

TENNESSEE ALCOHOLIC BEVERAGE COMMISSION

Minutes
October 21, 2010
1:30 pm

The regular meeting of the Tennessee Alcoholic Beverage Commission was held on Thursday, October 21, 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, CLEO Hutchens and SAC Al Watson were present.

1. **The Minutes for September 23, 2010 Commission Meeting were approved.**

2. **OLD BUSINESS--RETAIL**

A. **CORSAIR ARTISAN, LLC**

Applicant: Corsair Artisan, LLC

Members: Darek Bell, Andrew Webber and Amy Bell

This matter was originally scheduled in April, 2010. At this meeting, Corsair Artisan, LLC received approval by the Commission to be issued a manufacturer's permit. However, the applicant had issues attempting to obtain their certificate of compliance for the proposed retail store at the manufacturer's premises. The matter was ultimately indefinitely continued until such time the application for the certificate of compliance was either denied or issued. The applicant currently believes that it will have a certificate of compliance issued by the October 21, 2010 meeting and has requested to be placed on the agenda. Since the April, 2010 meeting and original application, Darek Bell has decided to transfer 9% of his ownership to his wife, Amy Bell—the transfer is based upon estate planning purposes. Thus, the proposed ownership percentage would be as follows: Darek Bell, 51%; Amy Bell, 9%; and Andrew Webber, 40%. The following is taken from the April 22, 2010 TABC Commission minutes:

Before the Commission is a request for a new retail store to be located on the premises of a new distillery, (see April 22, 2010 regular agenda). T.C.A. §57-3-204(f) allows a manufacturer to be issued a retail license to be located on the manufacturer's premises—irrespective of whether the municipality has passed a retail referendum and irrespective of residency. However, such retailer may only sell special novelty decanters in a 750ml size only. Corsair Artisan is an existing business in Kentucky; as such, Mr. Bell and Mr. Webber invested \$44,277 from personal savings in 2008. Additionally, a line of credit in the amount of \$125,000 and a loan for \$50,000 from The Bank of Nashville exists. The applicant LLC will be

leasing the property from Barry Walker, d/b/a Marathon Village for a period of 4 years (with an option to renew): monthly rental will begin at \$3150 and increase to \$4200. All documentation has been submitted with the exception of the following:

- a. TABC Inspection;
- b. Acknowledgement of the rules/regulations;
- c. Certificate of compliance;
- d. Affidavit of publication and a copy of the newspaper notice
Copies of the line of credit and loan agreement;
- e. Bank credit check.

Action Taken April 22, 2010:

Henry Hildebrand, III objected to the issuance of the license because he has concerns that this matter was not given advance notice. Mr. Hildebrand stated that he will probably have no objection to the issuance of the distillery license; but that the retail package store at the location of the distillery did not have notice of this matter and it should be disclosed to the retail package stores within the area. His second objection was that the statute which allows Jack Daniels Distillery in Moore County to have a retail package store which was addressed by Director Elks indicates that there has to be a local option election to permit the retail package store to be located at the distillery. Mr. Hildebrand stated that he did not know if Davidson County had that referendum.

Chairman Jones made a motion to defer the matter to the May Commission meeting. Commissioner Mathews seconded the motion and it passed with 3 ayes.

Action Taken October 21, 2010:

Director Elks reviewed the matter to the Commissioners and stated that due to unforeseen matters with Metropolitan Nashville Government, the applicant wishes to defer this matter indefinitely.

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

2. NEW BUSINESS--RETAIL

**A. WINE MARKET
MEMPHIS, TENNESSEE (SHELBY COUNTY)**

Licensee: Scott Smith

Before the Commission is a request for a transfer of location from 4700 Spottswood to 4734 Spottswood Avenue in Memphis, Tennessee. Mr. Smith is requesting the transfer of location based on the necessity for additional space due to increase in business since opening. The new proposed location would be located within the same shopping center and would continue to have the same landlord. The landlord, Lightman Audubon Center Co., GP, and Mr. Smith has amended their current lease to reflect the new proposed location, with monthly rent to be \$3969.58/month and increasing to \$4196.42/month over the term of the lease. All documentation has been submitted.

Discussion/Action Taken:

Scott Smith was present at the meeting. Director Elks reviewed the matter to the Commissioners and recommended approval.

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

**B. RED LION PACKAGE STORE
KINGSPORT, TENNESSEE (SULLIVAN COUNTY)**

Licensee/Seller: Bowlin Beverage Enterprises (Ernest and Geraldine Bowlin, Partners)
Applicant/Buyer: Park Place Liquor & Wine Package Store, LLC
Members: Parker Hill, Sandra Hill, and Parker Hill, II

Before the Commission are two requests. The **first** request is for a transfer of ownership of the retail store currently located at 921 E. Center Street in Kingsport, Tennessee. Upon approval, the second request is for a transfer of location. First, Parker Hill, Sandra Hill, and Parker Hill, II wish to purchase Red Lion Package Store from Geraldine and Ernest Bowlin for \$65,000 plus inventory. Financing is based upon existing personal funds and a loan with TriSummit Bank for up to \$250,000. If approved, each would own one third of the business.

The **second** request is for a transfer of location from 921 East Center Street to 1309 S. John B. Dennis Highway, Suite 102 in Kingsport, Tennessee. The applicant LLC is sub-leasing the property from Park Place Partners, LLC (Parker Hill and Darrel Casey) for a period of five years at \$2200/month and increasing to \$2933/month over the term of the lease. (Several layers of sub-leases are in effect at this location with the Pierce Living Trust as the owner of the property.) All documentation has been submitted with the exception of the following:

- a. Sales tax number;
- b. Written permission of landlord to sub-lease to (1) Parker Hill, (2) Park Place Partners, LLC, and (3) Park Place Liquor and Wine Package Store, LLC;
- c. Verification that the original May 11, 1998 lease has been extended/renewed;
- d. Letter requesting transfer of location and why;
- e. Verification of monthly rent;
- f. Verification of any interest Darrel Casey may have in any liquor license issued by the TABC, if any.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and stated that all requested pending documentation has been submitted. Director Elks stated that the establishment has requested a transfer of ownership. Director Elks stated if the change of ownership is approved, the establishment has requested a transfer of location. Director Elks recommended approval for the transfer of ownership and the transfer of location.

Chairman Jones made a motion to approve the transfer of ownership. Commissioner Mathews seconded the motion and it passed with 3 ayes.

Chairman Jones made a motion to approve the transfer of location. Commissioner Bond seconded the motion and it passed with 3 ayes.

**C. CEDAR CHEST LIQUOR STORE
SAVANNAH, TENNESSEE (HARDIN COUNTY)**

Licensee: Conway Family Investments, Inc.

Stockholder: Terry Conway, Sr.

Before the Commission is a request for an extension of time to open retail store at 1615 Wayne Road in Savannah, Tennessee. At the June 17, 2010, Commission meeting, Mr. Conway requested a transfer of location of his retail store: his request was approved subject to the TABC inspection. On August 30, 2010, TABC staff approved a 30 extension of time to open the store at the proposed new location. On October 5, 2010, the TABC received a second request for an extension of time. The request is based upon construction delays. If approved, Mr. Conway would have until November 15 to open the store; otherwise, a new application and application fee would have to be submitted.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval.

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

**D. WEST TOWN WINE AND SPIRITS
KNOXVILLE, TENNESSEE (KNOX COUNTY)**

Licensee/Seller: Curry Enterprises, LLC
Member: John Curry
Applicant/Buyer: Bush Holdings, LLC
Members: Michael and Sara Bush, and Franklin Cameron

Before the Commission is a request for a transfer of ownership of the retail store located at 7319 Kingston Pike in Knoxville, Tennessee. Michael and Sara Bush, and Franklin Cameron wish to purchase the retail store for \$215,000. If approved, the business would be operated as a LLC with Michael Bush owning 100% of the business. Financing is based upon a loan from Franklin Cameron for \$80,000 and the remaining \$135,000 from existing capitol. The applicant LLC is sub-leasing the property from Curry Enterprises, LLC for a period of three months at \$3093.33/month—after which the original lease expires. (Owner of the property is Expressway 40.) All documentation has been submitted with the exception of the following:

- a. Signature of landlord to assign the lease to Bush Holdings, LLC;
- b. Acknowledgment from Applicant that the lease expires on January 31, 2011;
- c. If approved, Applicant must acknowledge in writing that a subsequent lease with Expressway 40 must be submitted prior to the January 31, 2011 lease expiration date.

Discussion/Action Taken:

Director Elks stated that this was a transfer of ownership not a transfer of location. Director Elks reviewed the matter to the Commissioners and stated that all documentation has been received by the staff, therefore, she recommended approval.

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

3. MANUFACTURER MATTERS

**A. CORSAIR ARTISAN, LLC
NASHVILLE, TENNESSEE (DAVIDSON COUNTY)**

Licensee: CORSAIR ARTISAN, LLC
Members: Derek Bell and Andrew Webber
Proposed Member: Amy Bell

Before the Commission is a request for a transfer of partial ownership of the manufacturer doing business as Corsair Artisan. Currently, Derek Bell owns 60% of the business and Andrew Webber owns 40% of the business. For estate planning purposes, Mr. Bell wishes to transfer 9% of his interest to his wife, Amy Bell: this would result in the following ownership structure: Derek Bell, 51%; Amy Bell, 9%; and Andrew Webber, 40%. All documentation has been provided with the exception of the following:

- a. Document memorializing transfer of interest.

Discussion/Action Taken:

Director Elks reviewed the matter to the Commissioners and recommended approval upon submission of the document memorializing transfer of interest.

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

4. BUDGET—Reversion Amount Requested; Expansion of Budget Request

5. CONSENT ORDERS

6. PENDING MATTERS LIST

7. MISCELLANEOUS

A. Monthly Summary of TABC Activity

**B. Discussion on Requirements for Limited Services Restaurants—
[Continued from September, 2010 Commission Meeting—Please see memorandum summary enclosed in agenda materials.](#)**

Discussion/Action Taken:

First, an issue has arisen whether limited service restaurants are required to have a kitchen: no specific requirement for such is stated in the new statute. Assistant Director Smith advised the Commissioners that three issues existed regarding the issuance of limited service restaurant licenses. She requested guidance from the Commissioners so that staff would act accordingly. However, Assistant Director Smith stated the definition of a “restaurant” does provide there be a kitchen in the establishment, and the staff believes a minimal kitchen should be required for a Limited Services Restaurant license.

Assistant Director Carolyn Smith identified the second issue for the Commission. The second issue raised by Assistant Director Smith was the time period during which an existing licensee would have to reach 15% in order to qualify for a Limited Service Restaurant license. Assistant Director Smith explained that when a licensee applies to exchange its regular license for a Limited Services Restaurant license, it must submit an affidavit stating its food sales over the prior year. The staff required guidance from the Commission on how to treat applications that have 15% food sales as of the date of the application but have averages food sales of less than 15% over the prior year. Assistant Director stated that the law says that at the time the licensee is trying to exchange a restaurant license for Limited Service Restaurant, they file an application along with an affidavit with their food sale percentage for the prior year. Assistant Director Smith stated that the lowest percentage for food sales is 15%. Assistant Director Smith asked the Commission if an establishment has not been able to meet the food 15% service in the past, does the establishment have to of had 15% food sales average for an entire year or can the establishment have the 15% food sales at the time they are attempting to get the Limited Services Restaurant license. Assistant Director stated that the TABC’s proposal is that the establishments have 15% food sales at the time they are applying for the Limited Services Restaurant license.

Assistant Director Smith stated that the final issue on which the staff needed guidance was how to calculate the percentage of food sales. Specifically, in doing the calculations should “gross sales” include the money paid in taxes. She stated that are references to gross sales or gross revenues. She stated that should the establishments include liquor by the drink taxes and sales taxes. Assistant Director Smith stated that the TABC’s proposal is that the liquor by the drink or sales taxes not be included in the gross sales when determining the amount of food sales.

Commissioner Mathew made a motion to eliminate beer from the definition of alcohol. Commissioner Bond seconded the motion and it passed with three ayes.

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Commissioner Mathews made a motion that the establishments have adequate and sanitary kitchen facilities to store and prepare the food they serve to customers.

Commissioner Mathews made a motion that applicants be required to have 15% food sales at the time they are submitting their application to become a Limited Services Restaurant.

Commissioner Mathews made a motion that when calculating the food sales, the alcohol sales and the beverage sales, that liquor by the drink and sales taxes are not to be included in the food audit.

Commissioner Bond seconded the motions and they passed with 3 ayes.

- 8. DATE OF NEXT MEETING** – Thursday, November 18 and Thursday, December 16, 2010 at 1:30 p.m.

John A. Jones
Chairman

Shari Danielle Elks
Executive Director