

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
JANUARY 13, 2021**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission (hereinafter “Commission”) Meeting held via teleconference at 400 East Tryon Road in Raleigh, North Carolina on January 13, 2021, beginning at 10:00 AM. The meeting was recorded, and a copy of the recording is on file at the Commission within the Legal Section.

ROLL CALL

Chairman A.D. Zander Guy, Jr. welcomed those who were joining the teleconference for the January 2021 Commission Meeting and thanked them for participating. Chairman Guy wished for them, a happy and healthy New Year and an end to the COVID pandemic. Chairman Guy called the January 2021 Commission Meeting to order.

Chairman Guy announced the February 2021 and March 2021 Commission Meetings would also be held virtually. Chairman Guy greeted Commissioner Karen L. Stout and Commissioner Norman A. Mitchell, Sr. who were also joining the meeting via teleconference.

Chairman Guy thanked the Commission employees for their work and stated the Commission continues being innovative, which is beneficial to the Commission and its employees. Chairman Guy congratulated Jim Van Hecke, the Deputy Director of the Alcohol Education Outreach, which includes the Underage Initiative. Mr. Van Hecke is retiring in March 2021. Chairman Guy announced Agnes C. Stevens, who had served as the Commission Administrator, would be taking over as the Director of Special Services, which includes Education Outreach and Communications. Chairman Guy also announced Terrance Merriweather, who had served as a Deputy Director over the Permit and Audit Sections, would now serve as the Deputy Commissioner of the Commission. Chairman Guy stated he looked forward to more innovative changes to come.

MINUTES OF THE DECEMBER 9, 2020 COMMISSION MEETING

Commissioner Mitchell made a motion to waive the reading of the minutes of the December 9, 2020 Commission Meeting into the record. Commissioner Stout seconded the motion. Motion passed.

Commissioner Stout made a motion to approve the minutes of the December 9, 2020 Commission Meeting. Commissioner Mitchell 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. Chairman Guy stated he found no conflicts of interest. 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.

I. CONTESTED CASES AND OFFERS IN COMPROMISE – 59

Chairman Guy recognized General Counsel Stacey Carter-Coley. Mrs. Carter-Coley stated there were fifty-nine cases on the agenda and case number 1 was a contested case. Mrs. Carter-Coley explained the Administrative Law Judge had issued a decision in this case. Mrs. Carter-Coley stated staff recommended the Commission's acceptance of the final decision of the Administrative Law Judge.

Commissioner Mitchell made a motion to follow staff's recommendation and impose the Judge's decision. Commissioner Stout seconded the motion. Motion passed.

Mrs. Carter-Coley asked if anyone wished to speak to the Commission regarding a case. Mr. Umesh Ramani, the owner of Jazz Stop, agenda case number 3, stated he wished to address the Commission. Chairman Guy noted the business had held permits since January 2017 without any violations but the pending violations. Mr. Ramani stated his CPA had requested the business records and had them at her office. When the officer conducted the inspection, the previous years' invoices were not available on the premises. Mr. Ramani also received a violation for allowing a customer to consume alcohol on the premises.

Chairman Guy asked Mr. Ramani what he was requesting. Mr. Ramani asked for the minimum penalty. Chairman Guy conferred with Mrs. Carter-Coley, then asked Commissioners Mitchell and Stout to consider a \$1,700.00 penalty which was a \$500.00 reduction.

Commissioner Stout made a motion to reduce the penalty to \$1,700.00. Commissioner Mitchell seconded the motion. Motion passed.

Mrs. Carter-Coley asked if anyone else wished to be heard by the Commission regarding a case. As no one responded, Mrs. Carter-Coley stated staff recommends the ratification of the remaining Offers in Compromise. Chairman Guy asked again if anyone wished to take the opportunity to speak to the Commission regarding a case. There were no responses.

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

II. ABC STORE LOCATION – DURHAM COUNTY ABC BOARD – (2121 TW Alexander Drive, Suites 112-115, Durham, NC)

Chairman Guy recognized Mr. Merriweather who stated the Durham County ABC Board had requested approval from the Commission for two new ABC store locations.

Mr. Merriweather stated on December 2, 2020, the Commission received a request from the Durham County ABC Board, requesting approval to lease property to open and operate an ABC Store at 2121 TW Alexander Drive, Suites 112-115 in Morrisville, North Carolina. Commission Audit/Investigation Team Leader Edwin Strickland contacted Durham County ABC Board General Manager Niegel Sullivan to gather information needed for the investigative report.

Mr. Merriweather explained the Durham County ABC Board plans to lease the proposed location for two to three years and if approved, open in March or April 2021. This location would replace the existing location which is approximately 100 yards away. Mr. Merriweather stated the property is zoned to allow

for an ABC store and is owned by Casa View II of Dallas, Texas. Mr. Strickland spoke with a representative of the property's ownership and confirmed there are no shared financial interests with the Durham County ABC Board. All Durham County ABC board members submitted financial disclosure forms.

Mr. Merriweather stated the proposed space is approximately 4,800 SF, of which approximately 2,500 SF would be used as the retail sales area. Mr. Merriweather stated the nearest school, Brier Creek Elementary School located at 9801 Brier Creek Parkway in Raleigh, is approximately 2 miles from the proposed location. The nearest church, Catch the Fire Worship Center located at 2304 Page Road in Durham, is approximately .4 miles from the proposed location.

The notice to the public was properly posted on December 2, 2020. Mr. Merriweather stated it was witnessed by Mr. Strickland and ABC Compliance Officer India Smith-Gray on December 7, 2020 and determined to meet the ABC sign requirements. Mr. Merriweather stated, as of December 17, 2020, no calls had been received by the Board with concerns regarding the new store. Mr. Merriweather stated staff recommended approval of the proposed location.

Chairman Guy asked if the Commissioners had questions regarding the proposed location. Chairman Guy stated Durham County ABC Board General Manager Niegel Sullivan was present and greeted Mr. Sullivan. Mr. Sullivan thanked the Commission for its continued support of the Durham County ABC Board and explained the store would be a good transition while the new store is constructed on the same site. Mr. Sullivan added the Board was able to get a very fair deal from the current property owner on the lease.

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

III. ABC STORE LOCATION – DURHAM COUNTY ABC BOARD – *(1515 North Pointe Drive, Suites 101 & 103, Durham, NC)*

Mr. Merriweather stated the Durham County ABC Board had requested approval from the Commission for a second new store location.

Mr. Merriweather stated on December 2, 2020, the Commission received a request from the Durham County ABC Board, requesting approval to purchase property to open and operate an ABC Store at 1515 North Pointe Drive, Suites 101 and 103 in Durham, North Carolina. Mr. Strickland contacted Mr. Sullivan to gather information needed for the investigative report.

Mr. Merriweather stated the property is zoned to allow for an ABC store and is owned by North Pointe Development Associates, LP of Virginia Beach, Virginia. Mr. Strickland spoke with a representative of the property's ownership and confirmed there are no shared financial interests with the Durham County ABC Board. All Durham County ABC board members submitted financial disclosure forms.

Mr. Merriweather stated the proposed space is approximately 7,500 SF, of which approximately 5,000 SF would be used as the retail sales area. Mr. Merriweather added the proposed location would replace the existing ABC Store located at 3318 Guess Road in Durham, North Carolina. Mr. Merriweather stated the nearest school, Brogden Middle School located at 1001 Leon Street in Durham, is approximately .4 miles from the proposed location. The nearest church, Glendale Heights Methodist Church located at 908 Leon Street in Durham, is approximately .6 miles from the proposed location.

The notice to the public was properly posted on December 2, 2020. Mr. Merriweather stated it was witnessed by Mr. Strickland and Ms. Smith-Gray on December 7, 2020 and determined to meet the ABC sign requirements. Mr. Merriweather stated, as of December 17, 2020, no calls had been received by the Board with concerns regarding the new store. Mr. Merriweather stated staff recommended approval of the proposed location.

Chairman Guy asked if anyone had questions and again acknowledged Mr. Sullivan. Mr. Sullivan stated with the Board's efforts to modernize, the new ABC Store which opened in August at the Riverview location, had seen a significant increase for an existing store. Mr. Sullivan stated the Durham County ABC Board's efforts to modernize the stores are proving to be very beneficial making the stores more profitable, which is beneficial to the citizens of Durham and Durham County.

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

IV. CONSIDERATION OF ADOPTION OF PERMANENT MIXED BEVERAGES PERMITTEE TRANSPORT & DELIVERY RULES – 14B NCAC 15A .1405, .1802, .1903, .1904, AND 15B .0501

Chairman Guy stated the matter before the Commission was consideration of the adoption of the permanent Mixed Beverages Permittee Transport and Delivery Rules. Chairman Guy recognized Walker Reagan, Rules Coordinator, to provide an overview of the proposed rules. Mr. Reagan previously provided drafts of the proposed rules to the Commission.

Mr. Reagan explained the permanent Mixed Beverages Permittee Transport and Delivery Rules were proposed by the Commission at its meeting on October 7, 2020. Mr. Reagan stated the proposed rules were submitted to the Office of Administrative Hearings on October 7, 2020 and posted on the Commission's website and emailed to the Commission rulemaking email list also on October 7, 2020. Mr. Reagan added the proposed rules, the notice of public hearing and notice of the public written comment period were published in the NC Register on November 2, 2020.

Mr. Reagan stated the public hearing was properly noticed for December 9, 2020 at 10:00 am and the public comment period was noticed to end on January 4, 2021. The public hearing was held on December 9, 2020 and no members of the public commented during the public hearing. Mr. Reagan explained the statutory time periods after publication for holding a public hearing of at least 15 days after publication and receiving written comments for at least 60 days after publication had been complied with. Mr. Reagan stated no written comments regarding the rules were received during this period.

Mr. Reagan added the Commission could consider the adoption of these rules during the Commission Meeting. Mr. Reagan stated staff recommends the Commission adopt the Permanent Mixed Beverages Permittee Transport and Delivery Rules as published in the NC Register and as presented. Mr. Reagan requested the rules be filed with the Office of Administrative Hearings for approval by the Rules Review Commission and publication in the NC Administrative Code. Mr. Reagan also requested the Commission authorize staff to make any non-substantive changes in the adopted rules as needed prior to publication.

Chairman Guy asked if anyone participating in the meeting had questions regarding the rules, to which no one responded. Commissioner Mitchell made a motion that the Commission adopt the permanent Mixed Beverages Permittee Transport and Delivery Rules as published in the NC Register and presented by staff to the Commission with the recommendations of the staff. Commissioner Stout seconded the motion. Motion passed.

V. OTHER BUSINESS

Chairman Guy asked Mr. Merriweather and Mrs. Carter-Coley if there was any other business. They both stated there was no other business. Chairman Guy thanked the Commission employees for their continued dedication to providing good customer service to the permittees.

Chairman Guy wished everyone a New Year of happiness, prosperity and good health and thanked those participating in the virtual meeting. Chairman Guy acknowledged Director Bryan House, the Branch Head of ALE. Chairman Guy stated the agency did difficult work in ensuring compliance with the Governor’s Executive Orders and he wished to thank him and the ALE agents. The January 2021 Commission Meeting was adjourned.

Approved at the February 10, 2021 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