Capitol Reporter; Rick Hughes and Collin Graham, Oklahoma Restaurant Association; Jan Loftis, Beer Distributors of Oklahoma; Randy Malone, Attorney; ABLE Director Keith Burt; ABLE Assistant Director Jim Hughes; ABLE Administrative Law Judge Luke Simms; Captain Brent Fairchild; Captain Maureen Shanta; Lieutenant Erik Smoot; Agent Gina Pratt; Karen Pilkington, Administrative Assistant; Director Burt's Assistant, Kathy Sharp; and Office Assistant, Margaret Hooley.

Commissioner Maisano made a motion to approve the minutes from the January 15, 2016 Board Meeting. Commissioner Forrest seconded the motion. A roll call vote was taken and recorded as follows:

Devin Graves - Yes
Robert Heidlage - Yes
Clarence Warner - Yes
Joe Forrest - Yes
James Maisano - Yes
Harry J. "Trey" Kouri, III - Yes
Bryan Close - Yes

Director Keith Burt gave his report which covered the following topics:

- Director Burt noted the deaths of Supreme Court Justice Antonin Scalia and a longtime friend and colleague of the ABLE Commission, Charles McGrigg. Mr. McGrigg, who was

General Counsel for the Wine Institute, died Monday after injuries sustained in a car accident. He was 74.

- Commented on the success of the Tulsa Mayor's Alcohol Awareness Summit. Recognized Senior Agent Gina Pratt and Lieutenant Erik Smoot for a report they presented at the summit.
- Recognized Captain Maureen Shanta for an overview of SB58 and HB3146 which permits a municipality to create a "Limited Municipal Criminal Court of Record" which is a means of reporting driving under the influence (DUI) offenders to other courts of record.
- Captain Maureen Shanta also reported on the National Liquor Law Enforcement Association (NLLEA) Grant that had been awarded to the ABLE Commission. The \$12,000 grant is to develop, implement and partner with other law enforcement agencies to teach classes on liquor law enforcement.
- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker, who gave an update on Case No. 12-63-7393, Citizen Potawatomie Nation v. ABLE Commission. The arbitration ended February 18th and the Arbitrator's report must be filed within 30 days.
- Director Burt stated that two previous employees of the ABLE Commission attended the National FBI Academy in Quantico, Virginia. He congratulated Commissioner Heidlage, recent graduate from the 262nd class, and recognized Commissioner Maisano, who graduated 207th class, and asked them to comment on their experience.
- Commented that a successful Oklahoma Alcohol Policy Forum was held here in Oklahoma City in cooperation with the Center for Alcohol Policy, on January 27th and thanked the four Commissioners who attended.
- Reported that HB2630 passed in 2014 and went into law effective November, 2015. It changed the retirement defined benefit program for the Oklahoma Public Employees Retirement System (OPERS) to a defined contribution plan. The bill had been challenged by some state employees, but was recently upheld in Oklahoma County District Court.
- Director Burt requested the Commissioners' guidance on how they want to proceed in implementing Governor Fallin's Executive Order 2016-01. The order requires that each Commissioner have both an e-mail and a voicemail listed on the Commission's website. Assistant Attorney General and ABLE General Counsel Steven Barker stated that the Attorney General's Opinion is that one voicemail box with seven extensions and seven individual e-mail addresses be created.
- No additional discussion or request for information was held on the ABLE Commission's goals.
- No upcoming events were noted however, since there would not be a quorum for the March 18th Commission meeting, the Director would reschedule and file it with the Secretary of State.

Assistant Director Jim Hughes gave each Commissioner a copy of the February Enforcement Report. He stated that the upcoming law changes are not good for the industry or the public, who expect a level playing field. With the abolishment of the ABLE Commission, liquor law enforcement could become very inconsistent. Each law enforcement entity could interpret an alcohol law differently since the laws are complicated and require focus.

Director Keith Burt gave the Budget Report which covered the following topics:

- Reported that the State Board of Equalization had earlier estimated a \$900.9 million dollar shortfall for FY 2017. The latest estimate would be closer to a \$1.3 billion dollar shortfall.

- Cited Secretary of Finance Preston Doerflinger's declaration of a failure of revenue. A 3% annualized cut would mean 6% each of the final 6 months of this fiscal year or \$84,900.24 a month for the next 6 months to the ABLE Commission.
- Reported state collections for the first 7 months of FY 2016 were 8.2% below the estimate.
- Reported that ABLE collections were down about 5% for the month but still up almost 4% for this fiscal year.
- Commented that more cuts for this fiscal year were likely.

Chairman Close asked for any comments from the public.

Attorney Danny Shadid reported that SJR68 received a "do pass" recommendation from the Senate Rules Committee at 4:30 p.m., Wednesday the 17th. Mr. Shadid stated that the only information that the public is receiving is about one strength beer and wine in the convenience/grocery stores. The public is not hearing about repealing the existence of the ABLE Commission, leaving law enforcement to local officers, brewers giving up their property within five years, eliminating the equalization of wholesalers by allowing partnership with manufacturers and allowing retail stores to sell anything. He requested that the Commission take a stance on the bill. After a discussion on the ethics of the Commission stating their option on pending legislation, it was determined that as a Commission, it could provide raw data and educational data information to the legislature.

Chairman Close asked for any additional comments. Hearing none, he asked for a motion to enter Executive Session.

Commissioner Graves made a motion to enter into Executive Session to discuss the Director's Quarterly Performance. Commissioner Kouri seconded the motion. A roll call vote was taken and recorded as follows:

Devin Graves - Yes
 Robert Heidlage - Yes
 Clarence Warner - Yes
 Joe Forrest - Yes
 James Maisano - Yes
 Harry J. "Trey" Kouri, III - Yes
 Bryan Close – Yes

No action was taken in Executive Session.

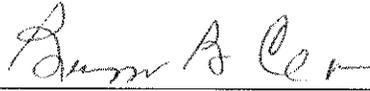
Commissioner Close called the meeting to order and called for a vote to return from Executive Session. The vote to return from Executive Session was taken and recorded as follows:

Devin Graves - Yes
 Robert Heidlage - Yes
 Clarence Warner - Yes
 Joe Forrest - Yes
 James Maisano - Yes
 Harry J. "Trey" Kouri, III - Yes

Bryan Close – Yes

Commissioner Forrest made a motion to adjourn the meeting. Commissioner Maisano seconded the motion. A roll call vote was taken and recorded as follows:

Devin Graves - Yes
Clarence Warner - Yes
Joe Forrest - Yes
James Maisano - Yes
Harry J. "Trey" Kouri, III - Yes
Bryan Close – Yes



Bryan Close, Chairman

BC/mks