



STATE OF OKLAHOMA
ALCOHOLIC BEVERAGE LAWS ENFORCEMENT COMMISSION

MINUTES OF THE ABLE COMMISSION MEETING

October 21, 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 October 18, 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; Johnny Kuhlman; Joe Forrest; and Harry J. "Trey" Kouri, III. Others present were: Molly Fleming, Journal Record; Collin Graham and Jim Hopper, Oklahoma Restaurant Association; Cynthia Santos, E-Capitol Reporter; John VanPool, Citizen Potawatomi Nation; and Brett Robinson, Beer Distributors of Oklahoma. Oklahoma ABLE employees attending were: Director Keith Burt; Assistant Director Jim Hughes; Administrative Law Judge Luke Simms; Steven Barker, General Counsel; Captain Brent Fairchild; Captain Maureen Shanta; Lieutenant Erik Smoot; 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 September 16, 2016 Board Meeting. Commissioner Graves seconded the motion. A roll call vote was taken and recorded as follows:

Bryan Close – Yes
Devin Graves – Yes
Johnny Kuhlman – Abstain
Harry J. "Trey" Kouri, III – Yes

The record reflected that Commissioner Joe Forrest arrived just after the start of the following Director's report. Chairman Kouri requested that Commissioner Forrest be allowed to vote to approve the prior months meeting minutes. The record reflects that Commissioner Forrest did vote yes to approve the September 16, 2016 minutes.

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

- Stated that that Agent Todd Anthony's presentation on Alcohol Responsibility has been moved to the November meeting.
- Recognized General Counsel Steven Barker to present the Commission with a synopsis of SB383, Sections 25-36.

- Recognized Captain Maureen Shanta to update the Commission on the Governor's Impaired Driving Prevention Advisory Council (GIDPAC) quarterly meeting which was held on October 11th. Captain Shanta reported that discussions were held concerning the tracking of driving under the influence (DUI) violations in courts of record only and the creation of a data base to track those violations.
- Recognized Lieutenant Erik Smoot to inform the Commission on the Impaired Driving Summit that he attended. Terry White with the Department of Mental Health and Glen Davis, Director of the Colorado Department of Transportation were the key note speakers.
- Recognized Lieutenant Erik Smoot to update the Commission on the Highway Safety Stakeholders' meeting. Lieutenant Smoot reported that Driving Under the Influence (DUI) violations were down, but non-seatbelt usage violations were still only at 86%.
- Reported that the people of Potawatomi County will vote on Sunday sales in the November election which may make the lawsuit in the Citizen Potawatomi Nation (CPN) vs ABLE Commission, Case Number 12-63-7393, moot. General Counsel Steven Barker stated that the appeal of the arbitration case was in the 10th Circuit Court of Appeals and that there still had not been any action on the lawsuit filed 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.
- Recognized General Counsel Steven Barker to inform the Commissioners on the request for a legal decision, from Ryman Properties, requesting whether celebrity endorsements were in violation of the Oklahoma tied-house laws. General Counsel Barker stated that he did not find the endorsements to violate any Oklahoma law.
- Director Burt reported that the Synar results for the year showed an 85.8% compliance which is only .1% less than last year. Of the 597 locations that were inspected, no sales were made at 477 of the stores selling tobacco.
- Stated that Captain Shanta's report on the ABLE Commission's interaction with other alcohol enforcement jurisdictions has been tabled to November.
- Reported that in liquor news around the country, Tennessee is the latest state to allow wine sales in grocery stores and that he was monitoring the state for things that could make that transaction easier if Oklahoma State Question 792 passes in November. Also, Pennsylvania has become the first state that now allows direct shipping from abroad.
- Stated that Anheuser-Busch has purchased SAB Miller in a \$103 billion take-over.
- Reported both he and the General Counsel Barker attended the Christian Legal Society Annual Banquet. Administrative Law Judge Luke Simms is a major sponsor. Brandon Clabes, Midwest City Police Chief was the keynote speaker.
- Stated that the Public Safety Cabinet will have their quarterly meeting on December 6th and that the next Commission meeting will be in 4 weeks on November 18th.

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

- Reported that the Too Much Too Lose (2M2L) agents were involved in 4 media events during September which promoted Responsible Beverage Service and Sales (RBSS) training across western Oklahoma. Agents attended 5 coalition meetings, provided technical assistance to 13 different groups, and conducted training for a total of 562 people.
- Reported that the McAlester agents conducted Responsible Beverage Sales and Service (RBSS) training in Okmulgee and Duncan, attended the Oklahoma Law Forum presented by

the Oklahoma Department of Mental Health and Substance Abuse (ODMHSA) in reference to State Question 792, provided Council on Law Enforcement Education and Training (CLEET) instruction in Broken Arrow and Ada, wrote citations to a restaurant owner for allowing a worker to use the liquor store room as a day care, and closed a liquor store in Ringling for selling on an expired license and seized over 300 bottles of liquor.

- Reported that Tulsa District agents investigated a complaint of a liquor store owner storing alcohol off of the premises illegally. The case resulted in a \$45,000 fine and the confiscation of 58,101 bottles that were returned to the owner upon receiving proper storage licenses. Agents also worked a complaint of a location that was allowing persons to remove alcohol from the premises. An agent paid for her drink order at a kiosk, picked up the drink at a service window, without an employee on duty, then allowed to freely leave the premises. Agents completed a total of 19 complaints and licensing assignments, and 9 cases resulting in 17 violations. Agents also began a Target Responsibility for Alcohol Connected Emergencies (TRACE) investigation in Tulsa County, worked the annual Illinois River Concert, filed charges on an individual in Muskogee County for an illegal still and being in possession of moonshine, and assisted the Oologah Police Department with low-point beer compliance checks.

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

- Stated that Treasurer Ken Miller reported that collections are almost 10% below those of the same month one year ago and it was the 19th consecutive month year-over-year receipts have fallen. September's gross collections were \$939.6 million. The last time September collections were lower was in 2010. Currently, state collections are 12.4% below estimate.
- Reported that ABLE collections were up over 12% from last September and 13.8% through the first quarter of FY17.
- Stated that first quarter ABLE expenditures are almost \$8,000 under the projected budget, and that the FY18 budget, which was approved at the last board meeting, was timely submitted.
- Reported that Governor Mary Fallin says she expects less money to spend on the FY18 budget. The first report from the State Board of Equalization will be in 2 months.
- Stated that West Texas Crude was showing some signs of improvement for the first time since June with prices over \$50 a barrel. At the close of business Thursday, the price was \$50.43.

Chairman Kouri continued to Item #5 and asked if there was any discussion on the schedule for the regular monthly meetings for the next calendar year. Hearing none, Commission Kouri asked for a motion to approve the meeting schedule. Commissioner Forrest made a motion to approve the meetings for 2017 as the third Friday of each month. Commissioner Close seconded the motion. A roll call vote was taken and recorded as follows:

Bryan Close – Yes
Devin Graves – Yes
Johnny Kuhlman – Yes
Joe Forrest – Yes
Harry J. “Trey” Kouri, III – Yes

Chairman Kouri asked for any comments from the public. Hearing none, Commissioner Kouri asked for a motion to adjourn. Commissioner Close made a motion to adjourn and Commissioner Graves seconded the motion. A roll call vote was taken and recorded as follows:

Bryan Close – Yes
Devin Graves – Yes
Johnny Kuhlman – Yes
Joe Forrest – Yes
Harry J. “Trey” Kouri, III – Yes



Harry J. “Trey” Kouri, III, Chairman

HJK/mks