

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
APRIL 16, 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 April 16, 2014, beginning at 10:00 AM. The meeting was recorded and the disc is on file at the 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 MARCH 19, 2014

Chairman Gardner asked for a motion to waive the reading of the minutes of the March 19, 2014 meeting into the record. Commissioner Green made a motion to waive the reading of the minutes from the March 19, 2014 meeting. Commissioner Keith seconded the motion. Motion Passed. Chairman Gardner asked for a motion to approve the minutes of the March 19, 2014 meeting. Commissioner Green made a motion to approve the minutes from the March 19, 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 Green stated he had found no conflicts of interest. Commissioner Keith stated he had found no conflicts of interest. Chairman Gardner stated he had found no conflicts of interest.

I. HEARING CASES – 53

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

Ms. Cowick stated hearing case #36 was to be continued to the May 2014 NC ABC Commission Meeting.

Ms. Cowick stated Jimmy Dahir of Dahir Brothers, Inc. owner of Lloyds Quick Mart was present on behalf of the business. Ms. Cowick explained the case was not on the April Commission Meeting agenda and asked if the Commission would allow them to speak regarding a recent violation.

Chairman Gardner stated as they were present they would be allowed to address the Commission. Assistant Counsel Timothy Morse stated they were present due to miscommunication. Mr. Morse stated the violation resulted from an underage sale during a campaign conducted by the local police department and ALE. The employee, Billy Gene Garner who was also present, failed to check identification and sold to an underage person.

Mr. Dahir stated Mr. Garner did not ask for identification, but did ask the underage female if she was old enough to purchase alcohol. Mr. Garner stated the young lady did look old enough and sold her the alcohol.

Chairman Gardner stated underage drinking is taken very seriously by the ABC Commission, as an underage person is killed every week in North Carolina in events related to underage drinking. Chairman Gardner stated the permittee and the employees are responsible for asking every person purchasing alcohol for identification. Even though mistakes occur, the ABC Commission must remain consistent with all violations.

Commissioner Green made a motion to accept the penalty as set by ABC Commission staff. Commissioner Keith 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. OTHER BUSINESS – ABC STORE LOCATION – GATES COUNTY ABC BOARD

Administrator Michael C. Herring stated on February 19, 2014, the NC ABC Commission received a request from G. P. Kittrell, Jr., Gates County ABC Board Chairman, requesting approval to build and operate a new ABC Store in Eure, North Carolina.

On March 10, 2014, ABC Audit/Investigators Edwin Strickland and Melissa Miller began an investigation and found the proposed location for the Gates County ABC Board Store was 29 US Highway 158 South, Eure, North Carolina. The proposed store will replace an ABC Store which had operated approximately .5 miles away at 140 US Highway 158 South, Eure, North Carolina. This store had been vacated due to the NC Department of Transportation Project #35488.2.1, the widening of US Highway 158.

The proposed location is a parcel of approximately one acre previously purchased by the Gates County ABC Board. The proposed location is located near the merger of US Highway 158 and NC Highway 13. The surrounding area is being redeveloped due to the highway project and construction of a new intersection. The shopping area includes a restaurant and tanning salon.

On March 28, 2014, Mr. Strickland confirmed with the Gates County Planning and Development Services the property is zoned Commercial and is acceptable for an ABC store.

The property is owned by the Gates County ABC Board. It was purchased on February 1, 2013 from James Earl Taylor for a purchase price of \$30,000. All Gates County ABC Board Members submitted financial disclosure forms regarding the property and have no direct financial interest in the ownership of the property.

The building is tentatively planned to be a 1970 SF building modeled primarily on the Gates County ABC Store located at 730 NC 32, Corapeake, North Carolina 27926. The proposed store will be a little smaller with less storage space, therefore less expensive to construct. The building is projected to have 1396 SF of retail space and 574 SF of storage. The plans do not include a loading dock, instead a two-door entrance will allow for unloading merchandise. The board plans to supply this location from the warehouse at the Corapeake ABC Store.

The nearest school, Damascus Bible College, is approximately 2.5 miles from the proposed location. The nearest public school, Gatesville Elementary School is approximately 7.8 miles from the proposed location. The nearest church, St. John Community Christian Church, is approximately 1.8 miles from the proposed location.

The nearest ABC Store is located approximately 7.7 miles away at 603 North Main Street, Winton, North Carolina and is operated by the Hertford County ABC Board. The closest store operated by the Gates County ABC Board is located at 730 NC 32 Corapeake, North Carolina, approximately 19.7 miles from the proposed site.

Projected annual sales of the proposed ABC Store are approximately \$450,000.00.

Notice to the public was properly posted on March 5, 2014. As no objections had been received by the ABC Commission or the Gates County ABC Board, Mr. Herring recommended the ABC Commission approve the site as a suitable location for an ABC Store.

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

III. OTHER BUSINESS – MERGER TOWN OF SYLVA ABC BOARD WITH JACKSON COUNTY ABC BOARD

Mr. Herring stated the NC ABC Commission received a request from the Jackson County Manager and the Town of Sylva for approval of a merger between the ABC Boards. On April 15, 2014, the NC ABC Commission received confirmation from Chuck Wooten, Jackson County Manager, the governing boards of the Town of Sylva and Jackson County had voted unanimously to merge the Town of Sylva ABC Board and the Jackson County ABC Board.

Mr. Herring stated under § 18B-703, the conditions for a merger of local ABC Boards are as follows: the stores operated by the systems of those jurisdictions serve the same general area or are in close proximity to each other; and, the merger is approved by the Commission.

Mr. Herring stated in May 2012, Jackson County voted to allow all alcohol sales and for ABC Stores. Also, in July 2013, a new ABC Store was added in Cashiers, North Carolina. Mr. Herring added the Commission believes mergers are positive as they eliminate competition for sales between ABC Boards. The Sylva ABC Board would possibly lose existing mixed beverage profits to the Jackson County ABC Board.

The two governing bodies requested the merger become effective May 1, 2014. The new Jackson County ABC Board would be comprised of three members appointed by Jackson County and two members appointed by the Town of Sylva.

Mr. Herring recommended approval of the merger. Commissioner Green stated the merger made economic sense. Chairman Gardner commended Director Laurie Lee for her work assisting the two boards with the merger.

Commissioner Keith made a motion to approve the merger. Commissioner Green seconded the motion. Motion passed.

IV. OTHER BUSINESS – CONSIDERATION OF PROPOSED PERMANENT RULES AND IMPACT ANALYSES

Deputy Administrator Robert Hamilton sought approval of the proposed permanent rules and the corresponding Impact Analyses with the ability to make technical changes, if necessary.

Commissioner Keith made a motion to approve proposed permanent rules and the corresponding Impact Analyses with the ability to make technical changes if required by the Rules Review Commission. Commissioner Green seconded the motion. Motion passed.

Chairman Gardner stated the next ABC Commission meeting was changed from Wednesday, May 7, 2014 to Monday, May 12, 2014.

Mr. Herring announced Frances Miller had joined the Permit Applications Investigation/Audit Division as an auditor. Chairman Gardner commended Director Vera Smith for the work the Division has done with the investigations.

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

Approved at the May 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