

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL
COMMISSION MEETING MINUTES
SEPTEMBER 7, 2022**

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 September 7, 2022, 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 AND ANNOUNCEMENTS

Chairman Hank Bauer called the September 2022 Commission meeting to order and welcomed those who were participating. Chairman Bauer introduced himself; Commissioner Norman Mitchell, Sr., and Commissioner Karen Stout, who were both joining the meeting virtually; Deputy Commissioner Mike DeSilva; and General Counsel Stacey Carter-Coley.

Chairman Bauer announced that Wednesday, August 31, 2022, was Deputy Commissioner Terrance Merriweather’s last day before retirement. He again thanked him for everything that he accomplished at the Commission and for a long career in service to the State. The Chairman stated that he was looking forward to Deputy Commissioner Mike DeSilva stepping into the role and bringing his experience to the Commission.

Chairman Bauer took a moment to give a current update on the ABC warehouse. He stated that the Commission was close to maxing out the usage of the warehouse building. He stated that employees were working in shifts for 22 hours a day on weekdays and making deliveries on Saturdays.

The Chairman stated that he received reports of some major construction issues regarding the warehouse. The driveway is damaged, and the concrete will need to be replaced at an estimated cost of \$400,000. Mr. Bauer stated that the current workload would not allow the repair and that construction would begin in January 2023, which is a slower month for the Commission.

Chairman Bauer stated that just the previous week, another report was received from the warehouse of dislodged walls that are falling outward. He stated that an emergency request had been submitted, but no estimates had been received at the time. Chairman Bauer plainly stated that the building was in poor shape. He stated that getting a new warehouse building was a big part of his initiative when he started, and he would do everything he could to make that happen.

Chairman Bauer also gave a few IT updates. He stated that a memorandum of understanding had been signed with DPS to hire some IT employees and the interview process was just beginning. He stated the Commission needed updates to its CODA system and someone to manage the system. With these updates, the Chairman hoped to get pricing and products information out more efficiently and to implement online permitting by the end of the year. He also reported that the Commission was working with SAS to update the website. He stated that the new website would be more user-friendly, allowing consumers to track products and find items more efficiently. He stated the Commission would be able to retrieve sales data at a quicker pace.

MINUTES OF THE AUGUST 10, 2022, COMMISSION MEETING

Chairman Bauer requested a motion to waive the reading of the minutes of the August 10, 2022, Commission meeting into the record. Commissioner Stout made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Chairman Bauer requested a motion to approve the minutes of the August 10, 2022, 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, Chairman Bauer 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 Bauer stated he had reviewed the agenda and found no conflicts. Commissioner Stout and Commissioner Mitchell also stated they found no conflicts.

I. HEARING CASES AND OFFERS IN COMPROMISE – 72

Chairman Bauer recognized General Counsel Stacey Carter-Coley regarding item one on the agenda, the hearing of the cases.

Mrs. Carter-Coley stated that there were no contested cases on the September agenda and presented 72 offers in compromise for consideration.

Chairman Bauer asked if there was anyone who would like to address the Commission regarding any of the offers in compromise on the September agenda. He repeated the inquiry twice more.

Hearing no response, Mrs. Carter-Coley stated that staff recommended the Commission ratify the offers in compromise as presented. Commissioner Stout made a motion to 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) – CHRIS BORRESON; WYE HILL KITCHEN AND BREWING; AND GLASS HOUSE KITCHEN

For item two on the agenda, an exemption request, Chairman Bauer again called upon Mrs. Carter-Coley.

Mrs. Carter-Coley explained this exemption request was submitted through counsel for Chris Borreson; Wye Hill Kitchen and Brewing; and Glass House Kitchen, pursuant to N.C.G.S. §18B-1116, to allow common ownership by Chris Borreson for both businesses for ABC permitting purposes consistent with NC alcohol law and Commission policies. She stated after considering the protection of public welfare and as long as the exemption was granted with the customary trade and public interest provisions, staff recommended approval of the exemption request. She listed some of those standard conditions to include having an independent manager at each location and there be no requirements or agreements regarding exclusivity, preference, or any agreement otherwise restricting product placement or promotion of the product while making a good faith effort to find an independent wholesaler.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Commissioner Mitchell made a motion to approve staff's recommendation. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

III. ABC STORE LOCATION – JOHNSTON COUNTY ABC BOARD (12641 US HIGHWAY 70 WEST, CLAYTON, NC)

Chairman Bauer recognized Deputy Commissioner Mike DeSilva to present item three on the agenda, a request by the Johnston County ABC Board for approval of a new store location.

Mr. DeSilva summarized the investigation conducted by ABC Audit Supervisor Darnay Barefoot. He stated on June 17, 2022, the Johnston County ABC Board requested approval from the Commission to purchase land, build, and operate an ABC Store located at 12641 US Highway 70 West in Clayton, North Carolina. The new location would replace Johnston County ABC Store #6 located 0.1 miles away at 12487 US-70 Business in Clayton.

Mr. DeSilva stated the investigation determined the land was designated for O-I Zoning which meant the district was intended to permit offices, institutions and associated administrative, executive, professional and research uses.

Mr. DeSilva reported the property was owned by United Community Bank (formally Four Oaks Bank). He stated there was an Offer to Purchase Agreement for the property from United Community Bank and an addendum that if not approved by the ABC Commission the buyer would not purchase the property. This addendum expired on September 30, 2022. If approved, the property would be purchased for \$600,000 and the ABC Board had already paid \$10,000 in earnest money. He stated the estimated cost for the new store totaled \$2,000,000. At the time, various bids were pending for financing options to build the store. United Community Bank had indicated they were willing to finance. Mr. DeSilva added that all Johnston County Board members had provided financial disclosures as requested.

The Deputy Commissioner provided some building and location proximity details. He stated the total space of the new store would be a little over 8,500 square feet with close to 4,700 square feet of retail space and 3,800 square feet of storage space. He reported there were two schools located near the proposed new store location. He stated Johnston Charter Academy was 0.2 miles away and Clayton High School was 1.8 miles away. He stated the closest church was the Church at Clayton Crossing located approximately 1.6 miles away. The closest ABC store, Johnston County ABC Store #6, located 0.1 miles away, would be closed and sold upon completion of the proposed new store location. The next closest ABC store was located just under 10 miles away at 36 Flower Crossroads Way in Clayton, North Carolina.

Mr. DeSilva stated on July 30, 2022, a sign announcing the Board's intentions of opening an ABC Store was placed at the location as required. On August 10, 2022, ABC Auditor/Investigations Supervisor Barefoot witnessed the sign and confirmed its compliance with ABC rules. Mr. DeSilva reported as of August 24, 2022, General Manager Chad Stewart had received two calls with objections by phone. The callers were asked to put their statements in writing, but none were received.

Based on the above information, Mr. DeSilva stated that staff recommended approving the request.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Commissioner Mitchell made a motion to approve staff's recommendation. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

IV. WAREHOUSE CONTRACT REVIEW REQUEST

Chairman Bauer stated that item four was a request to review the warehouse contract with LB&B Associates Inc. He asked General Counsel Stacey Carter-Coley to present item.

Mrs. Carter-Coley requested that this matter be continued to the October 2022 Commission meeting agenda. She stated that all parties were aware of this request.

Chairman Bauer asked the Commissioners if they had any questions. Hearing none, Chairman Bauer requested a motion. Commissioner Mitchell made a motion to approve staff's recommendation. Commissioner Stout seconded the motion. A vote was held, and the motion passed.

V. OTHER BUSINESS

Chairman Bauer asked Mrs. Carter-Coley and Mr. DeSilva if there was any additional business. They expressed there was no additional business.

Chairman Bauer announced that the next ABC Commission meeting would be held virtually on Wednesday, October 12, 2022.

Chairman Bauer requested a motion to adjourn the September 2022 Commission meeting. Commissioner Stout made a motion for adjournment. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

Approved at the October 12, 2022 Commission Meeting

 /S/ Hank Bauer
Hank Bauer, Chairman
N.C. Alcoholic Beverage Control Commission

Respectfully submitted by,

 /S/ Jennifer L. Temple
Jennifer L. Temple for the Legal Section