



STATE OF OKLAHOMA
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

MINUTES OF THE ABLE COMMISSION MEETING

August 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 August 16, 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 10:05 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; Joe Forrest; and Harry J. "Trey" Kouri, III. Others present were: Steven Barker, Assistant Attorney General and ABLE General Counsel; Jenny and Brian Grigsby and Micah Andrews, Oak & Ore; Jeff Caillouepa and Blaine Stansel, Roughtale Brewing; Ross Harper, Angry Scotsman Brewing; Joel Irby and Ella Walker, Stonecloud Brewing; Eric Marshall, Marshall Brewing Company; Patrick Lively, Anthem Brewing Company; Sean Mossman, COOP Aleworks; Jerod Millirons and Dave Monks, Iron Monk Brewing; Barbara Hoberock, Tulsa World; Bruce Sanchez, Twisted Spike Brewery; Jan Loftis, Beer Distributors of Oklahoma; Jonathan Williams and Lorne Fultonberg, Channel 4; Molly Fleming, Journal Record; Greg Elwell, Oklahoma Gazette; Darrin Johnson and Karl Torp, Channel 9; Zach Rael, Channel 5; Brandon Lodge, Lap 7 Development; Wayne Potter, Oklahoma Bar Smart; Cale Coulter, Orison Properties; Mickie Bell, Prairie Art Ales; Patrick Gaines, Craft Beer Association of Oklahoma; Zach Prichard, Krebs Brewing Company; Josh Maxey, Oklahoma House of Representatives Fiscal Staff Budget Analyst; J. B. Jarboe, Jarboe Sales Company; Cynthia Santos, E-Capitol Reporter; Randy Malone, Attorney for Anthem Brewing Company; and, Representative Cory Williams. Also attending were the following private citizens: Jason Perez, Don Russell, Jake Wright, Charlie Den, Amy Hendrickson, Rob Holley, David Aboutford, Jarrod Rowe, Bill Jones, Zack Conn, Russ Hopper, Mike Andrews, and Ross Cooley. ABLE employees attending were: Director Keith Burt; Assistant Director Jim Hughes; Administrative Law Judge Luke Simms; Captain Brent Fairchild; Captain Maureen Shanta; Captain Joe Daniels; Lieutenant Karen Tipton; Senior Agent Todd Anthony; Director Burt's Assistant, Kathy Sharp; and Office Assistants, Margaret Hooley and Shae Isaacs.

Commissioner Close made a motion to approve the minutes from the July 15, 2016 Board Meeting. Commissioner Forrest 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
Harry J. “Trey” Kouri, III – Yes

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

- Director Burt commented on the passing of both E. Melvin Porter and Judge Donald L. Deason.
- Requested that Senior Agent Todd Anthony’s presentation be tabled until the September meeting.
- Reminded the Commissioners that last month he had reported on the 71 House Interim Studies. The Senate announced their Interim Study list and 36 have been requested and approved. Senator John Sparks is requesting a study on a long term strategy for replacing revenue on oil and gas down cycles based on a study from North Dakota; a study of fees, licenses and permits as revenue generation for the state; a study of the Tobacco Settlement Endowment Trust (TSET) use of funds; and another study on cost savings within the Department of Corrections.
- Reported that the Retail Liquor Association of Oklahoma asked the court to keep the State questions off of the ballot claiming it would treat their stores less favorably. District Court Judge Timmons ruled that State Question 792 on legalizing wine and full strength beer in grocery stores should remain on the ballot, but stated concerns about its constitutionality.
- Stated that the ballot wording for State Question 792 had been placed in front of the Commissioners.
- Recognized Assistant Attorney General and ABLE General Counsel Steven Barker to update the Commissioners on the Citizen Potawatomi Nation (CPN) vs ABLE Commission, Case Number 12-63-7393. Mr. Barker stated that the State filed an appeal concerning the arbitration case on July 21st and that there still had not been any action on the lawsuit filed in in Potawatomi County. Director Burt stated the CPN has been cooperating fully by not selling alcoholic beverages on Sundays while this matter was on appeal.
- Stated that Potawatomi County has place Sunday sales on the November 8th ballot. It was defeated last time by the slim margin of 50.2% to 49.8%.
- Asked the Chairman to table Item 7, discussion of SB383 (Sections 13-24 of SB 383) and Item 8, legal question regarding bottle service in wet counties.
- Recognized Captain Maureen Shanta for an update regarding Governor Fallin’s Executive Order 2016-01. Captain Shanta stated that the Office of Management and Enterprise Services (OMES) is testing the emails and hopefully it will be completed within the week. We will implement Commissioner’s e-mails and voice mails by September 1st.
- Director Burt recognized Assistant Attorney General and ABLE General Counsel Steven Barker to report on the amendment to Title 37, Section 521(A). Attorney Barker stated that in his opinion, the best course of action for the Commission is to seek official guidance from the Attorney General concerning the correct interpretation of this bill. The Director stated that he is accepting counsel’s advice and will pursue guidance from the Attorney General.
- Recognized Lieutenant Karen Tipton for a brief report on an International Chiefs of Police sponsored training hosted by former Commissioner Jim Maisano and the Norman Police Department. Lt. Tipton said the three-week class was hard work, but very informative and well worth the effort.

- Recognized Outside Special Counsel Margaret McMorrow-Love for a final report on the Tower Hotel Mixed beverage license/insolvency case. Ms. Love reported that case was dismissed without prejudice the last week of July and that they are planning to re-open in the next two to six months. The Director thanked Special Counsel Love for working with all parties concerned and for reaching a successful conclusion.
- Reported that the Governor's Safety Security Cabinet Quarterly Meeting was held July 18th at the Oklahoma City Police Department office and hosted by Chief Citty. Assistant Attorney General and ABLE General Counsel Steven Barker gave a presentation on SB383 and SJR68. The group discussed Governor Fallin's Executive Order 2015-46 which stated that an agency must get approval from the Cabinet Secretary for any purchase over \$10,000. The Director stated that the ABLE Commission does not have many purchases over that amount, but that the Commission is in compliance.
- Stated that since the ABLE Commission is down to five sitting members, he requested an opinion on what constituted a quorum. Assistant Attorney General and ABLE General Counsel Steven Barker reported that three Commissioners would constitute a quorum.
- Reported some upcoming meetings of interest to the Commission. The Oklahoma Restaurant Association will have their annual food show from August 31st through September 1st. The Commission will have a booth, as usual, at the show. Oklahoma Watch is hosting a question and answer public forum on State Question 792 and Oklahoma beer and wine laws. It is scheduled for August 23rd at the Oklahoma History Center at 6:00 p.m. Also, he reminded the Commissioners that the next meeting will be September 16th.
- Director Burt also thanked Assistant Attorney General and ABLE General Counsel Steven Barker and Captain Dennis McGowen for their assistance with alcohol allocation issues on products in scarce supply with the state's wholesalers.

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

- Reported that agents conducted Responsible Beverage Service and Sales (RBSS) training in Okmulgee and provided National Liquor Law Enforcement Association (NLLEA) grant law enforcement training for the Okemah Police Department.
 - Agents worked with the Stephens County Sheriff's Department on the Velma July 4th Picnic and assisted in five bar checks.
 - Stated that agents instructed a Council on Law Enforcement Education and Training (CLEET) approved 2 day Target Responsibility for Alcohol Connected Emergencies (TRACE) investigation class for officers from the Norman Police Department and 12 other jurisdictions.
 - Reported that agents assisted the Cherokee County Sheriff's Office on alcohol enforcement near the Illinois River over the 4th of July holiday and worked a complaint in Muskogee County concerning liquor sales through an adjacent convenience store.
 - Reported that the Too Much Too Lose (2M2L) agents assisted the Broken Arrow Police Department and the Logan County Sheriff's Office with alcohol checks during the month of July resulting in 8 of the 86 establishments selling to the underage buyer.
- Agents also attended a coalition meeting called the Prevention Policy Alliance Meeting in Shawnee to promote the ABLE Commission and the 2M2L program, and conducted 6 training classes in July with 124 people attending.

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

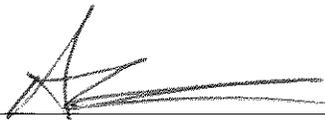
- Stated that July's gross revenue fund collections for July were 4.4% below the estimate, but were still inside the 5% cushion. July's collections were 9.4% below last July's collections as West Texas Intermediate Crude hovered around \$46 per barrel.
- Reported that State Treasurer Ken Miller stated that in its peak in 2010, Oklahoma's unemployment reached 7.1%, but June's figures show a decrease to 4.8%.
- Stated that Secretary of Finance, Preston Doerflinger, reported that although July was a down month, it was an improvement in comparison to larger declines in the past several months.
- Reported that ABLE collections were up over 13% from last July.
- Reminded the Commissioners that there were two mid-year budget cuts of 3% and 4%. That 7%, along with the 5% cushion, amounted to 12%, and after the state reconciliation accounts of FY16, collections were down about 9.4%, which was about 2.6% or \$140.8 million greater than had to be cut. The shortage was divided among the 63 state agencies resulting in ABLE's budget being reduced by about \$73,000. No word yet on if that money will be returned to State agencies.
- Stated that staff's recommendations for the FY18 proposed budget had been placed in front of the Commissioners and in the September meeting the Board will vote on final approval. It is due October 1st.

Chairman Kouri asked for any comments from the public. Eighteen persons spoke in favor of Senate Bill 424 regarding on-premises consumption at Oklahoma breweries which were: Joel Irby, Jeff Caillouepa, Wayne Potter, Jason Perez, Zach Prichard, Patrick Gaines, Representative Cory Williams, Russ Hopper, Brandon Lodge, Bruce Sanchez, Mike Andrews, Attorney Randy Malone, Eric Marshall, Jake Wright, David Aboutford, Cale Coulter, Mickie Bell, and Amy Hendrickson.

Chairman Kouri asked for a motion to adjourn.

Commissioner Graves made a motion to adjourn the meeting. Commissioner Heidlage 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
Harry J. "Trey" Kouri, III – Yes



Harry J. "Trey" Kouri, III, Chairman

HJK/mks