

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
DECEMBER 13, 2017**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission meeting held at 400 East Tryon Road in Raleigh, North Carolina on December 13, 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. Chairman Guy wished everyone a Merry Christmas; but also asked everyone to keep Mr. William “Piggie” Potter in their thoughts over the holidays, as he had just been released from the hospital after cardiac issues.

MINUTES OF THE SPECIAL MEETING OF OCTOBER 26, 2017

Chairman Guy asked for a motion to approve changes to the minutes of the Special Meeting held October 26, 2017. Commissioner Herring made a motion to approve the minutes as amended. Chairman Guy seconded the motion. Motion Passed.

MINUTES OF NOVEMBER 15, 2017

Chairman Guy asked for a motion to waive the reading of the minutes of the November 15, 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 November 15, 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.

Chief Counsel Renee C. Metz asked if anyone was present to speak during the public hearing to be held during the Commission Meeting. Mrs. Metz requested they provide their name on a sign-in sheet.

I. CONTESTED CASES AND OFFERS IN COMPROMISE – 54

Mrs. Metz stated case numbers 1 and 2 were for the same business location, owned by Simba Entertainment, LLC. Mrs. Metz explained the cases were separate contested cases. Each case had been heard before a different Administrative Law Judge, in separate hearings with different staff attorneys representing the NC

ABC Commission. Mrs. Metz stated they were sanctions cases in which the permittee failed to respond to the Administrative Law Judges' orders or appear at the hearings. The judge for case number 1 issued a sanctions order and imposed a decision of a \$500.00 penalty due by January 5, 2018 and a 10-day active suspension of the permittee's ABC permits to begin January 12, 2018. Mrs. Metz explained the judge in case number 2 also issued a sanctions order and imposed a decision of a \$500.00 penalty due by January 5, 2018 and a 20-day suspension to begin January 12, 2018. Mrs. Metz stated the Commission must decide if the suspensions would be concurrent or consecutive.

Commissioner Herring made a motion following staff's recommendation for a 30-day suspension beginning January 12, 2018. Chairman Guy seconded the motion. Motion Passed.

Mrs. Metz stated attorney Glenn Lassiter was present regarding case number 47. Mr. Lassiter stated he was representing Food Lion 198 regarding a second offense of a sale to underage violation. Mr. Lassiter explained the offer in compromise had been signed with a penalty of a 3-day active suspension and a \$3,000.00 fine. Mr. Lassiter stated the clerk had entered the wrong date in the register at the time of the sale. He added, since the violation, Food Lion has provided training and installed a scanner to read driver's licenses to prevent such errors. Scanners are also being installed at other Food Lion stores.

Mr. Lassiter asked, regarding the penalty, if his client could pay a larger fine and the 3-day suspension could be avoided.

Commissioner Herring made a motion to remove the 3-day active suspension upon payment of a \$4,000.00 fine. Chairman Guy seconded the motion. Motion Passed.

Mrs. Metz asked if anyone else was present to speak regarding a case. As no one else was present, Mrs. Metz asked for case numbers 43, 48 and 50 to be moved to a later meeting and the Commission to ratify the remaining Offers in Compromise.

Commissioner Herring made a motion to move case numbers 43, 48 and 50 to a later meeting and to ratify the remaining Offers in Compromise. Chairman Guy seconded the motion. Motion Passed.

II. OTHER BUSINESS – EMPLOYEE RECOGNITION

Chairman Guy thanked all ABC Commission employees for their contributions. He added Administrator Robert A. Hamilton would recognize two employees. Mr. Hamilton explained the state recognizes employees' 5-year anniversaries with a certificate and a gift. Mr. Hamilton stated two ABC Commission employees had reached their 10-year anniversaries. Mr. Hamilton presented the certificates and gifts to Diane Burch of the Permits Division and Charles Metz, Jr., IT Director. Chairman Guy thanked both for their work.

III. OTHER BUSINESS – PUBLIC HEARING ON PROPOSED PERMANENT OFF-SITE STORAGE RULE 14B NCAC 15C .0505

Chairman Guy opened the public hearing on the proposed permanent off-site storage rules.

Chairman Guy explained the public hearing was scheduled regarding the adoption of the permanent off-site storage rules proposed during the October 11, 2017 Commission Meeting. Chairman Guy explained the proposed rules were submitted to the Office of Administrative Hearings on October 11, 2017 and published in the NC Register on November 1, 2017. He added the proposed rules were also posted on the ABC

Commission website and forwarded to the ABC rulemaking committee on November 1, 2017. Additionally, the public comment period is to end on January 3, 2018.

Attorney Laura Collier was present on behalf of the North Carolina Craft Brewers Guild. Mrs. Collier thanked Mr. Reagan, Mrs. Metz and Mr. Hamilton for being receptive and open to discussions regarding the proposed rule.

Chairman Guy again asked if there were any others who wished to speak before the Commission.

Walker Reagan, the rules coordinator, added the proposed rule may be considered for adoption at the January 17, 2018 Commission Meeting.

As no one else wished to address the Commission, Chairman Guy closed the public hearing. Chairman Guy stated the Commission would follow staff recommendation and schedule the consideration of the adoption of the proposed rule at the January 17, 2018 meeting.

IV. OTHER BUSINESS – FUTURE NC ABC COMMISSION MEETING DATES

Mr. Hamilton requested the Commission consider and confirm Wednesday, January 17, 2018, Wednesday, February 14, 2018 and Wednesday, March 7, 2018 as the January, February and March 2018 NC ABC Commission Meetings.

Commissioner Herring made a motion to follow staff recommendations and approve January 17, 2018, February 14, 2018 and March 7, 2018 as meeting dates. Chairman Guy seconded the motion. Motion Passed.

Mr. Hamilton stated there was no further business.

Mrs. Metz clarified item number three on the agenda was intentionally omitted as the rules were not ready for consideration.

Chairman Guy on behalf of the ABC Commission, himself and Commissioner Herring wished everyone and their families a Merry Christmas and made a motion to adjourn. Commissioner Herring seconded the motion. Motion Passed. With no further business, the meeting adjourned.

Approved at the January 17, 2018 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