

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
NOVEMBER 10, 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 November 10, 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

Commissioner Norman A. Mitchell, Sr. called the November 2021 Commission Meeting to order and welcomed those who were participating. Commissioner Mitchell introduced himself, Commissioner Karen L. Stout who was joining the meeting virtually, and Deputy Commissioner Terrance L. Merriweather.

MINUTES OF THE OCTOBER 13, 2021 COMMISSION MEETING

Commissioner Mitchell requested a motion to waive the reading of the minutes of the October 13, 2021 Commission Meeting into the record. Commissioner Stout made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Commissioner Mitchell requested a motion to approve the minutes of the October 13, 2021 Commission Meeting. Commissioner Stout made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

CONFLICTS OF INTEREST

As required by N.C.G.S. §138A-35, Other Rules of Conduct, Commissioner Mitchell 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 had reviewed the agenda and stated he found no conflicts of interest. Commissioner Stout had reviewed the agenda and stated she found no conflicts of interest.

I. HEARING CASES AND OFFERS IN COMPROMISE – 35

Commissioner Mitchell recognized Assistant Counsel Rachel Spears regarding the hearing of the cases on the agenda. Ms. Spears stated agenda case number 1, regarding Waves Market and Deli, was a contested case and she had been assigned the case. Ms. Spears explained she had filed a motion for sanctions with the Office of Administrative Hearings. Administrative Law Judge Turrentine issued an Order of Sanctions. Ms. Spears stated staff recommended the Commission adopt the decision of Judge Turrentine.

Commissioner Stout made a motion to follow the staff recommendation. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Ms. Spears asked if anyone participating in the meeting wished to address the Commission regarding an Offer in Compromise. Ms. Falguni Patel of Gamewell Superette asked if it was the time for her to speak regarding her case. Ms. Spears explained the Commission planned to discuss her case as the next item on the agenda. Ms. Spears asked again if anyone wished to address the Commission regarding a case. As there was no response, Ms. Spears stated staff recommended the ratification of the Offer in Compromise cases.

Commissioner Mitchell asked if anyone wished to address the Commission regarding an Offer in Compromise. As there was no response, Commissioner Stout made a motion to approve and ratify the Offers in Compromise. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

II. SUMMARY SUSPENSION APPEAL PURSUANT TO N.C.G.S. §18B-904(e)(4) – GAMEWELL SUPERETTE

Commissioner Mitchell recognized Ms. Spears regarding the Summary Suspension appeal. Ms. Spears stated the Order of Summary Suspension was issued to Gamewell Superette following an investigation by ALE. Ms. Spears advised, Ms. Falguni Patel, the permittee for Gamewell Superette was present and wished to address the Commission. Ms. Spears added ALE Special Agents were also present for the meeting.

Commissioner Mitchell asked if Ms. Patel wished to address the Commission. Ms. Patel and her general manager, Heather Hicks, asked how they could petition to get back the business' license to sell alcohol. Ms. Spears explained this was the opportunity to speak to the Commission to explain why the Commission should consider lifting the suspension or release the business from the suspension early. Ms. Hicks stated without the alcohol and lottery sales, they would ultimately have to close the store.

Commissioner Mitchell asked if any of the ALE Special Agents wished to address the Commission regarding the case. ALE Director Bryan House explained, pursuant to a law passed a few years prior, the criteria for a summary suspension had been met. Director House stated the criteria included an ALE-conducted undercover operation which resulted in the arrest of five or more people.

Commissioner Mitchell stated, due to the seriousness of the case, the Summary Suspension with the 30-day suspension, would remain in place.

Commissioner Stout made a motion for the suspension to continue and the Summary Suspension to remain in place. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

III. ABC STORE LOCATION – CITY OF SANFORD ABC BOARD
(4470 NC Hwy 87, Sanford)

Commissioner Mitchell recognized Mr. Merriweather regarding the approval of an ABC Store. Mr. Merriweather stated, on August 23, 2021, the Sanford ABC Board requested approval from the Commission to purchase property and operate an ABC Store at 4470 NC Hwy 87, Sanford, North Carolina. Audit Investigation Supervisor Darnay Barefoot met with Sanford ABC Board General Manager Lee Dowd and requested information. Mr. Dowd provided the documents and information needed for the investigation report. Mr. Dowd advised Mr. Barefoot the proposed store would not replace an existing store in the Sanford ABC System. If approved, the Board tentatively plans to open the new store in Fall 2022 and the Board would have a total of three stores.

Mr. Barefoot received confirmation from the City of Sanford zoning department that the property is zoned for commercial use and the property is within the corporate city limits. Mr. Merriweather stated the property is owned by National Retail Properties, LP. The report showed there are no relationships between the property owner and the Board members. Mr. Merriweather explained the property is 1.99 acres and the existing building is 2,680 SF. If approved, the building will be expanded by another 4,360 usable SF.

Mr. Merriweather stated the nearest school, Ascend Public Charter School, is located at 226-268 Harvey Faulk Road in Sanford and approximately .7 miles away. The nearest church, Miracle Baptist Church located at 830 Harvey Faulk Road in Sanford, is approximately .3 miles away. Mr. Merriweather stated the nearest ABC Store is located approximately 3.2 miles away at 2116 South Horner Street in Sanford.

Mr. Merriweather stated the required sign announcing the ABC Board's intention to open an ABC Store was properly posted on August 26, 2021, witnessed by Mr. Barefoot and confirmed to comply with Commission rules. Mr. Merriweather explained, as of September 24, 2021, the Board had received two objections concerning the proposed store. The concerns were about traffic and turning into the ABC store parking lot through speeding traffic. Mr. Merriweather stated, based upon the investigative report, Commission staff recommends approval of this proposed store.

Commissioner Mitchell asked if anyone from the Sanford ABC Board wished to speak with the Commission. As there were no responses, Commissioner Stout made a motion to approve the proposed store. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

IV. OTHER BUSINESS

Commissioner Mitchell asked Ms. Spears and Mr. Merriweather if there was any additional business. They expressed there was no additional business.

Commissioner Mitchell announced the next meeting would be held virtually on Wednesday, December 8, 2021.

Commissioner Mitchell reminded that Thursday, November 11th was Veterans Day and wished all veterans a happy Veterans Day. He asked that they take time to reflect upon their service and how they helped to maintain this great democracy and the world. Commissioner Mitchell also wished everyone a Happy Thanksgiving. He added, despite all that has happened in the past year, there was still much to be thankful for.

Commissioner Mitchell requested a motion to adjourn the November Commission Meeting. Commissioner Stout made a motion to adjourn. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Approved at the December 8, 2021 Commission Meeting

/S/ Norman A. Mitchell, Sr.

Norman A. Mitchell, Sr., Commissioner
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

/S/ Caroline Y. Washburn

Caroline Y. Washburn for the Legal Section