

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MINUTES  
MAY 13, 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 May 13, 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 May 2020 ABC Commission Meeting to order and greeted those who were joining the teleconference. Chairman Guy recognized and thanked Kelton Brown, the project manager, for making teleconferences possible for the April and May Commission Meetings. Chairman Guy requested any speakers should state their name before speaking.

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

**MINUTES OF THE APRIL 8, 2020 COMMISSION MEETING**

Commissioner Stout made a motion to waive the reading of the minutes of the April 8, 2020 Commission Meeting into the record. Commissioner Mitchell seconded the motion. Motion Passed.

Commissioner Mitchell made a motion to approve the minutes of the April 8, 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 Stout stated she reviewed the agenda and found no conflicts of interest. Commissioner Mitchell 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 – 52**

Chairman Guy recognized General Counsel Stacey Carter-Coley. Mrs. Carter-Coley stated there were 52 hearing cases on the agenda, of which three were Administrative Law Judges' decisions. Mrs. Carter-Coley asked the Commission if they wished to hear about the cases or accept the decisions. Chairman Guy asked if there were any permittees who wished to speak to the Commission regarding any cases. No one indicated they wished to address the Commission.

Chairman Guy stated they would follow Mrs. Carter-Coley's recommendations regarding approving the cases on the agenda and the Offers in Compromise. Commissioner Mitchell made a motion to accept the cases and the Offers in Compromise. Commissioner Stout seconded the motion. Motion Passed.

## **II. ABC STORE LOCATION – CONCORD ABC BOARD**

Administrator Agnes C. Stevens stated, on March 31, 2020, the Concord ABC Board requested approval to purchase property to open and operate an ABC Store at 195 George Lyles Parkway NW in Concord, North Carolina. Ms. Stevens stated this proposed store would replace an existing leased store located approximately 1.1 miles away.

Ms. Stevens stated ABC Commission Audit Section Assistant Director Edwin Strickland completed the investigation report related to this request for a proposed store. Ms. Stevens stated the property is zoned C-2 and allows for an ABC Store. The property is currently owned by Willow Oaks Crossing, LLC, whose principal address is 1 Independent Drive, Suite 114, Jacksonville, Florida. Ms. Stevens stated the Concord ABC Board members submitted financial disclosure forms and there are no personal or financial interests shared with the property owner.

Ms. Stevens stated the nearest school, Weddington Hills Elementary School, located at 4401 Weddington Road is approximately .7 miles away. The nearest church, Crossroads Church located at 220 George W. Lyles Parkway, is approximately .4 miles from the proposed location.

Ms. Stevens stated the nearest ABC Store is located at 5503 Poplar Tent Road in Concord, North Carolina, approximately 1.1 miles away and will be closed upon the opening of the proposed store. The next closest ABC Store is approximately 3.4 miles away, located at 6025 Gateway Center Drive in Kannapolis, North Carolina. This store is operated by the Rowan-Kannapolis ABC Board.

The sign announcing the ABC Board's intention to open an ABC Store was posted at the location on March 31, 2020 and was witnessed by Mr. Strickland on April 2, 2020. Ms. Stevens stated there have been two calls related to the opening of this store. One call was in support of the new location. During the call in opposition, the caller stated she was a church member as the reason. Ms. Stevens stated staff recommends approval of this proposed store.

Chairman Guy asked if Lorraine Trexler, General Manager of the Concord ABC Board, Board Chairman Gary Walker, or Board members Wanda White and Todd Phillips were participating in the teleconference. Ms. Trexler responded she was available for questions.

Chairman Guy asked if anyone wished to speak regarding the proposal request or had questions. As there were no 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 – JOHNSTON COUNTY ABC BOARD**

Ms. Stevens stated on March 23, 2020, the Johnston County ABC Board requested approval to build and operate an ABC Store at the corner of Bratton Drive and Son-Lan Parkway in Garner, North Carolina. On April 15, 2020, ABC Commission Auditor/Investigator Richard Thorsen conducted the investigation regarding the proposed location.

Ms. Stevens explained the property is zoned Commercial and allows for an ABC Store. Ms. Stevens stated the property is owned by Son-Lan Classic Development, LLC whose address is Post Office Box 909, Smithfield, North Carolina. Ms. Stevens stated the Johnston 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 stated the nearest school, West View Elementary School located at 11755 Cleveland Road in Garner, is approximately 1.9 miles away. The nearest church, Christ Church located at 110 Bratton Drive in Garner, is approximately .2 miles away. Ms. Stevens explained the nearest ABC Store is located approximately .8 miles away at 160 Glen Road and will be closed upon the opening of the new store. The next closest ABC Store is located approximately 7.1 miles away at 12487 US Highway 70 West in Clayton, North Carolina and is also operated by the Johnston County ABC Board.

Ms. Stevens stated the required sign announcing the ABC Board's intention to open an ABC Store was properly posted at the location on March 20, 2020 and was witnessed by Mr. Thorsen to be in compliance on March 24, 2020. Ms. Stevens stated the ABC Board had received one call in objection in which the caller stated she preferred the existing location. Ms. Steven stated staff reviewed the report and recommends approval of this request.

Chairman Guy recognized Swade Carroll, General Manager of the Johnston County ABC Board and asked if there were any questions or comments. As there were none, Commissioner Mitchell made a motion to approve the proposed location upon staff recommendation. Commissioner Stout seconded the motion. Motion Passed.

### **III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – CONSTELLATION BRANDS, INC. AND DURHAM DISTILLERY, LLC**

Attorney Jennifer Morgan of the Williams Mullen law firm joined the teleconference on behalf of her client Constellation Brands, Inc. Ms. Morgan explained the exemption request relates to CBV Ventures, LLC, a subsidiary of Constellation Brands. Ms. Morgan stated CBV Ventures has a 25% ownership interest in Durham Distillery, which holds temporary distillery permits and recently obtained temporary ABC retail permits for mixed beverages, malt beverages and wine on-premise sales.

Ms. Morgan explained Constellation Brands is a beer, wine and spirituous liquor supplier based out of New York offering brands such as Corona, Modelo and Svedka. Its subsidiary, CBV Ventures does not hold NC ABC permits. Ms. Morgan stated Durham Distillery is based in Durham and its signature product is Conniption Gin and they also offer cucumber vodka as well as other craft distilling products. Ms. Morgan explained the ABC permits were obtained under the recently passed law allowing a distillery to obtain retail permits.

Ms. Morgan requested an exemption under G.S. 18B-1116(b). Ms. Morgan explained Constellation and its subsidiaries hold no other ownership interests in entities holding ABC retail permits. Durham Distillery has an independent general manager who will make all decisions regarding alcohol purchases. Constellation will not have any input or control of the products offered at retail by Durham Distillery. Ms. Morgan stated Constellation products are sold through the ABC Board system and through a number of wholesalers throughout the state. Ms. Morgan added Durham Distillery purchases its products from independent NC wholesalers and brokers.

Ms. Morgan stated she had discussions with Renee Metz, Assistant General Counsel, and Kris Gardner of the Beer and Wine Wholesalers Association and they had no objections to the exemption.

Chairman Guy asked Commissioner Stout and Commissioner Mitchell if they had questions. As there were no questions, Mrs. Carter-Coley stated staff recommended approval.

Commissioner Stout made a motion to grant the exemption based upon staff recommendation. Commissioner Mitchell seconded the motion. Motion Passed.

**IV. PUBLIC HEARING ON PROPOSED PERMANENT ABC STORE SPIRITUOUS LIQUOR TASTINGS RULES – 14B NCAC 15C .1301, .1303-.1305, .1307**

The public hearing was rescheduled for the June 10, 2020 ABC Commission Meeting. The Public Comment Period was extended until the June 10, 2020 ABC Commission Meeting.

**V. OTHER BUSINESS**

Ms. Stevens stated on May 11, 2020, the Commission received a request from Craig Haines, a recent staff addition to the ABC Board and Pricing Section as an auditor. In accordance with 18B-201(a), Mr. Haines requested an exemption due to his personal financial interest in an ABC retail business. Ms. Stevens explained Mr. Haines has .4166% of a 1% share in Bell View Partners, LLC the owner of Aloft Raleigh Hotel. Ms. Stevens stated Mr. Haines is a passive investor and will not have any management authority, operational control or daily decision-making responsibility. Ms. Stevens stated Mr. Haines had explained it would not conflict or interfere with his employment by the Commission and requested an exemption. Ms. Stevens stated staff had reviewed the request and recommends the exemption be granted.

Chairman Guy asked Commissioner Stout and Commissioner Mitchell if they had any questions. As they had no questions or comments, Commissioner Mitchell made a motion to grant the exemption. Commissioner Stout seconded the motion. Motion Passed.

Chairman Guy asked if there was anyone else who wished to address the Commission. Mrs. Carter-Coley asked the Commission for confirmation that all the Final Agency Decision orders had been ratified. Chairman Guy confirmed they had all been ratified.

Chairman Guy again thanked Kelton Brown for his technical advice and for arranging the conference call. Chairman Guy expressed to those participating in the call to be safe and the meeting was adjourned.

Approved on June 10, 2020  
A.D. “Zander” Guy, Jr., Chairman  
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

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Caroline Y. Washburn for the Legal Section