

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
APRIL 12, 2017**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road in Raleigh, North Carolina on April 12, 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 A.D. Zander Guy, Jr. and Commissioner Michael C. Herring were present. Chairman Guy called the meeting to order.

MINUTES OF MARCH 8, 2017

Chairman Guy asked for a motion to waive the reading of the minutes of the March 8, 2017 meeting into the record. Commissioner Herring made a motion to waive the reading of the minutes. Chairman Guy seconded the motion. Motion Passed. Chairman Guy asked for a motion to approve the minutes of the March 8, 2017 meeting. Commissioner Herring made a motion to approve the minutes. Chairman Guy seconded the motion. Motion Passed.

CONFLICTS OF INTEREST

As required by N.C.G.S. § 138A-35, Chairman Guy 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 Guy stated he found no conflicts of interest.

I. CONTESTED CASES AND OFFERS IN COMPROMISE – 88

Chief Counsel Renee C. Metz asked for case number 40 to be removed from the Agenda as the ownership has changed and a new application for permits has been submitted. Mrs. Metz asked for case number 55 to be removed from the Agenda as the Offer In Compromise required corrections. Mrs. Metz asked for case number 67 to be removed from the Agenda as the permittee has requested additional time to collect the penalty.

Chairman Guy asked Commissioner Herring if he had any concerns with the remaining cases. Commissioner Herring requested case numbers 68 and 57 be removed from the Agenda. Mrs. Metz inquired if the Offers in Compromise were to be withdrawn and renegotiated. Commissioner Herring confirmed this as the reason for removal.

Mrs. Metz stated no one was present on behalf of the remaining cases on the agenda and asked the Commission to ratify the Offers in Compromise.

Commissioner Herring stated he had a question regarding case number 24. Commissioner Herring stated the business sounded familiar and asked if a fatality had recently occurred at the location. Mrs. Metz confirmed an agent had stated there was an investigation regarding a fatality. Mrs. Metz stated the individual's blood alcohol level had been between .23 - .26.

Assistant Counsel Rachel Spears stated a patron of the business was involved in a fatal auto accident. The individual left the establishment, returned home, then subsequently drove again and was the fatality in the accident.

Commissioner Herring made a motion to reject the proposed Offer in Compromise to allow for renegotiation. Chairman Guy seconded the motion. Motion Passed.

Mrs. Metz requested the Commission ratify the remaining Offers in Compromise, excluding those which had been removed.

Commissioner Herring made a motion to ratify the remaining cases. Chairman Guy seconded the motion. Motion Passed.

II. ABC STORE LOCATION – CONCORD ABC BOARD

Administrator Robert A. Hamilton stated the Concord ABC Board had requested approval to purchase property to build and operate a new ABC Store at 809 Church Street in Concord, North Carolina. Mr. Hamilton stated the new store would replace an existing store located .2 miles away. Mr. Hamilton stated the structure currently existing on the proposed property would be demolished and a new store would be built.

Mr. Hamilton stated the property is zoned C-2 (General Commercial) and allows for an ABC Store. The property is owned by ECB, LLC who will demolish the existing structure and build a new building as stated in the Purchase and Sale Agreement. The purchase price is shown as \$1,762,843.00. There are no personal or financial interests shared between the property owner and the Concord ABC Board members. Financial disclosure forms have been provided by the Board members.

The proposed building will be approximately 4,300 SF, of which approximately 3,000 SF will be used for retail space.

Mr. Hamilton stated the nearest school is located approximately .5 miles away. The nearest church is located approximately .4 miles away. The nearest ABC Store is located approximately .2 miles away and will cease operation upon the opening of the new store. The next nearest ABC Store is located approximately 2.7 miles away and is also operated by the Concord ABC Board.

Mr. Hamilton stated notice to the public was posted at the location on March 8, 2017 and relocated on the property on March 9, 2017 meeting ABC requirements. Mr. Hamilton stated three objections have been received regarding the proximity to a residential area. Mr. Hamilton stated a positive comment had also been received regarding the proposed location and its accessibility. Mr. Hamilton added the customer response at the existing store has been very positive regarding the proposed location due to the traffic conditions at the existing store.

Mr. Hamilton stated the first year sales were anticipated at \$2,250,000.00. Mr. Hamilton stated staff recommended approval of the proposed location.

Chairman Guy asked if anyone was present with objections to the proposed location. No one was present with objections.

Gary Walker, the Chairman of the Concord ABC Board, was present and thanked the Commission. Mr. Walker stated the existing store had been at that location since 1969. Mr. Walker explained the store is in dire need of upfitting and a parking lot as the road widening has taken their existing lot. Currently the Concord ABC Board leases a neighboring parking lot. The owner of the parking lot has provided notice to the Board the current lease will end in about a year.

Mr. Walker stated the proposed location is .2 miles from the existing store. Mr. Walker added Church Street is a main thoroughfare into downtown Concord and the new store will be at a much better location. Mr. Walker explained Concord is growing rapidly and now the Board has six stores. Mr. Walker stated Cabarrus County and Concord are growing exponentially and the sales are increasing month over month.

Commissioner Herring asked Mr. Walker about the system's annual sales. Mr. Walker estimated the Board's annual sales would be close to \$30,000,000.00. Mr. Walker stated a new store was added a couple of years previous and has already exceeded expectations. He explained there is a lot of growth in the corridor connecting to Charlotte.

Commissioner Herring made a motion to approve the proposed location based on staff's recommendation. Chairman Guy seconded the motion. Motion Passed.

III. ABC STORE LOCATION – HOKE COUNTY ABC BOARD

Mr. Hamilton stated the Hoke County ABC Board requested approval to lease property to open an ABC Store at 2210 Flagstone Lane, Unit 235 in Raeford, North Carolina. Mr. Hamilton added this would be the second store for the Hoke County ABC Board.

Mr. Hamilton explained the property is zoned Highway Commercial and allows for an ABC Store. The property is owned by Township Developers, LLC and there are no personal or financial interests shared between the property owner and the Hoke County ABC Board members. Financial disclosure forms have been provided by the Board members. Mr. Hamilton stated the lease would be for five years at \$2,990.00 per month. Additionally, Mr. Hamilton explained, the Hoke County ABC Board would have the option to terminate the lease after three years if the ABC Store was not profitable.

Mr. Hamilton stated the building is 2,100 SF of which 1,365 SF would be used for retail space and the remaining 735 SF would be used for warehousing, restrooms and office space.

Mr. Hamilton stated the nearest school is located approximately 3.8 miles away and there is a daycare approximately .2 miles from the proposed location. The nearest church is located approximately 1,800 feet from the proposed store. The nearest ABC Store is located approximately 3.8 miles away on Raeford Road in Fayetteville. The other Hoke County ABC Store is located approximately 8.7 miles from the proposed location.

Mr. Hamilton stated the sign was posted on February 27, 2017, moved on March 9, 2017 and remained posted through April 8, 2017. Mr. Hamilton added no objections to the proposed location have been received.

Mr. Hamilton stated the projected first year sales were \$680,000.00. Mr. Hamilton explained Hoke County had previously offered to loan the Hoke County ABC Board the funds for the upfit; however, the

Board decided to secure a loan from Fidelity Bank for \$150,000.00. Mr. Hamilton stated staff recommended approval of the proposed location

Mr. Hamilton added Hoke County ABC Board member Dooie Leach and Mike Summers, the General Manager of the Hoke County ABC Board, were present. Mr. Leach stated the Hoke County ABC Board is excited about the opportunity to add a new store. Mr. Leach explained the Hoke County ABC Board had been operating with one store since 1962. Mr. Leach added with the proximity of Fayetteville and the Army base, there has been robust residential growth.

Mr. Leach stated the existing store currently has annual sales of \$1,500,000.00 with profits in the \$165,000.00 range. He added he believed the projections for the proposed store would be low. Mr. Leach stated the Cumberland County ABC Store, located approximately 4 miles away in a very congested Walmart shopping center, has very strong sales. Mr. Leach added the new store will benefit as its accessibility will be much better. Mr. Leach thanked the Commission for its support.

With no further questions, Commissioner Herring made a motion to approve the proposed location based on staff's recommendation. Chairman Guy seconded the motion. Motion Passed.

IV. OTHER BUSINESS

Mr. Hamilton stated there was no further business.

Mrs. Metz introduced Karen Webb of the Alamance Citizens for a Drug Free Community. Mrs. Webb stated their focus areas include underage drinking and excessive alcohol use. Mrs. Webb thanked the ABC Commission for its work to help keep the children and community safe through its close observation and policies. Mrs. Webb expressed gratitude for North Carolina as a control state.

Chairman Guy stated the Underage Initiative started by former Chairman Gardner was very important to the Commission and the Commission's intentions are to continue the program.

Chairman Guy asked if anyone else was present to address the Commission. As no one else was present, Chairman Guy thanked those in attendance and declared the meeting adjourned.

Approved at the May 10, 2017 Commission Meeting

 /S/ A.D. "Zander" Guy, Jr.
A.D. "Zander" Guy, Jr., Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

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