



STATE OF OKLAHOMA
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

MINUTES OF THE ABLE COMMISSION MEETING

June 17, 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 June 14, 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.

Vice-Chairman Trey Kouri 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: 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; Joel Dean, Journal Record; Wayne Potter, Bar Service Management and Responsible Training (SMART); John Maisch, Attorney; Jim Hopper and Collin Graham, Oklahoma Restaurant Association; and the following ABLE employees: Director Keith Burt; Assistant Director Jim Hughes; Administrative Law Judge Luke Simms; Captain Brent Fairchild; Captain Maureen Shanta; Captain Joe Daniels; Director Burt's Assistant, Kathy Sharp; and Office Assistant, Margaret Hooley.

Commissioner Graves made a motion to approve the minutes, without correction, from the May 20, 2016 Board Meeting. Commissioner Maisano 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 - Abstain
Harry J. "Trey" Kouri, III - Yes

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

- Director Burt stated that Karen Pilkington has been out for surgery and he wished her a speedy recovery and that she hopefully will be back next week.
- Director Burt stated that a telephone number and an email address for each Commissioner will be available on the ABLE website by August 1st as mandated by Governor Fallin's

Executive Order 2016-01. Also, briefed the Commissioners on the transition to a new telephone system.

- Stated that Captain Maureen Shanta oversees the Synar tobacco compliance inspections. In 1994, when the inspections began, the compliance rate was just over 51% and last year was about 86%. The Agents will begin this year's inspections in approximately 2 weeks.
- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker to update the Commissioners on the Potawatomie Nation vs ABLE Commission, Case Number 12-63-7393. Mr. Barker stated that the arbitration appeal began at 9:30 a.m. this morning. Stated that he did not expect to see an opinion for about 2 months.
- Director Burt stated that Republic National Distributing Company (RNDC) notified the Commission that they have been under investigation alleging involvement of illegal alcohol transportation between Maryland and New York since 2012. RNDC believes they will be completely exonerated. Notification stems from a question on the original application asking if they have ever been charged with a crime.
- Reported that the posting on the website regarding the illegal activity of complimentary beverages has already received a positive response. The Director of the Cosmetology Board expressed interest and said they will provide the information to their members.
- Stated that Tillman County will vote June 28th to allow Liquor-By-The-Drink. Latimer County was also scheduled to vote on the 28th, but due to an issue of whether the names on the petition were gathered legally, their vote has been pushed back to November. Kay County will also vote on June 28th to allow alcoholic beverages sales on Sunday.
- Reported that a site visit conducted over a year ago by the Food and Drug Administration (FDA) Center for Tobacco Products has been formally issued. The Commission is on year 2 of a 3 year commitment for tobacco inspections with the FDA. Director Burt stated that he will go into more detail in the July meeting.
- Stated the next Governor's Impaired Driving Prevention Advisory Council (GIDPAC) meeting has been scheduled for June 21st at 1:30 p.m. at the OSBI Lab in Edmond.
- Informed the Commission that Captain Joe Daniels will conduct a presentation to the Norman Police Department on how the ABLE Commission can assist local law enforcement, at 9:30 a.m., Tuesday morning the 21st. An individual representing the National Liquor Law Enforcement Association (NLLEA) will be witnessing the presentation and is also here in Oklahoma to discuss the ABLE Commission hosting the NLLEA's National Convention in the fall of 2017.
- Thanked Commissioner Maisano for his assistance in setting up the meeting for ABLE. He also attended an 8 hour class earlier this week where Captain Daniels taught about "Moonshiners."
- Stated that today, at 1:00 p.m., the 64th Oklahoma Highway Patrol Academy will graduate 29 new cadets. He, along with Captain Daniels, will be attending for the ABLE Commission. Captain Daniels has a nephew that will be graduating.
- Announced that there are several interim studies that have been submitted for consideration. Topics include such items as the Zika virus, ABLE license requirements, feral hogs, streamlining the Department of Corrections, and the Real ID compliance for a total of 69 House requests. The Senate has not yet submitted their list of interim studies.
- Reminded the Commissioners that the next meeting will be July 15th and photographs will be taken that day.

Assistant Director Jim Hughes presented the following enforcement report to the Commissioners:

- Reported that the investigation involving the deaths of 2 people and the hospitalization of 2 others who supposedly consumed moonshine was continuing. The Muskogee Police Department and the agents are awaiting the Oklahoma State Bureau of Investigation (OSBI) lab analysis and the Medical Examiner's reports.
- Stated that in anticipation of the annual event "Rocklahoma", agents conducted alcohol compliance checks around the event venue. The total number of arrests for all agencies are still being calculated; however, during the three day rock concert, ABLE agents cited 7 minors in possession, 2 arrests for Social Host violations, and one arrest for possession of a controlled dangerous substance with intent to distribute.
- Reported that agents assisted the Grand River Dam Authority (GRDA)/Scenic Rivers Police on the Tahlequah River over Memorial Day weekend. The total arrests and violations for the agencies were 7 for driving under the influence, 13 for public intoxication, 1 for assault and battery, 4 drug related, 2 for minors in possession, 2 for transporting open containers and numerous other non-alcohol traffic related charges.
- Agents worked on a special program in Carter County for upcoming graduations. The agents, along with 10 local agencies, worked to reduce over-service and youth access during the program.
- McAlester Agent Lieutenant Mike Randol continued his work with the Okmulgee County Violent Crime Task Force on a homicide from November, 2015 and assisted the Okmulgee County Sheriff's Office with firearms qualifications for their deputies.
- Stated that agents conducted NLLEA training for the Lawton Police Department, the Velma Police Department, and the Comanche County Sheriff's office with a total of 110 officers attending, along with 9 officers in the McAlester area.
- Agents provided Responsible Beverage Service and Sales (RBSS) training sessions for the Lawton Country Club and other licensees in the Ardmore area, attended the Neighbors Building Neighbors area meeting, the Pittsburg County Task Force meeting, and a community event in Stigler.
- Reported that the Too Much Too Lose (2M2L) agents assisted the Tulsa Police Department (TPD) during Tulsa's Mayfest Event, attended 4 coalition meetings, provided technical assistance to 15 different groups or agencies, and conducted 8 training sessions for a total of 245 people trained in the month of May.

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

- The 2017 State Budget was around \$300 million less than was appropriated this year, which still left about a \$1 billion dollar gap. Approximately \$300 million of the \$1 billion will be recurring revenue and a little over \$600 million will be one time revenue which means in 2018, budget writers will have to address the replacement of a \$600 million short fall.
- Reported that the State of Oklahoma's collections missed the mark by 13.3%, which is 6.3% below last May's collections.
- Secretary of Finance and Revenue, Preston Doerflinger announced "May's weak showing was expected and was accounted for in the mid-year reductions required by the revenue failure."
- Stated that ABLE collections were up about 25% for May and over 9% for the year.

- Reported that Oklahoma's real Gross Domestic Product (GDP) shrank in 2015 by 2.8%, the 3rd worst in the United States behind Iowa and Wyoming according to the Bureau of Economic Analysis.
- Stated that the FY17 ABLE budget appropriations will be lower by about \$329 thousand from FY16. In FY15, ABLE was appropriated just over \$3 million, then this year just over \$2.8 million and after 2 mid-year reductions, ABLE finished this year with just over \$2.6 million. For FY17, ABLE has been appropriated \$2,500,312.
- Mentioned that there are sections of SB383 that address a revenue stream for the ABLE Commission about 2 years from now with the creation of the Alcoholic Beverage Governance Revolving Fund to help with additional enforcement.

Assistant Attorney General and ABLE General Counsel Steven Barker stated that 5 legislative bills passed and would affect the ABLE Commission. They are SB424: (allow brewers to sell their product on premises to consumers over 21 years of age); SB1239 (mandates electronic filing for excise tax on low-point beer); HB2840 (clarifies provisions on caterer licensees operating at a public event venue); SB383 (new alcohol laws); and SJR68 (Constitutional amendment concerning liquor modernization.)

Director Burt stated that Legislators sent a total of 400 bills to the Governor's desk. Governor Fallin signed 98.5% of those bills. During the 6 sessions that Mary Fallin has served as Governor, lawmakers have sent an average of 423 bills per year for her consideration. There was an attempt to override one of this year's veto; however, it failed.

Director Burt also informed the Commissioners that beginning next month, Assistant Attorney General and ABLE General Counsel Steven Barker will start reporting on approximately 20 to 30 sections of the 168 sections of SB383.

Commissioner Warner stated that the current law does not allow a Commissioner to have any relative within the 3rd degree to be licensed by ABLE. There are currently 2 Commissioner's on this board that will have to resign and suggested that the Director coordinate with the author of SB383 to have Section 5, Paragraph D changed to include "sharing their primary domicile."

Vice-chairman Kouri proceeded to Item 5 on the agenda covering a petition for declaratory judgement. After lengthy discussion from Petitioner John Maisch, response from Assistant Attorney General and ABLE General Counsel Steven Barker, along with concerns from the Commissioners and staff, it was suggested that possibly more information was needed. Commissioner Graves made a motion to define the term "infusion," stay all enforcement action, to gather additional information from both the legal and enforcement divisions, and to table the declaratory ruling. 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

Vice-Chairman Kouri asked for any comments from the public. Hearing none, he moved to Item #7 of the agenda, the election of the Chairman for the fiscal year 2017. Commissioner Maisano made a motion to elect Vice-Chairman Kouri. 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 - Abstain

Vice-Chairman Kouri moved to Item #8 of the agenda, the election of the Vice-Chairman for the fiscal year 2017. Vice-Chairman Kouri made a motion to elect Commissioner Forrest. Commissioner Graves seconded the motion. A roll call vote was taken and recorded as follows:

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

Vice-Chairman Kouri moved to Item #9 and asked for a motion to adjourn.

Commissioner Graves made a motion to adjourn the 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



Harry J. "Trey" Kouri, III, Vice-Chairman

HJK/mks