

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
August 19, 2010
1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, August 19, 2010 in Nashville, Tennessee at 1:30 p.m. Chairman Jones, Commissioner Mathews and Commissioner Cynthia Bond were present. Executive Director Danielle Elks, Assistant Director Carolyn Smith and SAC Al Watson were present.

1. The Minutes for July 22, 2010 Commission Meeting were approved.

2. NEW BUSINESS--RETAIL

**A. 1. XPRESS LIQUOR
PORTLAND, TENNESSEE (SUMNER COUNTY)**

Applicant: A1 Laxmi, Inc.
Stockholder: Piyushkumar Patel

Before the Commission is a request for a new retail store to be located at North Broadway in Portland, Tennessee. Mr. Patel wishes to initially invest \$150,000. Financing is based upon existing personal funds. Mr. Patel owns the property and will lease the property to the corporate applicant for a period of five years at \$2000/month. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Permanent Use and Occupancy permit when obtain;
- d. Sales tax number.

Discussion/Action Taken:

Piyushkumar Patel was present. Director Elks reviewed the matter to the Commissioners and recommended approval subject to the following documents being submitted:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Permanent Use and Occupancy permit when obtain;
- d. Sales tax number.

Commissioner Mathews made a motion to approve. Commissioner Bond seconded the motion and it passed with 3 ayes.

**2. RIVER ROAD LIQUORS
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: Kimberly Lindsay

Before the Commission is a request for a transfer of location from 7078 Charlotte Pike to 7070 Charlotte Pike in Nashville, Tennessee. Ms. Lindsay is requesting the transfer to enlarge the store premises. She will be leasing the property from Marketplace 2009 LP, for a period of six years, with rent beginning at \$4,655.50 and ending at \$5,558/month. All documentation has been submitted with the exception of the following:

- a. Newspaper Notice;
- b. TABC Inspection;
- c. First Amendment to Lease.

Discussion/Action Taken:

Kimberly Lindsay was present. Director Elks reviewed the matter to the Commissioners and recommended approval subject to the following documents being submitted:

- a. Newspaper Notice;
- b. TABC Inspection;
- c. First Amendment to Lease.

Commissioner Mathews made a motion to approve upon submission of the pending documentation. Commissioner Bond seconded the motion and it passed with 3 ayes.

**3. BIG AL'S LIQUOR STORE
JACKSON, TENNESSEE (MADISON COUNTY)**

Licensee: CSLS, LLC

Members: Bridget Turner; Patricia Smith; and Carol Key

Before the Commission is a request for a transfer of location of the retail store currently located at 11 Cartmell Street, in Jackson, Tennessee. The licensee wishes to transfer location to 2880

Ridgecrest Road, Extended, in Jackson, Tennessee. The transfer is requested due to low traffic in the current location: a tornado destroyed the area, and re-development has not occurred. The licensee will be leasing the property from Michael and Patricia Smith, Jerry and Carol Key and Ricky and Bridget Turner. The lease is for five years at \$5500/month. If approved, the licensee is also requesting a name change to Ridgecrest Cellar Wine and Spirits. All documentation has been submitted with the exception of the following;

- a. TABC Inspection;
- b. Use and Occupancy permit.
- c. First Amendment to Lease

Discussion/Action Taken:

Bridget Turner and Patricia Smith were present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval subject to the following documents being submitted:

- a. TABC Inspection;
- b. Use and Occupancy permit.
- c. First Amendment to Lease

Commissioner Bond made a motion to approve the change of location upon submission of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

Commissioner Bond made a motion to approve the name change. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**4. RANGE LINE LIQUORS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Charles Judy
Applicant: Jududin, Inc.
Stockholders: John Judy

Before the Commission is a request for a transfer of ownership of the retail store located at 3550 Range Line Road, in Memphis, Tennessee. On May 14, 2008, the Shelby County Probate Court ordered that Mr. John Judy inherit the business from the Estate of

Charles Judy. John Judy owns the property where the business is located, and is leasing the property to the corporate applicant for a period of one year at \$1200/month. All documentation has been submitted with the exception of the following:

- a. Date of Charles Judy's death.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the date of Charles Judy's death.

Commissioner Bond made a motion to approve upon submission of the date of Charles Judy's death. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**5. JACK'S WINE & LIQUOR, INC.
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Jack's Wine and Liquor, Inc.
Stockholder: Mi Ai Kim and Seung Hee Kim
Applicant: VF Liquors, General Partnership
Partners: Marshall Engelman and Sabrina Chambers

Before the Commission is a request for a transfer of ownership of the retail store located at 4230 Winchester Road in Memphis, Tennessee. Marshall Engelman and Sabrina Chambers wish to purchase the business from Mi Ai Kim and Seun Hee Kim for \$15,000, plus the cost of inventory not to exceed \$50,000. Mr. Engelman and Ms. Chambers wish to invest \$30,000 each and share in the business equally. Financing is based upon existing personal funds. The partnership is leasing the property from Development, LP for a period of 3 years at \$2000/month. All documentation has been submitted with the exception of the following:

- a. Lease from Wingood Partners to Developments, LP
- b. TABC Inspection;
- c. Acknowledgment of the rules/regulations.

Discussion/Action Taken:

Sabrina Chambers was present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the lease from Wingood Partners to Developments, L.P.

Commissioner Bond made a motion to approve upon submission of the date of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**6. MAJESTIC SPIRITS
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Majestic Spirits, Inc.
Stockholder: Keelie and Timothy Thomas
Applicant: Tripl's Wine and Liquor, LLC
Members: Richard and Melinda Sobanski

Before the Commission is a request for a transfer of ownership of the retail store located at 3705 Malco Way, Suite 106 in Memphis, Tennessee. The Sobanskis are investing \$200,000 to operate the business or to purchase the business. Financing is based upon existing personal funds. Currently the Sobanskis, as individuals, are leasing the property from Lightman Majestic Retail Co., LLC for a period of five years, with rent beginning at \$3281.25, and increasing to \$3,468.75 over the course of the lease. All documentation has been submitted with the exception of the following:

- a. Clarification by applicant if this is a transfer of ownership or a new application (if new application, then also need bill of sale);
- b. Assignment of lease to corporation;
- c. TABC Inspection;
- d. Acknowledgment of the rules/regulations;

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and stated that Majestic Spirits ceased conducting business while having outstanding liabilities with the Memphis wholesalers of approximately \$80,000. The Sobanskis applied for their certificate of compliances as a transfer of ownership. The issue arises that if there is a transfer of ownership as compared to a new application at this location, then the TABC could require that all outstanding debts and obligations of Majestic Spirits, Inc. be resolved prior to the issuance of a license. The Sobanskis indicated this is a new application and that no bill of sale existed for the business. They further indicated that they placed "transfer of ownership" on the certificate of compliance application based upon the City of Memphis' recommendation. Director Elks recommended approval upon submission of the following documents.

- a. Assignment of lease to corporation;
- b. TABC Inspection;
- c. Acknowledgment of the rules/regulations;

Commissioner Bond made a motion to approve with the stipulation Tripl's Wine and Liquor, LLC will be responsible for any outstanding liabilities to the wholesalers or to the TABC if it is determined after granting the license that there was actually a transfer of ownership and after all pending documentation has been submitted. Commissioner Mathews seconded the motion and it passed with 3 ayes.

**7. ARMY AND AIR FORCE EXCHANGE GUARD
CHATTANOOGA, TENNESSEE (HAMILTON COUNTY)**

Applicant: Army and Air force Exchange Guard
Manager: Brenda Jones

Before the Commission is a request for a new retail store to be located on the National Guard base at 1801 Holtzelaw Avenue, in Chattanooga, Tennessee. The base would like permission to sell alcohol at retail pursuant to T.C.A. §57-3-110. All documentation has been submitted with the exception of the following:

- a. Deed
- b. Acknowledgement of the rules/regulations;
- c. Letter of Waiver; and
- d. Use and Occupancy permit.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the following documentation:

- a. Letter of Waiver; and
- b. Use and Occupancy

Chairman Jones made a motion to approve upon submission of the date of the pending documentation. Commissioner Mathews seconded the motion and it passed with 3 ayes.

3. BUDGET

4. CONSENT ORDERS

5. PENDING MATTERS LIST

6. MISCELLANEOUS

- A. Monthly Summary of TABC Activity**
- B. Review of Sunset Hearing Conducted by State and Local Sub-Committee of the Government Operations Committee
Scheduled for Thursday, August 19, 2010 @ 9:00 am**

Discussion/Action Taken:

Director Elks summarized the State and Local Sub-Committee of the Government Operations Committee recommended that the TABC be extended for two (2) years.

- C. Background checks for server and employee permit applicants and liquor-by-the-drink license applicants**

Discussion/Action Taken:

Director Elks stated that an audit finding existed where the TABC was not conducting background checks for server and employee permit applicants. Director Elks stated there is a provision in the statute in the server training section that allows the TABC to conduct random background checks. Director Elks stated that in the mid-1990's the staff conducted random background checks on the applications for server permits; however, due to the hours involved for agent personnel to wait for the applicant, determine whether they would actually show up, it was not economically productive to continue the background checks.

Director Elks stated that to correct the audit finding, TABC staff supported a bill that was introduced last session that would allow background checks performed on a national basis with TBI handling the background checks. Director Elks stated it would be cost neutral and that the TABC would not need to provide additional personnel nor would it cost the applicant any money. Director Elks stated that the bill did not receive any votes from the Committee. Director Elks stated that the staff still had to correct the finding.

Therefore, the staff has arranged with the TBI for a background check to be performed on server employee permits with the costs assessed to the TABC. Results would take only a very short period of time. Director Elks stated that this procedure would correct one of the findings of the TABC audit.

Next, Director Elks stated that when an applicant applies for a Certificate of Compliance from the local government for a retail package store, the local government does a background on the applicant.

Director Elks stated that for liquor-by-the-drink licensees, the same requirements apply as the requirements for a retail package store: specifically, no applicant with any ownership interest may have had a felony for the past 10 years. Director Elks stated there is no mechanism for the TABC to check the background of the liquor by the drink applicants. She suggested that the Commission begin requiring either a certificate of compliance issued by the local municipality for LBD applicants or to require LBD applicants to submit a background check as part of the application.

After a brief discussion, Chairman Jones indicated that he would like to hear more input from the liquor-by-the-drink licensees before implementing the background checks on the applicants for LBD licensees. He further requested staff to contact the lobbyist for the Hospitality Association so that he/should had opportunity to be present. Therefore, Chairman Jones made a motion to have the matter placed on the September agenda.

7. DATE OF NEXT MEETING – September 23 and October 21, 2010 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director