

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
DECEMBER 8, 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 December 8, 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 December 2021 Commission Meeting to order, welcomed those who were participating and wished that everyone and their families had a wonderful Thanksgiving. Commissioner Mitchell introduced himself, Commissioner Karen L. Stout, who was joining the meeting virtually, Deputy Commissioner Terrance L. Merriweather, Assistant General Counsel Renee Metz and presented our new Chairman, Hank Bauer. Commissioner Mitchell stated he would be introducing Chairman Bauer later in the meeting.

MINUTES OF THE NOVEMBER 10, 2021 COMMISSION MEETING

Commissioner Mitchell requested a motion to waive the reading of the minutes of the November 10, 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 November 10, 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 – 59

Commissioner Mitchell recognized Assistant General Counsel Renee Metz regarding the hearing of the cases on the agenda. Ms. Metz stated that there were no Contested Cases on the agenda and asked if there was anyone present on the call who would like to address the Commission regarding an Offer in Compromise. Ms. Metz repeated herself twice more giving anyone on the call a chance to speak. Hearing no response, Ms. Metz asked that the Commission ratify the Offers in Compromise.

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. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(B) – CROWN IMPORTS, LLC; HORNETS BASKETBALL, LLC AND CHARLOTTE ARENA OPERATIONS, LLC

Commissioner Mitchell recognized Ms. Metz regarding the Exemption Request. Ms. Metz explained that this is a request for an extension on a previously granted exemption.

Ms. Metz asked if Attorney Roger Clayton, attending virtually, would like to make a statement on behalf of his clients. Mr. Clayton reiterated that this is a request for an extension of the exemption granted to his clients in February of 2021. Mr. Clayton stated that his clients would like to extend the agreement through the 2023-2024 NBA season.

Ms. Metz stated that since this request is only an extension of the dates of the previously approved exemption, staff recommended approval of the exemption request.

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

III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(B) – OLD ARMOR BEER COMPANY, INC. AND TIPSY HARE CIDERWORKS, INC.

Commissioner Mitchell again recognized Ms. Metz. Ms. Metz asked if Attorney Christian Staples was available to speak on behalf of his clients. Hearing no response, Ms. Metz explained the details of the exemption request.

Commission Assistant Counsel Bob Nauseef interjected stating that he had been in contact with Mr. Staples and there was a need for revisions to the exemption. Ms. Metz requested a motion to remove the exemption request from the agenda and continue it to the January 2022 Commission meeting.

Commissioner Stout made a motion to move the exemption request to the January 2022 meeting. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

IV. APPROVAL OF FUTURE COMMISSION MEETING DATES

Ms. Metz requested the Commission consider dates for future Commission Meetings. Ms. Metz proposed March 16, 2022, April 13, 2022 and May 11, 2022 for the Commission's consideration.

Commissioner Stout made a motion to accept the dates for the Commission Meetings. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

V. CONSIDERATION OF PROPOSAL OF PERMANENT EXPAND ALLOWABLE GROWLER SIZE RULE – 14B NCAC 15C .0307

Commissioner Mitchell stated the next matter before the Commission was consideration of the proposal of the permanent Expand Allowable Growler Size rules. Commissioner Mitchell 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 welcomed Chairman Bauer and explained that earlier this year the General Assembly enacted Section 7 of Session Law 2021, Chapter 150 as part of House Bill 890. This legislation directed the ABC Commission amend its rule regulating growler size, 14B NCAC 15C .0307(a), to increase the allowable growler size that a retail permittee can offer for malt beverages or unfortified wine from no larger than two liters to no larger than four liters. Mr. Reagan further explained that this law went into effect on September 10, 2021 and that the session law would remain in effect until the new rule is adopted affecting this change by the ABC Commission.

Mr. Reagan stated staff recommends that the Commission first propose the Expand Allowable Growler Size rule as was presented today which simply makes the change from two liters to four liters, direct this proposed rule to be filed with the Office of Administrative Hearings for publication in the North Carolina Register, direct copies of the proposed permanent rule to be sent to persons on the ABC Rulemaking emailing list, post the rule on the ABC Commission's website and schedule a public hearing on the proposed rule to be held at the Commission's meeting on February 9, 2022. Mr. Reagan further recommended that the Commission set a public comment period on the proposed rule to be open until March 4, 2022 and that staff be authorized to make any non-substantive changes in the proposed rule as needed including spelling, punctuation or grammar.

Mr. Reagan stated that he would be glad to answer any questions. The Commissioners stated they had none. Commissioner Stout made a motion to propose the permanent Expand Allowable Growler Size rule as presented. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

VI. SIX MONTH UPDATE TO THE MEMORANDUM OF UNDERSTANDING FOR THE RECEIPT, STORAGE, AND TRANSPORT OF ALCOHOLIC BEVERAGES AT THE RDU AIRPORT

Commissioner Mitchell recognized Assistant General Counsel Renee Metz. Before Ms. Metz introduced Jennifer Morgan, counsel for the Raleigh Durham International Airport Authority (hereinafter "RDU"), she summarized that one of RDU's concessionaires vacated their contract on short notice and left RDU with no options for the receipt, storage and transport of alcoholic beverages. At a special meeting on June 30, 2021, the Commission entered into a Memorandum of Understanding (hereinafter "MOU") with RDU, including a six-month review, so that the General Assembly would have time to take action. Ms. Metz stated that the General Assembly's legislation did not take effect until tomorrow and yielded the floor to Jennifer Morgan.

Ms. Morgan welcomed Chairman Bauer and introduced herself as an attorney with Williams Mullen located in Raleigh, NC. She stated that she represents Newrest RDU LLC (hereinafter "Newrest"), which is the offsite provider of food and beverage operations to RDU. Ms. Morgan stated that there were representatives from RDU and from Newrest on the line if the Commission had any questions.

Ms. Morgan stated her objective to give a six-month update on the MOU and to request a six-month extension since the General Assembly's legislation had not yet become effective. She summarized RDU's need for the MOU and was happy to report that operations were going well under the MOU. All the retailers which signed onto the MOU were participating and there were no complaints from Alcohol Law Enforcement or other law enforcement to her knowledge.

Jennifer Morgan continued that the parties had sought a legislative solution to create an Airport Central Storage permit, which the General Assembly had enacted as a part of House Bill 890 during the 2021 session. Since that law does not become effective until December 9, 2021, Ms. Morgan requested the Commission make a motion to extend the MOU for six months allowing time for the law to become effective and Newrest time to apply for the new Airport Central Storage permit.

Commissioner Stout made a motion to extend the MOU for six months. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

VII. OTHER BUSINESS

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

Commissioner Mitchell made a point of personal privilege to thank staff for the tremendous support that he received over the last month. He stated their professionalism has kept the Commission moving forward and on a steady course. He wished everyone and their families a Merry Christmas and a Happy New Year.

Commissioner Mitchell announced that on December 6, 2021 Governor Roy Cooper appointed Hank Bauer as the next Chairman of the ABC Commission. He quoted Governor Cooper's press release stating, "Hank Bauer has over thirty years of valuable experience in the industry. He will be an asset to the ABC Commission, and I am grateful for his willingness to serve." Commissioner Mitchell introduced Hank Bauer as the new Chairman of the North Carolina ABC Commission and congratulated him.

Chairman Bauer introduced himself and stated that he currently resides in Charlotte, NC but intends on moving to Raleigh to work full-time with the Commission. He stated he was very excited about the opportunity and has had a chance to meet with the staff over the previous week. He stated that they were a great team and he was looking forward to working with them and supporting them however he could.

Chairman Bauer briefly went over his background stating that he has been in the business for 31 years on the private side. He stated that he was a distributor for Gallo for 7 years, worked for Boston Beer Company and spent the last 20 years with Empire Distributors who covers the state of North Carolina distributing beer and wine. He added that Governor Cooper was excited for the opportunity for him to bring his knowledge of the industry to the Commission. Chairman Bauer stated that he was looking forward to meeting everyone and working with them in the future.

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

The next ABC Commission meeting will be held virtually on January 12, 2022 at 10:00 AM.

William Henry Bauer, Jr., Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

Jennifer L. Temple for the Legal Section