

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
OCTOBER 15, 2014**

The following narrative and summary describes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road, Raleigh, North Carolina on October 15, 2014, beginning at 10:00 AM.

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 SEPTEMBER 17, 2014

Chairman Gardner asked for a motion to waive the reading of the minutes of the September 17, 2014 meeting into the record. Commissioner Keith made a motion to waive the reading of the minutes of the September 17, 2014 meeting. Commissioner Green seconded the motion. Motion Passed. Chairman Gardner asked for a motion to approve the minutes of the September 17, 2014 meeting. Commissioner Green made a motion to approve the minutes of the September 17, 2014 meeting. Commissioner Keith seconded the motion. Motion Passed.

CONFLICTS OF INTEREST

As required by North Carolina General Statute 138A-35, Chairman Gardner asked if there were any conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the agenda. Commissioner Keith stated he had found no conflicts of interest. Commissioner Green stated he had found no conflicts of interest. Chairman Gardner stated he had found no conflicts of interest.

I. HEARING CASES – 57

Chief Counsel K. Renee Cowick stated no one was present on behalf of the hearing cases on the agenda.

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

II. OTHER BUSINESS – ABC STORE LOCATION – WAKE COUNTY ABC BOARD

Administrator Michael C. Herring stated on September 12, 2014, the NC ABC Commission received a request from the Wake County ABC Board, requesting approval to purchase land to open and operate an ABC Store at 0 Waldo Rood Boulevard in Cary, North Carolina. On September 23, 2014, ABC Audit/Investigators Edwin Strickland and Michael Arcangel met with Craig Pleasants, the General Manager of the Wake County ABC Board and began an investigation. Mr. Pleasants indicated the

proposed location is 1.5 miles from an existing store. The existing location at 4244 NW Cary Parkway, Cary, North Carolina will be sold upon the tentative June 2015 opening of the proposed location.

The Investigators found the proposed location was 0 Waldo Rood Boulevard, Cary, North Carolina. The property is a 1.055-acre vacant lot located in a commercial shopping center, Plaza Shoppes on the Parkway. Other tenants at the shopping center include The Fresh Market and Char Grill.

On September 30, 2014, Mr. Arcangel confirmed with the Town of Cary Planning Department, the property is zoned GC, General Commerce, and is approved for ABC retail sales.

The property is owned by Towne Village Partners, LLC of Greensboro, North Carolina. The agreed upon sales price is \$900,000. All Wake County ABC Board members submitted financial disclosure forms and have no direct financial interest in the ownership of the property.

Mr. Pleasants stated a 7,000 SF building is tentatively planned including a loading dock and more parking than the existing store.

The nearest school, Davis Drive Elementary School located at 2151 Davis Drive, Cary, North Carolina, is approximately .8 miles from the proposed location. The nearest church, Peace Presbyterian Church located at 1777 West Chatham Street, Cary, North Carolina, is approximately 1 mile from the proposed location.

Currently, the nearest ABC Store is located approximately 1.5 miles from the proposed site at 4244 NW Cary Parkway, Cary, North Carolina. This location will be closed and the building sold upon the opening of the proposed location. The next closest ABC Store is located at 4009 Davis Drive, Morrisville, North Carolina, approximately 4.6 miles away and is also operated by the Wake County ABC Board.

The projected annual sales of the proposed ABC Store during the first year of operation are approximately \$3.5 million.

Mr. Herring stated notice to the public was properly posted on September 12, 2014. Mr. Herring stated Mr. Pleasants had confirmed, as of October 14, 2014, the Wake County ABC Board has not received any comments regarding the proposed location. Mr. Herring stated the ABC Commission has not received any comments regarding the proposed location. Mr. Herring recommended approval of the proposed location.

Commissioner Keith made a motion to approve the proposed location. Commissioner Green seconded the motion. Motion Passed.

III. OTHER BUSINESS – EXEMPTION REQUEST – N.C.G.S. § 18B-1116(b) GRAIN RALEIGH, LLC, T/A TROPHY BREWING; 225 SOUTH WILMINGTON TENANT, LLC, T/A BUSY BEE CAFÉ AND RESTAURANT AND STATE OF BEER, LLC, T/A STATE OF BEER

Ms. Cowick stated Laura Collier, attorney for Grain Raleigh, LLC, 225 South Wilmington Tenant, LLC and State of Beer, LLC was present with David Meeker, an owner of the three entities, to request an exemption on behalf of the businesses. Ms. Cowick stated an exemption had been previously granted by the Commission on March 20, 2013 allowing Mr. Meeker's concurrent ownership in Trophy Brewing and Busy Bee provided Busy Bee did not sell Trophy Brewing products.

Ms. Collier stated Busy Bee and State of Beer wish to sell Trophy Beer products as a small percentage, 1%, of the products offered within their establishments. Ms. Collier stated Trophy Brewing would negotiate with third-party wholesalers to distribute its malt beverage products and Trophy Brewing may also act as a wholesaler as long as its production does not exceed 5,000 barrels annually. Also, the affiliated retailers, Busy Bee and State of Beer, would hire a general or assistant manager to control the order of malt beverage products of Trophy Brewing products who does not have a financial interest or corporate control.

Ms. Cowick recommended the ABC Commission grant the exemption under these terms.

Commissioner Keith made a motion to grant the exemption based upon the defined conditions. Commissioner Green seconded the motion. Motion Passed.

IV. OTHER BUSINESS – EXEMPTION REQUEST – N.C.G.S. § 18B-1116(B) – HAPPY & HALE, LLC; MICHAEL D. OLANDER, JR.; LONE RIDER BREWING COMPANY

Ms. Cowick stated no one was present regarding the exemption request; however, Michael Olander owns non-voting shares of Lone Rider Brewing Company and also owns 25% of Happy & Hale, LLC which is in the process of applying for retail ABC permits. Mr. Olander requested an exemption to allow a manufacturer, bottler or wholesaler to have a direct or indirect financial interest in the business of an alcoholic beverage retailer. Ms. Cowick stated Happy & Hale would not sell Lone Rider products and recommended approval of the exemption request.

Commissioner Green made a motion to grant the exemption based upon the defined conditions. Commissioner Keith seconded the motion. Motion Passed.

V. OTHER BUSINESS – EXEMPTION REQUEST – N.C.G.S. § 18B-1116(b) – LU MIL VINEYARD, INC. D/B/A LU MIL VINEYARD

William Potter attorney for Lu Mil Vineyard, Inc., a wine producer, was present with Denise Taylor Bridgers, an owner of the business, to seek an exemption allowing Lu Mil Vineyard to obtain a retail ABC permit for its State Farmers Market business location.

Mr. Potter explained previously, Lu Mil Vineyard had been allowed to conduct its business activities under its Winery Special Event permit. The Winery Special Event Approval had been granted through May 1, 2015. Lu Mil Vineyard requests an exemption to allow the business to obtain an Unfortified Wine Off Premise permit to sell bottles of wine to consumers. Also, if Lu Mil Vineyard wishes to continue allowing consumers to sample its products, it may apply for a Wine Tasting Permit.

Ms. Cowick stated the definition of the Winery Special Event permit has changed and the permissions previously granted were too broad. An exemption is necessary to allow for retail permits as Lu Mil Vineyard holds wine producer permits. Ms. Cowick recommended approval of the exemption.

Commissioner Keith made a motion to grant the exemption based on the defined conditions. Commissioner Green seconded the motion. Motion Passed.

VII. OTHER BUSINESS – FUTURE NC ABC COMMISSION MEETING DATES

Mr. Herring stated the next Commission Meeting is scheduled for Wednesday, November 12, 2014. Mr. Herring recommended the Commission approve Wednesday, January 14, 2015, as the date of the January NC ABC Commission Meeting; Wednesday, February 11, 2015, as the date of the February NC ABC Commission Meeting; and, Wednesday, March 11, 2015, as the date of the March NC ABC Commission Meeting.

Commissioner Green made a motion to approve the dates as future NC ABC Commission meeting dates. Commissioner Keith seconded the motion. Motion passed.

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

Approved at the November 12, 2014 Commission Meeting

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

Respectfully submitted by,

/S/ Caroline Y. Washburn
Caroline Y. Washburn for the Legal Section