

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
JUNE 10, 2015**

The following narrative and summary describes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road, Raleigh, North Carolina on June 10, 2015, beginning at 10:00 AM. The meeting was recorded and the disc is on file at the NC ABC Commission in the Legal Division.

ROLL CALL

Chairman James C. Gardner and Commissioners Joel L. Keith and Kevin M. Green were present. Chairman Gardner called the meeting to order.

MINUTES OF MAY 6, 2015

Chairman Gardner asked for a motion to waive the reading of the minutes of the May 6, 2015 meeting into the record. Commissioner Keith made a motion to waive the reading of the minutes from the May 6, 2015 meeting. Commissioner Green seconded the motion. Motion Passed. Chairman Gardner asked for a motion to approve the minutes of the May 6, 2015 meeting. Commissioner Green made a motion to approve the minutes from the May 6, 2015 meeting. Commissioner Keith seconded the motion. Motion Passed.

CONFLICTS OF INTEREST

As required by N.C.G.S. § 138A-35, Chairman Gardner asked if there were any conflicts of interest or any conditions or facts which might create the appearance of a conflict of interest with respect to any matters on the agenda. Commissioner Keith stated he found no conflicts of interest. Commissioner Green stated he found no conflicts of interest. Chairman Gardner found no conflicts of interest.

I. HEARING CASES – 65

Chief Counsel K. Renee Cowick stated hearing case number 1, Avenue Speedmart, was a contested case and also Assistant Counsel Tim Morse's case. Mr. Morse stated the violation was an underage sale and the case had been petitioned. The permittee was nonresponsive; therefore, the Administrative Law Judge issued a decision of a \$500.00 penalty and a 20-day suspension of the permittee's permits.

Commissioner Keith made a motion to impose the penalty of the Administrative Law Judge's decision. Commissioner Green seconded the motion. Motion Passed.

Commissioner Keith made a motion to ratify the remaining offers in compromise. Commissioner Green seconded the motion. Motion Passed.

II. ABC STORE LOCATION – ELKIN ABC BOARD

Administrator Robert A. Hamilton stated on April 14, 2015, the NC ABC Commission received a request from the Elkin ABC Board for approval to purchase property to open and operate an ABC Store in Elkin,

North Carolina. This unaddressed parcel is referred to as PIN #496201153339 in Surry County deed book 1198. On April 20, 2015, ABC Auditor Edwin Strickland and Compliance Officer Mark Hilton met with General Manager Cory Vestal.

The new store will replace the existing store located at 150 Brandywine Circle in Elkin. On June 30, 2015, the Elkin ABC Board will cease operations and on July 1, 2015, will become part of the new Yadkin Valley ABC Board, representing the towns of Elkin and Jonesville. The proposed location will serve both communities.

The Audit/Investigators found the proposed location to be an undeveloped lot located on CC Camp Road in Elkin, North Carolina. On May 4, 2015, Mr. Strickland confirmed the property is zoned B-2, Highway Commercial, and is approved for ABC sales.

The property is 1.389 acres and owned by Jackie and Judy Mills of Mount Airy, North Carolina. All Elkin ABC Board members submitted financial disclosure forms and have no direct financial interest in the ownership of the property. The asking price for the property is \$335,000.00. The proposed building will be tentatively 3,500 SF with plans to use one half of the space for retail sales and the remainder for warehouse and office space.

The nearest school, Elkin Elementary School, is approximately 3.4 miles from the proposed location. The nearest church, St. Home Missionary Baptist Church, is approximately 1.1 miles from the proposed location. The nearest ABC Store is located approximately 2 miles from the proposed location and will be closed upon its opening. The next closest ABC Store is located approximately 13.3 miles away and is operated by the Dobson ABC Board.

Mr. Hamilton stated notice to the public was posted on April 10, 2015. No objections have been received. The anticipated first year sales are \$1,500,000.00. Mr. Hamilton stated staff recommended approval of the proposed location. No one was present to comment on the proposed location.

Commissioner Green made a motion to approve the proposed location based upon staff's recommendation. Commissioner Keith seconded the motion. Motion Passed.

III. EXEMPTION REQUEST – N.C.G.S. § 18B-1116(b) – CAPITOL BROADCASTING COMPANY, INC. AND BULL DURHAM BEER CO., LLC

Ms. Cowick stated attorney Jennifer Morgan was present on behalf of her client, Bull Durham Beer Co., LLC. Also present was Jennifer Venable, Vice President and General Counsel of Capitol Broadcasting Company, Inc.

Ms. Morgan explained Capitol Broadcasting, Inc. through its subsidiaries, American Campus V, LLC and Blackwell Street Management Company, LLC, which is a 70% owner of ATC Development, LLC requires an exemption because of ownership relationships. As American Campus V, LLC owns Bull Durham Beer Co., which holds brewery permits, Capitol Broadcasting and Bull Durham Beer Co. require an exemption to allow Capitol Broadcasting's subsidiary Blackwell Street, to have an ownership interest in ATC Development, which will hold retail permits for the Aloft Durham Downtown Hotel.

Ms. Morgan stated the Aloft Hotel will be managed by an unrelated management company, David and Jones Hotel Corporation which will conduct all activity under the ABC retail permits for the Aloft Hotel through a management agreement.

Ms. Cowick recommended the ABC Commission grant the exemption under the defined terms. Commissioner Green made a motion to grant the exemption based upon the defined conditions. Commissioner Keith seconded the motion. Motion Passed.

IV. EXEMPTION REQUEST – N.C.G.S. § 18B-1116(b) – FRESH BEER DELIVERY COMPANY, LLC

Ms. Cowick stated Ms. Morgan also represented Fresh Beer Delivery Company, LLC. However, Ms. Cowick asked that this request be continued to the July Commission Meeting due to concerns by a party who could not be present for the June Meeting.

Commissioner Keith made a motion to continue the request. Commissioner Green seconded the motion. Motion Passed.

V. OTHER BUSINESS

Mr. Hamilton explained on June 10, 2015, the Rules and Review Commission contacted the Commission in reference to House Bill 909. This bill would affect the ABC Commission, therefore requiring temporary rules to be in place by September 1, 2015. Mr. Hamilton asked for authority from the Commission to begin the rule-making process enabling the proposed rule changes to be published within the required timeframe.

Commissioner Green made a motion to grant the authority based upon staff recommendations. Commissioner Keith seconded the motion. Motion passed.

Mr. Hamilton informed the Commission there would be a need to schedule a Special Meeting during the week of July 21 – 28, 2015 to adopt the rules to meet the legal requirements of deadlines.

Chairman Gardner announced the next NC ABC Commission meeting will be held on July 15, 2015.

Commissioner Keith made a motion to adjourn. Commissioner Green seconded the motion. With no further business, the meeting adjourned.

James C. Gardner, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

Caroline Y. Washburn for the Legal Division