



STATE OF OKLAHOMA
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

MINUTES OF THE ABLE COMMISSION MEETING

July 15, 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 July 12, 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 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: Bryan Close; Devin Graves; Robert Heidlage; James Maisano; Joe Forrest; and Harry J. "Trey" Kouri, III. Others present were: Steven Barker, Assistant Attorney General and ABLE General Counsel; Joel Dean, Journal Record; Jim Hopper and Collin Graham, Oklahoma Restaurant Association; Todd Gayer, Republic National Distributing; Josh Maxey, Oklahoma House of Representatives Fiscal Staff Budget Analyst; J. B. Jarboe, Jarboe Sales Company; Brad Naifeh, Central Liquor Company; Karen Hicks, Beer Distributors of Oklahoma; Barbara Hoberock, Tulsa World; Christie Southern, E-Capitol Reporter; Randy Malone, Attorney; Nuria Martinez-Keel, Oklahoman; Former Commissioner Clarence Warner and the following ABLE employees: Director Keith Burt; Assistant Director Jim Hughes; Administrative Law Judge Luke Simms; Captain Brent Fairchild; Captain Maureen Shanta; Karen Pilkington, Administrative Assistant; Director Burt's Assistant, Kathy Sharp; and Office Assistant, Margaret Hooley.

Commissioner Heidlage made a motion to approve the minutes, without correction, from the June 17, 2016 Board Meeting. Commissioner Forrest seconded the motion. A roll call vote was taken and recorded as follows:

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

Chairman Kouri asked Commissioner Close to present Director Keith Burt with his 40 year service pin and certificate.

Chairman Kouri presented a plaque to Commissioner James Maisano who is leaving the Commission on August 1, 2016. Commissioner Maisano stated that he had enjoyed working with the Commission and if the opportunity arose, he'd be glad to serve again.

Chairman Kouri also presented a plaque to Commissioner Clarence Warner. Commissioner Warner stated that the ABLÉ Commission was his favorite of all the boards that he has served on over the years and found both the Director and staff to be very professional.

Director Burt stated that he wanted to thank Commissioners Maisano and Warner and their support to the agency and himself as the Director.

Director Burt asked Chairman Kouri if he would move to Item #8 on the agenda since he believed many of the reporters that were visitors were interested primarily in the Petition for Declaratory Ruling and that would allow them to leave early if they chose to.

Chairman Kouri asked if any of the board members objected, hearing none he moved to Item #8, Discussion, and Possible Action on the Petition on Declaratory Judgement.

Assistant Attorney General and ABLÉ General Counsel Steven Barker stated that he had worked with Attorney John Maisch, members of the Enforcement Division and Director Burt, and they have narrowed the three possibilities down to one option. He provided each Commissioner with a four page document which basically stated that the ABC Act does allow for the creation and selling of infused alcoholic beverages. The method of infusion in which sealed bottles of spirits are poured into an empty container, the fruits, vegetables, spices, etc., are added to the container, then the infused product can be served by the licensee for immediate consumption on the premise. After a brief discussion, Commissioner Close made a motion to adopt the Declaratory Judgement as written by Assistant Attorney General and ABLÉ General Counsel Steven Barker. Commissioner Graves seconded the motion. A roll call vote was taken and recorded as follows:

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

Chairman Kouri moved to Item #7 and asked for the Director's report.

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

- Director Burt gave an update on the two Oklahoma House of Representative Interim Studies that affects the ABLÉ Commission. Study Number 16-051, chaired by Representative David Perryman, concerns Real I.D. which ensures Oklahoma Citizen's access to air travel and federal buildings. Oklahomans will be able to use their state driver's license until January, 2018. Oklahomans will be able to use a State of Oklahoma Driver's License to enter federal buildings until October 10, 2016, and for flights within the United

States until January 22, 2018. Study Number 16-026 is chaired by Representative Dan Kirby and looks at ABLE license requirements. We have made copies of all the Commission's business and employee applications and we are available to their committee. The Senate's list of Interim Studies is supposed to be available after July 22 and he will report on that list in the August meeting.

- Reported that the U.S. Food and Drug (FDA) Center For Tobacco Products (CTP) Site Visit Report from September of 2014 was finally received by the Commission. The report has been placed in front of the Commissioners. The Commission passed all critical evaluations and the Director gave highlights of the report.

- Stated that although the FDA is a specific federal contract, the Commission also has another tobacco compliance contract with the Department of Mental Health. Captain Maureen Shanta heads both the FDA and Synar contracts and the Commission is currently in the second year of the three year contract with the FDA.

- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker to update the Commissioners on the Potawatomi Nation vs ABLE Commission, Case Number 12-63-7393. Mr. Barker stated that the arbitration case set in the Western District Court was completed and he expected the State to appeal. He also stated that it still did not address the ABLE Commission's issues and that there still had not been any action on the lawsuit filed in in Potawatomie County.

- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker to discuss sections 1-12 of SB 383.

- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker to report on ballot title proposed in SJR 0068 for State Question 792. Attorney Barker stated that the Attorney General's office had just reworded the proposition to make it clearer for the average voter to understand.

- Stated that Tillman County voted on June 28th to allow Liquor-By-The-Drink. There were 886 votes or 60.44% for and 580 or 38.56% against the change. Currently there are only 20 counties left that are dry or bottle club counties. Kay County voted on June 28th to allow alcoholic beverages sales on Sunday with 3,579 votes or 56.96% for and 2,704 or 43.04% against. Latimer County will vote on Liquor-By-The-Drink on November 8th.

- Recognized Administrative Assistant Karen Pilkington for an update on the Ethics Commission required filers, who stated that the outgoing Commissioners will not be required to file a final report.

- Stated the Governor's Impaired Driving Prevention Advisory Council (GIDPAC) meeting was held on June 21st at 1:30 p.m. at the Oklahoma State Bureau of Investigations (OSBI) office in Edmond. The next meeting should be in September. The Safety and Security meeting is set for Monday, the 18th at the Oklahoma City Police Department's new offices.

- Director Burt reported that last month he attended the latest Trooper graduation. The program from the ceremony for the 29 graduating cadets was placed in the Commissioner's packet.

- Reported that next month the staff's recommendations for the FY18 proposed budget will be presented to the Commissioners and in the September meeting the board will vote on final approval.

- Reminded the Commissioners that the next meeting will be August 19th.

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

- Reported that an agents worked with the Durant Police Department, the Bryan County Sheriff's Office and the Oklahoma Highway Patrol as a follow-up to complaints that underage individuals were being served alcohol.
- Agents conducted 4 Responsible Beverage Service and Sales (RBSS) trainings with OSU Prevention in Okmulgee County, a class requested by the Davis Police Department, a class in Bryan County for 20 licensees, and a class in Durant for 42 licensees.
- Stated that agents instructed Council on Law Enforcement Education and Training (CLEET) classes for officers from the Norman Police Department, 21 officers at the Grand River Authority in Langley, and a CLEET basic academy liquor law block class for 50 cadets.
- Agents worked a complaint of a "Pop Up Party" in Tulsa and stopped the event from happening.
- Agents conducted surveillance on a liquor store in Tulsa for 5 days. Agents discovered that the store was delivering liquor to 12 licensed bars/restaurants on a weekly basis. Agents seized 334 bottles of alcohol and confiscated \$525 in cash. The investigation is still on-going and more charges are expected.
- Reported that agents assisted the Muskogee Police Department in compliance checks on the bar areas in an outdoor country concert event (G-Fest) in Muskogee.
- Agents in the Oklahoma City office worked with the Oklahoma City Police Department Special Projects Unit on several complaints.
- Reported that the Too Much Too Lose (2M2L) agents attended a Leadership Camp at Cameron University in Lawton, worked with the Department of Mental Health and Substance Abuse in assisting 17 of the Regional Prevention Coordinators across the state with beginning work on their alcohol enforcement plants, and assisted the Marlow Police Department with alcohol and low-point beer compliance checks.

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

- Reported that June's gross receipts were down 7.4% from June, 2015, the lowest June in 6 years.
- Stated that ABLE collections were down in June, but still managed to end the year ½% up.
- Reported that the 2017 work budget program has been filed and approved by the Office of Management Services (OMES). ABLE will start the year with just over \$2.5 million in appropriations.
- Two mid-year budget cuts in FY16 could be as much as \$100 million dollars too much. Secretary of Finance and Revenue, Preston Doerflinger says it's premature for agencies to expect a refund. OMES can return funds equally to all agencies or the Legislature and Governor can allocate funds at their discretion via a special legislative session.
- Stated that projections of revenue are volatile and it is difficult to know until the year end reconciliations are complete.

Chairman Kouri asked for any comments from the public. J. B. Jarboe complemented the outgoing Commissioners and stated it was always a pleasure to work with the Commission.

Chairman Kouri asked for a motion to adjourn.

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

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



Harry J. “Trey” Kouri, III, Chairman

HJK/mks