

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MINUTES
DECEMBER 12, 2012**

The following narrative and summary highlights action taken by the North Carolina Alcoholic Beverage Control Commission at its meeting on December 12, 2012, beginning at 10:00 AM. The meeting was recorded and the disk is on file at the ABC Commission in the Legal Division.

ROLL CALL

Chairman Zander Guy and Commissioner Daniel L. Briggs were present at the meeting.

MINUTES OF NOVEMBER 14, 2012

Chairman Guy asked for a motion to waive the reading of the minutes of the November 14, 2012 meeting into the record. Commissioner Briggs made a motion to waive the reading of the minutes from the November 14, 2012 meeting. Motion Passed. Chairman Guy asked for a motion to approve the minutes of the November 14, 2012 meeting. Commissioner Briggs made a motion to approve the minutes from the November 14, 2012 meeting. Motion Passed.

CONFLICTS OF INTEREST

As required by North Carolina General Statute 138A-35, Chairman Guy asked Commissioner Briggs if there were any conflicts of interest or any conditions or facts that might create the appearance of a conflict of interest with respect to any matters on the agenda. Commissioner Briggs stated that he had found no conflicts of interest. Chairman Guy stated that he had found no conflicts of interest.

I. HEARING CASES – 59

Chief Counsel Fred Gregory stated attorney Mark Ward, was present to speak on behalf of hearing case #59, Rum Republic. Mr. Ward stated the business accepts responsibility for the violations and stated he was present to request an adjustment of the suspension dates. Mr. Ward stated the business would like to begin the suspension on December 17, 2012. Assistant Counsel Renee Cowick stated efforts were made to settle the matter for the November Commission meeting; however, they were unable to settle in time for an earlier suspension. Ms. Cowick has no objection to an adjustment of the beginning date for the suspension.

Commissioner Briggs made a motion to adjust the suspension dates. Motion passed.

Chief Counsel Gregory stated Mr. Jered Helms, the owner of hearing case #23, Dreams Gentlemens Club, was present with Ms. Brandy Freeman, the manager, to speak on behalf of the business.

Ms. Freeman stated the violations occurred when an employee had controlled substances on the premises and in his car. Ms. Freeman stated the employee was fired that night. Mr. Helms stated that additional security has been hired, the business is longer working with the promoter who supplied the contractor/employee and they are working more with ALE. Assistant Counsel LoRita Pinnix stated that there was some flexibility with the penalty.

Chairman Guy made a motion to reduce the penalty 25% based upon confirmation of training within 30 days. Motion passed.

Chief Counsel Gregory stated Mr. Tushar Shah, the owner of hearing case #17, T and M Food Mart, was present to speak on behalf of the business. Mr. Shah asked for a reduction of the penalty. Ms. Cowick stated that the permit posting violation has been corrected as they were down for painting. Ms. Cowick stated there is some flexibility, perhaps a written warning for failure to post permits and failure to have an exterior sign violations. The sale to underage is of more concern due to the acts of the employee.

Commissioner Briggs made a motion to issue a written warning for violations #1 and #2 and to reduce the penalty to \$850.00, based upon confirmation of training within 30 days. Motion passed.

Chief Counsel Gregory stated hearing case #5, Cpl George D Matthews Post 288, was the next matter on the agenda.

Ms. Cowick stated that this was an American Legion facility and the managers held other jobs and were unable to attend the Commission Meeting. Ms. Cowick stated due to miscommunication, the offer was intended for the November Commission meeting, but was received too late to be added to that agenda. Ms. Cowick provided a copy of the business' newsletter stating that the business had notified their members of plans to be closed during the intended suspension period. Ms. Cowick asked the Commission to allow the suspension to begin on December 14, 2012.

Commissioner Briggs made a motion to adjust the suspension dates to begin on December 14, 2012. Motion passed.

II. OTHER BUSINESS – APPROVAL OF FUTURE COMMISSION MEETING DATE

Chairman Guy made a motion to approve March 20, 2013 for the March NC ABC Commission meeting date. Motion passed.

III. OTHER BUSINESS – ABC STORE LOCATION – WAKE COUNTY ABC BOARD

Administrator Michael Herring stated on October 22, 2012, the ABC Commission received a letter from Craig Pleasants, General Manager for the Wake County ABC Board requesting approval to open a new ABC store in Fuquay-Varina.

On November 20, 2012, ALE Special Agent Kyle Barbee began an investigation and found the Wake County ABC Board plans to purchase property and construct an ABC store at 1940 Cinema Drive, in the Marquee Station development (Lot 4) at the intersection of US Highway 401 South and Mill Creek Drive in Fuquay-Varina.

The proposed location and property is owned by BH-Marquee Station, LLC, a NC limited liability company. The purchase price is \$475,000.00. The investigation found no financial conflict of interest between the ABC Board members and property owner, BH-Marquee Station, LLC.

Projected sales at this new location are approximately \$2.2 million dollars.

The nearest church is located .2 miles from the proposed site. The nearest school is located .1 miles from the property. Notice of intent to open an ABC store at the site was properly posted on October 22, 2012.

Mr. Herring stated the investigation noted two objections from the public. One objection was in reference to the close proximity of the proposed location to the church. The other objection was from a neighbor that lived approximately a mile away. The ABC Commission has received no objections and Mr. Herring recommended approval of the location.

Commissioner Briggs made a motion to approve the location. Motion Passed.

Commissioner Briggs made a motion to approve the remaining offers in compromise, with the exception of the previously ratified cases. Motion Passed.

With no further business, the meeting adjourned.

A.D. "Zander" GUY, JR., Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

Caroline Y. Washburn, Legal Division