

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
AUGUST 8, 2018**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission Meeting held at 400 East Tryon Road in Raleigh, North Carolina on August 8, 2018, 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. welcomed those in attendance and called the Commission Meeting to order. Chairman Guy introduced himself and Commissioner Norman A. Mitchell, Sr. Commissioner Michael C. Herring participated through teleconference. Chairman Guy expressed his appreciation for the employees of the ABC Commission.

Chairman Guy welcomed Alice Parrish who is working as a temp in the Legal Division.

Chairman Guy stated Robert Hamilton is no longer with the NC ABC Commission and introduced Agnes C. Stevens as the new Administrator. Chairman Guy added Ms. Stevens brings a great deal of experience to the Commission and since she joined the Commission in 2009, she has served as the communications director and most recently as the Deputy Director. Chairman Guy expressed his excitement for Ms. Stevens as the new Administrator. Chairman Guy stated the status quo is no longer a part of the Commission and they are looking forward to the future and change.

Chairman Guy also recognized Terrence Merriweather, the branch head of Alcohol Law Enforcement and thanked him for the work done by the ALE.

Chairman Guy recognized Kat Haney who had recently been appointed as the Public Relations Director.

Chairman Guy explained Commissioner Herring was recovering from surgery at home, but still wished to participate by teleconference and welcomed him to the Commission Meeting.

MINUTES OF THE JULY 11, 2018 COMMISSION MEETING

Chairman Guy asked for a motion to waive the reading of the minutes of the July 11, 2018 meeting into the record. Commissioner Mitchell made a motion to waive the reading of the minutes. Commissioner Herring seconded the motion. Motion Passed. Chairman Guy asked for a motion to approve the minutes of the July 11, 2018 meeting. Commissioner Mitchell made a motion to approve the minutes. Commissioner Herring 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 Mitchell stated he reviewed the agenda and found no conflicts of interest.

Commissioner Herring stated he reviewed the agenda and found no conflicts of interest. Chairman Guy stated he found no conflicts of interest.

I. CONTESTED CASES AND OFFERS IN COMPROMISE – 73

Chief Counsel Renee C. Metz stated case number 73, Twin Oaks Sports Bar and Grill, had been added to the agenda. Mrs. Metz explained the offer had previously been ratified; however, the permittee had cancelled the permits prior to the compliance dates. Since that time, Mrs. Metz explained, the permittee had consulted an attorney and decided not to cancel the permits and paid the renewal and registration fees. Mrs. Metz asked the Commission to allow the compliance dates to be adjusted and ratify the amended order.

Commissioner Mitchell made a motion to follow the staff recommendation. Commissioner Herring seconded the motion. Motion Passed.

Mrs. Metz requested case numbers 50 and 66 be continued to the September ABC Commission meeting. Mrs. Metz explained Woody Webb, the counsel for case number 50, was not able to be present due to a conflict. Additionally, a correction was necessary for the Offer in Compromise for case number 66.

Commissioner Mitchell made a motion to follow the staff recommendation to move the cases to the September agenda. Commissioner Herring seconded the motion. Motion Passed.

Mrs. Metz stated Lee Katrincic was present on behalf of his business, Durham Distillery, for case number 41. Mr. Katrincic stated the violation occurred when spirituous liquor was shipped directly to a NC resident who did not hold a wholesaler's permit. Mr. Katrincic stated he was present to request the Commission to reduce the fine and/or remove the violation from their record. Mr. Katrincic stated Ezra's Spirits was an online retailer operating from Washington, DC. Mr. Katrincic stated Ezra's provides an online shop for their spirits and understood they would ship where applicable by law. Mr. Katrincic explained this was a good way to reach new markets and customers. The online partner enabled customers who visited the distillery to ship spirits to others.

Mr. Katrincic explained the distillery did not have very much liquor shipped, only 34 cases over 2½ years. Mr. Katrincic stated they offer six products, so 50-70 bottles per product. He explained when they began their relationship with Ezra's, they did their due diligence knowing it was illegal for the distillery to ship spirituous liquor to residents of North Carolina. Ezra's had ensured them they would only ship when it was legal to do so. The website was to block customers from places to which it was illegal to ship the liquor. However, Mr. Katrincic explained, it was shipped to North Carolina by the wholesaler to an ALE agent conducting compliance checks. Mr. Katrincic stated, with additional investigation, they had determined the Ezra's employee shipped the liquor by going around their company rules.

Mr. Katrincic added he did not believe his distillery should be held responsible for the actions of the distributor. He explained for the next online partner, he will have his attorney draft a contract to be signed by the distributor to prevent future shipments to NC residents.

Chairman Guy asked Mrs. Metz for her recommendation. Mrs. Metz explained it was a campaign conducted by an ALE Agent on desk duty. Mrs. Metz added they were working to train and educate commercial businesses regarding the sales and distribution rules. Mrs. Metz stated staff believed a written warning would be appropriate.

Commissioner Mitchell made a motion to follow the staff recommendation for a written warning. Chairman Guy seconded the motion and expressed his appreciation for Mr. Katrincic's attitude. Chairman Guy added the Commission's primary function is the public welfare and safety of the citizens of our State. Motion Passed.

As no one else was present regarding a case, Mrs. Metz asked the Commission to ratify the remaining Offers in Compromise. Chairman Guy made a motion to ratify the remaining Offers in Compromise. Commissioner Mitchell seconded the motion. Motion Passed.

II. ABC STORE LOCATION – MOCKSVILLE-COOLEMEE ABC BOARD

Administrator Agnes C. Stevens stated on July 3, 2018, the Mocksville-Cooleemee ABC Board requested approval to lease property to open and operate an ABC Store at 1053 Yadkinville Road in Mocksville, North Carolina. Ms. Stevens stated this proposed store would be the second store for the board and the first in Mocksville which had voted to allow an ABC Store in 2016. Mrs. Stevens added the merger between the Mocksville and Cooleemee Boards had been approved by the NC ABC Commission in May 2018. If approved, the board plans to move its headquarters and mixed beverage sales to the proposed location and to open in November 2018.

Ms. Stevens stated the property was located in a shopping center with two restaurants which currently hold ABC permits. The property is zoned Highway Commercial, allowing for an ABC Store. The property is owned by Blue Empire, LLC and there are no personal or financial interests shared between the property owner and the Board members. Financial disclosure forms have been provided by the Board members. Ms. Stevens stated the lease for the 4,400 SF suite would begin September 1, 2018 and the rent would commence December 1, 2018.

Ms. Stevens stated the nearest school is located approximately 1 mile away by geo-mapping and 2.5 miles away by road. The nearest church is located approximately .4 miles or 2,112 feet away. Ms. Stevens added the nearest ABC Store is located approximately 8 miles away.

Ms. Stevens stated the notice to the public was properly posted at the location on July 3, 2018. Ms. Stevens added no objections have been received by the ABC Board.

Ms. Stevens stated the anticipated first year sales are \$829,366.00 and staff recommended approval of the proposed location.

Kris Howell, the general manager of the ABC Board was present. Ms. Howell thanked the Commission and Laurie Lee, the Local ABC Board Audit and Pricing Director, for her assistance during the merger. Chairman Guy also thanked Ms. Lee for her part in coordinating the merger of the Boards.

Commissioner Mitchell made a motion to approve the proposed location upon staff recommendation. Commissioner Herring seconded the motion. Motion Passed.

III. EXEMPTION REQUEST PURSUANT TO G.S. § 18B-1116(b) – PINEHURST, LLC; PINEHURST COUNTRY CLUB, LLC

Mrs. Metz stated attorney Laura Collier was present on behalf of her client. Ms. Collier stated her clients, Pinehurst, LLC and Pinehurst Country Club, LLC, operate ten retail establishments at the Pinehurst resort. Ms. Collier explained her clients have begun construction on a brewery and plan to have a retail

establishment at that location. Ms. Collier explained the exemption request is for the standard three additional retail establishments. Ms. Collier added they wish to be allowed to continue operations of the seven other retail locations.

Ms. Collier explained the seven additional locations will not sell the products offered by the brewery and those would only be sold at the retail location on site and the three exempt locations. Ms. Collier added they had discussed their request with Mrs. Metz and the Wholesalers Association.

Mrs. Metz stated staff recommended approval of the exemption request.

Commissioner Mitchell made a motion to follow staff recommendation and approve the exemption request. Chairman Guy seconded the motion. Motion Passed.

IV. EXEMPTION REQUEST PURSUANT TO G.S. § 18B-1116(b) – LACONIA ALE WORKS, LLC; MADISON COUNTY BREWING COMPANY, LLC; BRANDON EDWARDS

Mrs. Metz stated Brandon Edwards was present on behalf of his business, Laconia Ale Works, LLC. Mrs. Metz explained Mr. Edwards had consulted an attorney; however, his attorney was not able to be present for the meeting. Mrs. Metz stated they had started with the traditional exemption request, but may need to consider a nontraditional exemption request. Mrs. Metz stated Mr. Edwards has ownership in a brewery in Marshall, North Carolina and in a brewery in Sparta, North Carolina. Mrs. Metz explained the breweries are located approximately 300 miles apart and have small annual production capacities with a seven barrel system and a one barrel system. Mrs. Metz added it would be difficult to find a wholesaler willing to travel between the locations.

Mrs. Metz stated they wished to table this request until the September Commission Meeting to work on some of the details. Mrs. Metz stated this exemption request is unusual as it involves two breweries, not the usual multiple retail establishments.

Chairman Guy made a motion to follow staff's recommendation to table this request. Commissioner Mitchell seconded the motion. Motion Passed.

III. CONSIDERATION OF THE PROPOSAL OF HOMEBREW PERMANENT RULES. RULES 14B NCAC 15A .2301; .2302; .2303; .2304; .2305; .2306 AND .2207

As Walker Reagan, the rules coordinator, was not present, Mrs. Metz explained in 2017, the General Assembly amended G.S. 18B-306 which governs the making, possessing, transporting and uses of homemade wine and malt beverages. Mrs. Metz stated the homemade product may be used by the homemaker at organized affairs, exhibitions and competitions, homemaker's contests, tastings and judgments. The Amendment also specifically prohibits the sale or offer of sale of homemade alcoholic beverages. The General Assembly directed the ABC Commission to adopt rules to implement changes made to the statute and specify where and how these events may be conducted.

Mrs. Metz stated, since October 2017, the ABC Commission staff has been working with industry members and interested parties to draft rules necessary to implement the statute.

Mrs. Metz stated staff recommends the Commission propose the rules as presented; direct they be filed with the Office of Administrative Hearings for publication in the NC Register; direct copies be sent to the ABC Commission rulemaking committee emailing list; and, direct they be posted on the Commission

website. Mrs. Metz also requested the Commission schedule a public hearing on the proposed permanent rules to be held at the ABC Commission Meeting on October 10, 2018; set a public comment period be open through November 5, 2018; and, authorize staff to make non-substantive changes to the proposed rules as needed, including spelling, punctuation, grammar and conforming changes and corrections.

Commissioner Mitchell made a motion to follow staff's recommendations on the homebrew rules as presented. Chairman Guy seconded the motion. Motion Passed.

IV. OTHER BUSINESS – FUTURE NC ABC COMMISSION MEETING DATES

Mrs. Metz requested the Commission consider and confirm Wednesday, November 14, 2018, and Wednesday, December 12, 2018 as the dates of the November and December 2018 NC ABC Commission Meetings.

Chairman Guy made a motion to approve those dates as future meeting dates. Commissioner Mitchell seconded the motion. Motion Passed.

Both Mrs. Metz and Ms. Stevens stated there was no additional business and no one else was present to address the Commission. Chairman Guy thanked ALE Special Agents Clay Joyner and Terrence Merriweather for attending, and with no further business, the meeting was adjourned.

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

Respectfully submitted by,

Caroline Y. Washburn for the Legal Division