

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
JANUARY 11, 2017**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road in Raleigh, North Carolina on January 11, 2017, beginning at 10:00 AM. The meeting was recorded and the disc is on file at the NC ABC Commission within the Legal Division.

ROLL CALL

Chairman James C. Gardner and Commissioner Michael C. Herring were present. Chairman Gardner called the meeting to order.

MINUTES OF DECEMBER 7, 2016

Chairman Gardner asked for a motion to waive the reading of the minutes of the December 7, 2016 meeting into the record. Commissioner Herring made a motion to waive the reading of the minutes. Chairman Gardner seconded the motion. Motion Passed. Chairman Gardner asked for a motion to approve the minutes of the December 7, 2016 meeting. Commissioner Herring made a motion to approve the minutes. Chairman Gardner 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 Herring stated he found no conflicts of interest. Chairman Gardner stated he found no conflicts of interest.

I. CONTESTED CASES AND OFFERS IN COMPROMISE – 84

Chief Counsel Renee C. Metz stated a representative for case number 63, D and T Mini Mart, was present regarding the Offer in Compromise. Mrs. Metz stated the case had been on the previous Commission Meeting agenda, but the permittee asked for it to be postponed due to medical issues. Anil Patel, the owner of the business, was present to explain the circumstances of the violation.

Chairman Gardner stated he appreciated Mr. Patel attending the meeting. Mr. Patel stated he had been in business for about ten years and recently different employees had been cited for sales to underage individuals. He stated he was trying to implement new policies to curtail underage drinking. In this case, Mr. Patel explained the employee was new, the store was very busy and the employee did not check identification.

Mr. Patel stated the employee was terminated, but has since returned to the business. Mr. Patel stated he believed the sale was a mistake and not intentional. Mr. Patel stated he understands the issues with alcohol, as he lost a cousin at 18 due to an accident in which the driver was DUI, and at 24 he lost his

father to alcoholism. Mr. Patel stated he does take the subject very seriously and emphasizes to employees to check identification and do not sell if questionable. He stated he has taken extra precautions, adding more information around the register and the purchase of a new cash register and is also considering a scanner system.

Chairman Gardner stated the ABC Commission takes sales to those under the age of 21 very seriously. He explained the Commission has taken a zero tolerance position, as innocent people have been killed due to underage drinking. Chairman Gardner explained the Commission had decided several years prior a line must be drawn regarding sales to underage individuals. Chairman Gardner stated he appreciated Mr. Patel's understanding what the Commission is trying to accomplish, but the responsibility remains with the permit holders. Chairman Gardner added the ABC Commission is doing everything it can to reduce underage drinking. He thanked Mr. Patel for attending.

Mrs. Metz stated the permittee for hearing case number 7, Circle Up Quick Mart, was unable to attend the Commission Meeting; however, T.G. Lovett, the owner of a business in Columbus County, had included a letter with the signed Offer in Compromise. Chairman Gardner stated the case was unusual as the business had been flooded by Hurricane Matthew.

Commissioner Herring agreed with Chairman Gardner and made a motion to ratify the remaining cases with the exception of hearing case number 7, which would receive a Written Warning. Chairman Gardner seconded the motion. Motion Passed.

II. EXEMPTION REQUEST – G.S. § 18B-1116(b) – BULL DURHAM BEER CO., LLC AND BULL CITY HOSPITALITY, LLC

Mrs. Metz stated Jennifer Morgan was present on behalf of her clients. Mrs. Morgan stated she was present on behalf of Bull Durham Beer Co., LLC and Bull City Hospitality, LLC. Mrs. Morgan added Jennifer Venable, general counsel for Capitol Broadcasting Company was also present.

Mrs. Morgan explained she was present to request an addendum to an exemption previously granted by the ABC Commission to Bull Durham Beer, a brewery and wholesaler located within the Durham Bulls stadium, and to Bull City Hospitality, the concessionaire at the Durham Bulls stadium. Mrs. Morgan explained the two businesses are owned by separate legal entities; however, they share an affiliation as both parent companies are owned by Capitol Broadcasting.

Mrs. Morgan stated Bull City Hospitality has opened a second location, the Bullpen, within the American Tobacco Campus. Mrs. Morgan stated the Bullpen has temporary on-premise malt beverage and unfortified wine permits, and may add mixed beverages at a later date. Mrs. Morgan added the business will sell beer and wine, as well as wings and other food. In addition, the business intends to donate \$1.00 for each pint of beer sold to a nonprofit organization, Music Maker Relief Foundation.

Mrs. Morgan stated the original exemption allows for one retail outlet and this requested addendum will allow for the second location. Mrs. Morgan stated, per the original exemption, Bull Durham Beer will not have any decision making authority over Bull City Hospitality and the retail entities. The Bullpen will have an independent manager in control of ordering the malt beverages.

Mrs. Metz recommended approval. Commissioner Herring made a motion to approve the addendum to the existing exemption. Chairman Gardner seconded the motion. Motion Passed.

III. EXEMPTION REQUEST – G.S. § 18B-1116 – HUNTINGTON’S OF CARRBORO, INC., T/A TYLER’S TAPROOM; PIT BOSS, INC., T/A TYLER’S TAPROOM; T-3 RESTAURANTS, INC., T/A TYLER’S TAPROOM AND TWO DOORS DISTILLING, LLC; TYLER HUNTINGTON, DANIEL KULENIC AND ROBERT STOVER, JR.

Mrs. Metz stated Kathie Russell was present on behalf of her clients. Mrs. Russell stated the three Tyler’s Taproom businesses were owned by three different corporations; however, they do share some common ownership. Two Doors Distilling, LLC is owned by Liquidity Investments, LLC whose members are Mr. Huntington, Mr. Kulenic and Mr. Stover. These members are partial owners of the three Tyler’s Taproom businesses. All three businesses are operated by independent managers who have the responsibility of ordering liquor for the businesses. Mrs. Russell stated there would be no obligation or pressure to sell the Two Doors Distilling products and, if carried, they would only be a small percentage of the overall selection.

Mrs. Metz stated staff recommended approval of the exemption. Commissioner Herring asked what products will be distilled. Tyler Huntington came forward to explain they would be distilling gin, rum and whiskey. The gin would be distilled first and the other products would be added at a later date.

Commissioner Herring made a motion to approve the exemption request. Chairman Gardner seconded the motion. Motion Passed.

IV. EXEMPTION REQUEST – G.S. §18B-1116(b) – OAK CITY MARKET, LLC, T/A LITTLE CITY BREWING; LITTLE CITY TAVERN, LLC (RETAIL) AND EAST HARGETT ENTERTAINMENT (RETAIL); JONATHAN SEELBINDER

Mrs. Metz stated John Syzmankiewicz was present on behalf of his clients. Mr. Syzmankiewicz stated Jonathan Seelbinder was the sole owner of Oak City Market, LLC d/b/a Little City Brewing which holds temporary ABC permits. Mr. Seelbinder is also the majority owner of several other businesses permitted by the ABC Commission through Little City Tavern, LLC and East Hargett Entertainment.

Mr. Syzmankiewicz stated Mr. Seelbinder is the sole owner of Little City Brewing which has a target production of 1000 barrels per year within the next three to five years. They expect to produce less than a couple hundred barrels in 2017. Little City Brewing’s intention is for 70% of the product to be sold on site in the taproom. The exemption requested is to allow the product to be sold at the other retail locations. Mr. Syzmankiewicz stated independent managers make the ordering decisions and a variety of other products will be offered. He added the general volume of beer sold at the establishments is relatively small, approximately 6 to 10 kegs per week, as most of the alcohol revenue is through selling cocktails.

Commission Herring made a motion to approve the exemption request. Chairman Gardner seconded the motion. Motion Passed.

V. ABC STORE LOCATION – RAMSEUR ABC BOARD (RAMSEUR)

Administrator Robert A. Hamilton stated the Ramseur ABC Board requested approval to lease a property to open their first ABC Store at 104 Weatherly Square in Ramseur, North Carolina. The anticipated opening of the proposed store is in March 2017.

The proposed location is located in the center of an “L” shaped strip shopping center directly off US Highway 64. The property is zoned Business and allows for an ABC Store.

The property is owned by Ben Albright and there are no personal or financial interests shared between the property owner and the Ramseur ABC Board members. Financial disclosure forms have been provided by the Ramseur ABC Board members. The lease price for the space is \$2,000.00 per month for ten years.

The proposed site is 2,792 SF, of which 60% will be used for retail space and the remainder will be used for an office and storage. Mr. Hamilton stated there are issues with the ability of LB&B’s trucks to deliver the spirituous liquor to the store. The lease stipulates the landlord will make improvements to allow for the delivery by the LB&B tractor trailers. The town officials of Ramseur have agreed to work with the Board and landlord regarding the improvements and making the loading dock accessible. Letters are attached from the Town of Ramseur and the landlord. Mr. Hamilton stated staff is satisfied these improvements will be made.

The nearest school, Ramseur Elementary School, is located approximately .2 miles away. The nearest church, Friendship Independent Church is located approximately .3 miles away. The nearest ABC Store is located approximately 10 miles away in Liberty, North Carolina and is operated by the Liberty ABC Board. Ramseur is located midway between Asheboro, approximately 10.5 miles away and Siler City, approximately 11.9 miles away.

Mr. Hamilton stated the required sign announcing the ABC Board’s intention to open an ABC Store was properly posted at the site on October 18, 2016. To date, no objections have been received. Mr. Hamilton added the projected first year sales figure has been amended and is \$650,000.00. Chairman Gardner asked what the original projection was previously. Mr. Hamilton stated it had been \$900,000.00.

Mr. Hamilton stated staff recommends approval of the proposed location with the understanding the trucks must be able to make deliveries to the store. He added the Ramseur ABC Board Chairman Charles Lane and Board Members Ray Albright and John Allen were present to answer questions.

Commissioner Herring asked about the projected first year sales of \$650,000.00 as threshold for profitability requires sales of \$1,000,000.00. Mr. Hamilton stated the figures were also dependent upon the lease or purchase price of the property and if building a store was required. Mr. Hamilton added the Town of Ramseur was very committed to the ABC Store and will offer as much assistance as possible. Mr. Hamilton confirmed with Laurie Lee, Director of ABC Board Audit and Pricing the \$1,000,000.00 amount for profitability. Mr. Hamilton added this was the first year and there was anticipated growth for future sales.

Chairman Gardner welcomed the Ramseur ABC Board members. Mr. Lane expressed his appreciation to the ABC Commission for their assistance. He added the Board feels confident regarding the driveway and accessibility. Mr. Lane confirmed Weatherly Street is narrow; however, trees are being removed from across the street to allow extra room for the LB&B truck.

Chairman Gardner asked if Mr. Lane was confident regarding the projected sales. Mr. Lane stated the estimated figure was for the entire year, but this store’s anticipated opening is in March 2017 so it would not be a full year. Mr. Lane added the Asheboro, Siler City and Liberty ABC Stores all have good sales. He stated Asheboro is a long drive and Ramseur’s population is growing. He added, as the location is on Highway 64 and the Town of Ramseur’s full participation, will also help the store be successful.

Mr. Hamilton stated staff recommends approval of the proposed location. Commissioner Herring made a motion to approve the proposed location on staff's recommendation. Chairman Gardner seconded the motion. Motion Passed.

VI. ABC STORE APPROVAL – WARREN COUNTY ABC BOARD (LITTLETON)

Mr. Hamilton stated the Warren County ABC Board requested approval to purchase land to build and operate a new ABC Store on the property currently listed as Lot 1, Still Water Creek Drive in Littleton, North Carolina. The proposed store will replace a currently leased store located approximately .4 miles away. The proposed store is planned to open in February 2018 as the existing lease expires in March 2018.

The proposed lot is located on the undeveloped corner of Lizard Creek Road and Stillwater Creek Drive. The property is zoned Neighborhood Business and allows for an ABC Store.

The property is owned by John and Marilyn Gray of Chesapeake, Virginia. There are no personal or financial interests shared between the property owners and the Warren County ABC Board members. Financial disclosure forms have been provided by the Warren County ABC Board members. The purchase price for the 1.28 acre property is \$70,000.00. The board tentatively plans to build a 3,500 SF building.

The nearest school, Vaughan Elementary School, is located approximately 10.2 miles away. The nearest church, Lakeside Lutheran Church is located approximately .5 miles away. The nearest ABC Store is located approximately .4 miles away and will be closed upon the opening of the new store. The next closest ABC Store is located approximately 10 miles away in Littleton.

Mr. Hamilton stated the required sign announcing the ABC Board's intention to open an ABC Store was properly posted at the site on November 11, 2016 and was moved closer to the property line on November 18, 2016. To date, no objections have been received. Mr. Hamilton added the anticipated first year sales are \$1,158,000.00. Chairman Gardner asked about the current store's sales volume. Mr. Hamilton confirmed with Investigator Edwin Strickland the current annual sales are \$1,082,611.00.

Mr. Hamilton stated with current growth rates, staff recommends approval of the proposed location.

Commissioner Herring stated the property appeared to be located on a lake. Mr. Hamilton confirmed it was close to a lakeside development. Commissioner Herring made a motion to approve the proposed location. Chairman Gardner seconded the motion. Motion Passed.

VII. OTHER BUSINESS

Mr. Hamilton asked the Commission to consider for approval, Wednesday, April 12, 2017 as the date of the April ABC Commission meeting to allow the legal staff to plan their cases.

Commissioner Herring made a motion to schedule the meeting as requested on April 12, 2017. Chairman Gardner seconded the motion. Motion Passed.

Mr. Hamilton stated he appreciated their work and it had been a pleasure to serve under Chairman Gardner and Commissioners Herring and Green.

Chairman Gardner introduced Wayland Burton, the Chair of the Durham County ABC Board, and declared he had been great to work with the past several years. Mr. Burton stated he wished to express the appreciation of the Durham County ABC Board to Chairman Gardner and the ABC Commission for the leadership and help provided to the Board, especially regarding the Talk It Out campaign. Mr. Burton commended the Chairman and Commission for their work to reduce sales to underage individuals in Durham County to prevent those tragic accidents. Mr. Burton stated he had served in the military for 36 years and appreciated the integrity and honor shown by Chairman Gardner and ABC Commission.

Chairman Gardner commended Mr. Burton for outstanding leadership with the underage drinking initiative and is confident it had saved lives and will continue to save lives, due to the efforts of Chairmen like Mr. Burton.

Commissioner Herring stated it has been an honor and privilege to serve with Chairman Gardner and confirmed much had been accomplished during the last four years.

Chairman Gardner commended the 55 employees of the NC ABC Commission. He stated it had been an honor to work with the staff. Chairman Gardner added he has a great deal of respect for the outstanding work done in this office, as well as in the field. He stated North Carolina was better for the work done by this staff, and with a volatile product. Chairman Gardner thanked Mr. Hamilton and the staff.

Chairman Gardner announced the next NC ABC Commission meeting will be held on Wednesday, February 8, 2017 and asked for a motion for adjournment.

Commissioner Herring made a motion to adjourn. Chairman Gardner seconded the motion. With no further business, the meeting adjourned.

Approved at the February 8, 2017 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