

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
APRIL 8, 2020**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission Meeting held via teleconference at 400 East Tryon Road in Raleigh, North Carolina on April 8, 2020, beginning at 10:00 AM. The meeting was recorded, and a copy of the recording is on file at the NC ABC Commission within the Legal Section.

ROLL CALL

Chairman A.D. Zander Guy, Jr. called the April 2020 ABC Commission Meeting to order and greeted those who were joining the teleconference. Chairman Guy apologized for the technical difficulties and requested telephones and microphones be muted until called upon to speak. Additionally, at that time the caller should state their name.

Chairman Guy introduced Commissioner Norman A. Mitchell, Sr. and Commissioner Karen L. Stout who were joining the meeting via teleconference.

MINUTES OF THE MARCH 11, 2020 COMMISSION MEETING

Commissioner Stout made a motion to waive the reading of the minutes of the March 11, 2020 meeting into the record. Commissioner Mitchell seconded the motion. Motion Passed.

Commissioner Mitchell made a motion to approve the minutes of the March 11, 2020 meeting. Commissioner Stout 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 Stout stated she 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 – 78

Chief Counsel Renee C. Metz requested agenda case #41, Sushi at the Park, be continued to the next Commission Meeting at which the permittee's representative would be allowed to be present to address the Commission.

Commissioner Mitchell made a motion to continue the case. Commissioner Stout seconded the motion. Motion Passed.

Mrs. Metz stated agenda case number one, One Stop Gas and Tobacco, was assigned to Assistant Counsel Stacey Coley. Mrs. Metz explained it was a contested case with a sanctions order for failure to file a

prehearing statement as requested by the Administrative Law Judge. Mrs. Metz stated the underlying charge was related to a sale to an underage individual and Administrative Law Judge J. Randolph Ward granted the sanctions motion. Mrs. Metz explained the Final Decision included a 25-day suspension of the ABC permits and a \$500.00 fine and requested the Commission impose the Judge's decision. Mrs. Metz added the penalty dates for the April Commission Meeting cases had been postponed to concur with the May Commission Meeting penalty dates and asked for clarification regarding the penalty dates for this case. Chairman Guy stated the Commission would defer to staff's recommendation.

Commissioner Mitchell made a motion to impose the Judge's decision as recommended by staff. Commissioner Stout seconded the motion. Motion Passed. Mrs. Metz stated the penalty dates would be payment of the fine by June 5, 2020 and suspension beginning on June 12, 2020.

Mrs. Metz asked if anyone had joined the call to address the Commission regarding a case.

Ashish Patel stated he was calling on behalf of Save More 2. Mrs. Metz clarified this was agenda case #37. Mr. Patel explained they had let the employee go, completed training with John Ruth, required new employees to take the online training, established a zero-tolerance policy and were taking the underage sale seriously.

Chairman Guy asked Mrs. Coley if she had any comments regarding the case. Mrs. Coley stated consideration was given for the training steps taken. The penalty had been reduced by \$200.00 and was in line with other permittees' penalties for a sale to underage violation. Mrs. Coley added the violation had occurred approximately a year after the business received ABC permits.

Shimul Patel stated they were working hard and asked for consideration. Ms. Patel agreed underage sales are very serious.

Chairman Guy asked the Commissioners if they had any comments or questions. Commissioner Stout stated she would defer to counsel. Commissioner Mitchell made a motion to follow staff's recommendation. Commissioner Stout seconded the motion. Motion passed.

Mrs. Metz stated Gerald Bradish of Red Clay Ciderworks, case #32, wished to address the Commission. Chairman Guy stated the business has held permits since 2016, has two pending violations and was Mrs. Coley's case.

Mr. Bradish thanked Mrs. Coley for the consideration already given by offering a reduction of the penalty. Mr. Bradish explained he had taken a side project with another cidemaker. He stated there were only four people on his team who each wore many hats. Mr. Bradish explained he had gotten behind on the paperwork including labeling. Mr. Bradish stated he did not know he was doing it incorrectly. Mr. Bradish explained he had worked with Special Agent Stacy Cox of Asheville and asked the Commission for a reduction of the penalty.

Chairman Guy asked Mrs. Coley if she had any comments regarding the case. Mrs. Coley stated it was an unusual situation and appreciated the permittee's efforts. Mrs. Coley explained training had been offered, but not completed. Mrs. Coley suggested a \$200.00 reduction with training.

Mr. Bradish stated he would be willing to receive training and must have missed that information or email earlier.

Chairman Guy made a motion to reduce the penalty \$200.00 upon confirmation of Mr. Bradish and his staff receiving training. Commissioner Mitchell seconded the motion. Motion passed. Mrs. Metz suggested the training be with Special Agent Stemple of ALE as he is knowledgeable of commercial ABC rules.

As no one else wished to address the Commission regarding a case, Mrs. Metz asked the Commission to ratify the remaining Offers in Compromise.

Commissioner Stout made a motion to ratify the remaining Offers in Compromise. Commissioner Mitchell seconded the motion. Motion Passed.

II. ABC STORE LOCATION – ALEXANDER COUNTY ABC BOARD

Administrator Agnes C. Stevens stated four ABC Store approvals were on the agenda.

Ms. Stevens stated, on February 17, 2020, the Alexander County ABC Board requested approval to lease property and operate an ABC Store at 9469-A Hwy 127 North in Alexander County, North Carolina. Ms. Stevens explained this would be the board's first store. On February 19, 2020, ABC Commission Permit Compliance Officer Ralph Ray contacted Alexander County ABC Board Chairman Judy Caywood to collect information for the report.

Ms. Stevens explained the proposed location is zoned Highway Commercial and allows for an ABC Store. Ms. Stevens stated the property is owned by SMP Investments, Inc. and the Alexander County ABC Board members submitted financial disclosure forms. There are no personal or financial interests shared with the property owner. Ms. Stevens added currently there is not a loading dock, but the Alexander County ABC Board will consult with LB&B regarding deliveries.

Ms. Stevens stated the nearest school, Bethlehem Elementary School, located at 7900 NC-127 South in the Bethlehem Community is approximately 1.5 miles away. The nearest church, Mt. Pisgah Lutheran Church located at 9379 NC-127 also in the Bethlehem Community, is approximately 500 feet from the proposed location.

Ms. Stevens stated the nearest ABC Store is located at 2231 North Center Street in Hickory, North Carolina, approximately 4.3 miles away from the proposed location and is operated by the Catawba County ABC Board.

The sign announcing the ABC Board's intention to open an ABC Store was posted at the location on February 26, 2020 and was witnessed by Mr. Ray on February 27, 2020. Ms. Stevens stated at this time, no calls or objections have been reported and staff recommends approval of this store.

Chairman Guy asked if anyone wished to speak regarding an objection to the proposal request. Ms. Caywood was present on the call if there were questions.

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

III. ABC STORE LOCATION – DURHAM COUNTY ABC BOARD

Ms. Stevens stated on March 18, 2020, the Durham County ABC Board requested approval to build and operate an ABC Store at 5122 North Roxboro Street, Unit 100 in Durham, North Carolina. This store would replace the existing store located at 5234 North Roxboro Road in Durham, North Carolina which would be

closed upon the opening of the new store. ABC Commission Auditor/Investigator Richard Thorsen prepared the report regarding the proposed location.

Ms. Stevens explained the property, which is owned by EREP Riverview I, LLC, is zoned Commercial and allows for an ABC Store. Ms. Stevens stated the Durham County ABC Board members submitted financial disclosure forms and there are no personal or financial interests shared between the property owner and the Board members. Ms. Stevens added there will be a loading dock on the building.

Ms. Stevens stated the nearest school, Holt Elementary School located at 4019 Holt School Road in Durham, is approximately 1.2 miles away. The nearest church, Mt. Level Missionary Baptist Church located at 316 Hebron Road in Durham, is approximately 1.3 miles away. Ms. Stevens explained the nearest ABC Store is located approximately 3.4 miles away at 3318 Guess Road in Durham and is also operated by the Durham County ABC Board.

Ms. Stevens stated the required sign announcing the ABC Board's intention to open an ABC Store was properly posted on February 20, 2020 and was witnessed by Mr. Thorsen to be in compliance on March 19, 2020. Ms. Stevens stated three comments reporting objections had been received. Ms. Stevens stated staff recommends approval of this store.

Chairman Guy asked if there were any questions or comments. As there were none, Commissioner Stout made a motion to approve the proposed location upon staff recommendation. Commissioner Mitchell seconded the motion. Motion Passed.

III. ABC STORE LOCATION – INDIAN TRAIL ABC BOARD

Ms. Stevens stated on March 9, 2020, the Indian Trail ABC Board requested approval to purchase property to open and operate an ABC Store at 6400 Old Monroe Road in Indian Trail, North Carolina. Ms. Stevens explained this location would be the Board's second store. ABC Commission Audit Section Assistant Director Edwin Strickland and Compliance Officer Eric McClary conducted the investigation.

Ms. Stevens stated the proposed property is zoned General Business and allows for an ABC Store. Ms. Stevens explained the property is currently owned by William Clegg and Judith Wooten. The property will be purchased by a yet to be formed LLC which will sell the property to the ABC Board. Ms. Stevens added there are no personal or financial interests shared between the property owners and the Indian Trail ABC Board members. Additionally, the proposed building will have a loading dock.

Ms. Stevens stated the nearest school, Sun Valley High School, located at 5211 Old Charlotte Highway in Monroe, North Carolina, is approximately .4 miles away. The nearest church, Grace Baptist Church, located at 5739 Old Monroe Road in Indian Trail, North Carolina, is approximately .8 miles away. Ms. Stevens explained the nearest ABC Store is located approximately 2.1 miles away at 5880 Highway 74 East, Suite 20 in Indian Trail and is operated by the Indian Trail ABC Board.

Ms. Stevens stated the sign announcing the ABC Board's intention to open an ABC Store was posted at the location on March 9, 2020. Ms. Stevens stated the sign was witnessed by Mr. Strickland on March 10, 2020 and added no objections have been reported. Ms. Stevens stated staff recommends conditional approval of this store effective April 9, 2020 to allow for the required 30-day period following the announcement of the intention to open an ABC Store at the location.

Chairman Guy asked if anyone wished to speak regarding the proposal request. As there were no questions or comments, Commissioner Mitchell made a motion to approve the proposed location upon staff recommendation effective April 9, 2020. Commissioner Stout seconded the motion. Motion Passed.

IV. ABC STORE LOCATION – WALLACE ABC BOARD

Ms. Stevens stated on February 20, 2020, the Wallace ABC Board requested approval to relocate and operate an ABC Store adjacent to 5625 South NC Highway 41 in Wallace, North Carolina. ABC Commission Compliance Officer Quinn Woolard reported the new location would replace the ABC Store located at 301 North Norwood Street in Wallace. The current store is a self-service store with less than 2,000 SF and the proposed store will be approximately 5,000 SF.

Ms. Stevens explained the property is zoned Commercial Business and allows for an ABC Store. The property is owned by Joseph D. Bryant. Ms. Stevens added there are no personal or financial interests shared between the property owner and the Wallace ABC Board members.

Ms. Stevens stated the nearest school, Wallace Elementary School located at 4266 South NC Highway 11 in Wallace, is approximately 1.0 miles away. The nearest churches, Poston Baptist Church located at 4121 South NC Highway 11 and Church of Jesus Christ of Latter-Day Saints located at 4202 South NC Highway 11, are both approximately .7 miles away. Ms. Stevens explained the nearest ABC Store is the store which will be closed upon the opening of the proposed store. The next closest ABC Store is located approximately 16.4 miles away at 207 Highway 117 Bypass in Burgaw, North Carolina and is operated by the Pender County ABC Board.

Ms. Stevens stated the sign announcing the ABC Board’s intention to open an ABC Store was posted at the location on February 19, 2020 and witnessed by Mr. Strickland. Ms. Stevens stated as of March 17, 2020, four calls were received; two were in support of the store and two were objections which were general in nature. Ms. Stevens added staff recommends approval of the proposed store.

Chairman Guy asked if anyone wished to speak regarding the proposal request. As there were no comments, Commissioner Stout made a motion to approve the proposed location upon staff recommendation. Commissioner Mitchell seconded the motion. Motion Passed.

V. OTHER BUSINESS

Chairman Guy confirmed with Ms. Stevens and Mrs. Metz there was no additional business and no one else wished to address the Commission. Chairman Guy thanked Kelton Brown for arranging the conference call and the ABC Commission employees for their work during this difficult time. Chairman Guy expressed to those participating in the call to be safe and the meeting was adjourned.

Approved on May 13, 2020

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

Respectfully submitted by,

Caroline Y. Washburn for the Legal Section