

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
FEBRUARY 12, 2020**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission Meeting held at 400 East Tryon Road in Raleigh, North Carolina on February 12, 2020, 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. called the February 2020 ABC Commission Meeting to order and greeted those in attendance.

Chairman Guy stated he appreciated the employees of the ABC Commission. Chairman Guy added the Commission has been very innovative and is looking to the future.

Chairman Guy introduced Commissioner Norman A. Mitchell, Sr. of Charlotte and Commissioner Karen L. Stout of Black Mountain.

MINUTES OF THE JANUARY 15, 2020 COMMISSION MEETING

Commissioner Stout made a motion to waive the reading of the minutes of the January 15, 2020 meeting into the record. Commissioner Mitchell seconded the motion. Motion Passed.

Commissioner Mitchell made a motion to approve the minutes of the January 15, 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

Chief Counsel Renee C. Metz requested two cases be removed from the agenda. Mrs. Metz explained, regarding case number 10, the Offer in Compromise had been revised and requested the case be continued. Ms. Metz requested case number 39 be removed from the agenda, as the ABC permits had been cancelled the previous day.

Commissioner Mitchell made a motion to follow the staff recommendation to continue case number 10 and remove case number 39 from the agenda. Commissioner Stout seconded the motion. Motion Passed.

Mrs. Metz stated agenda case number one, Metropolitan Café & Catering, was assigned to Assistant Counsel Missy Welch. 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 charges were related to happy hour violations, failure to have food available, failure to maintain receipts, and premixing without Commission approval. Mrs. Metz explained the Final Decision included a \$500.00 penalty to be paid by March 6, 2020 and a 25-day suspension of the ABC permits to begin March 13, 2020. Mrs. Metz requested the Commission impose Judge Malherbe's decision.

Commissioner Mitchell made a motion to impose the Judge's final decision. Commissioner Stout seconded the motion. 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 – DURHAM COUNTY ABC BOARD

Chairman Guy recognized Administrator Agnes C. Stevens. Ms. Stevens stated the General Manager of the Durham County ABC Board, Niegel Sullivan, was present if there were any questions. Ms. Stevens stated on January 3, 2020, the Durham County ABC Board requested approval to operate a temporary ABC Store at 1001 North Miami Boulevard, Suite 111 in Durham, North Carolina while remodeling the ABC Store located at 1928 Holloway Street in Durham, North Carolina. Ms. Stevens explained Audit Investigator Richard Thorsen conducted the investigation.

Ms. Stevens stated if the temporary store is approved, the Durham County ABC Board tentatively plans to open the temporary store on March 1, 2020. The remodeled store tentatively plans to reopen on March 1, 2021. Ms. Stevens stated the temporary store will allow the Durham County ABC Board to maintain eight open ABC stores.

Ms. Stevens explained the property is appropriately zoned for an ABC store. Ms. Stevens stated the property is owned by Village Realty, LLC of 8816 Six Forks Road in Raleigh, North Carolina. Ms. Stevens added the Durham County 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, KIPP Durham College Prep Public School, located at 1107 Holloway Street in Durham, is approximately .9 miles away. The nearest churches, Antioch Baptist Church located at 1415 Holloway Street in Durham, and God's House of Refuge Church located at 622 Gary Street in Durham are each approximately .5 miles away. Ms. Stevens explained the nearest ABC store, located approximately .3 miles away at 1928 Holloway Street, is the store to be closed for renovation. The next nearest ABC store is located at 4005 Davis Drive in Durham approximately 5.4 miles away. Both are 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 December 24, 2019 and was witnessed by Mr. Thorsen on January 24, 2020 to be in compliance. Ms. Stevens stated no objections had been received and staff recommends approval of this store. Ms. Stevens restated General Manager Niegel Sullivan was present if there were any questions.

Commissioner Mitchell asked Mr. Sullivan about a loading dock at the temporary location. Ms. Stevens stated a loading dock would not be added. Mr. Sullivan explained the temporary location would not have a loading dock, but the renovated store would include one. Mr. Sullivan added the temporary location has easy access at the rear of the building.

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

III. OTHER BUSINESS

Chairman Guy confirmed with Mrs. Metz the Commission was to consider a date for a future Commission Meeting. Chairman Guy stated they would establish Wednesday, May 13, 2020 as the date of the May 2020 NC ABC Commission Meeting.

Commissioner Stout made a motion to approve the date for the May 2020 Commission Meeting. Commissioner Mitchell seconded the motion. Motion Passed.

Chairman Guy confirmed with Ms. Stevens and Mrs. Metz there was no additional business and no one else was present to address the Commission. Chairman Guy thanked the Legal staff and the meeting was adjourned.

APPROVED ON MARCH 11, 2020

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

Respectfully submitted by,

Caroline Y. Washburn for the Legal Division