

**NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL  
COMMISSION MEETING MINUTES  
DECEMBER 14, 2022**

The following narrative summarizes the North Carolina Alcoholic Beverage Control Commission (hereinafter "Commission") meeting held at 400 East Tryon Road in Raleigh, North Carolina, via teleconference, on December 14, 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 December 2022 Commission meeting to order and welcomed those who were attending. 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 wished everyone happy holidays, to be spent with family and friends.

He announced that the December meeting would be Commissioner Stout's last meeting with the Commission and took a few moments to thank her for her service to the state. Commissioner Stout served seven years with the ABC system, four years with the Greensboro ABC, and over three years with the Commission. Chairman Bauer stated that he and Commissioner Stout share similar backgrounds in the grocery and alcohol business. Chairman Bauer thanked Commissioner Stout for her support during his first year in his position as chairman. Commissioner Stout will be greatly missed.

Commissioner Stout said she appreciated the time and support everyone had given her. She wished everyone happy holidays.

Commissioner Mitchell stated he had enjoyed working with Commissioner Stout over the years. He wished her the best and hoped they could keep in touch.

**MINUTES OF THE NOVEMBER 16, 2022, COMMISSION MEETING**

Chairman Bauer requested a motion to waive the reading of the minutes of the November 16, 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 November 16, 2022, Commission meeting. Commissioner Stout made the motion. Commissioner Mitchell seconded the motion. A vote was held, and the motion passed.

## **CONFLICTS OF INTEREST**

In compliance with N.C.G.S. §138A-35, entitled 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 Mitchell and Commissioner Stout also stated they found no conflicts.

### **I. HEARING CASES AND OFFERS IN COMPROMISE – 70**

Chairman Bauer recognized General Counsel Stacey Carter-Coley regarding item one on the agenda, the hearing of the cases. Ms. Carter-Coley asked if there was anyone who would like to address the matter of Copper Cricket Enterprises, LLC, d/b/a Copper Cricket Pub. The case was a Final Order of Dismissal by the ALJ, based on the permittee not filing a Prehearing Statement. Ms. Carter-Coley asked that the Commission impose the ALJ's decision as written, with a payment deadline of January 6, 2023, and suspension beginning January 13, 2023.

Chairman Bauer asked the Commissioners if they had any questions regarding the recommendation of the ABC legal staff. Commissioner Mitchell and Commissioner Stout stated they did not have any questions. Commissioner Mitchell made a motion to adopt the legal staff's recommendation. Commissioner Stout seconded the motion. A vote was held, the motion passed.

General Counsel Stacey Carter-Coley stated case #21 on the legal agenda was there for the Commission's awareness to determine if the case would be handled with the other offers in compromise or handled separately. Ms. Carter-Coley yielded to Assistant Counsel Seth Kandl.

Assistant Counsel Seth Kandl stated the case #21 is Mimo's Ice Cream & Twisted Treats. The violation was for non-approved storage location. There was confusion as to where the products could be stored. The permittee rented an additional location next to the current location. When an independent inspection occurred, the alcohol products stored in the rented location were seized. Mr. Kandl stated the Final Agency Decision had been modified to authorize return of the seized products.

General Counsel Stacey Carter-Coley stated that ALE was present and asked the Commission to allow ALE to be heard on the matter. Chairman Bauer agreed to allow ALE to be heard. ALE Director Bryan House yielded to Assistant Director Israel Morrow, who stated they approve of the decision and will comply when an order is in place.

General Counsel Stacey Carter-Coley stated that before moving on with the remaining Offers in Compromise, there was one more case to handle. The case was #53, with a staff recommendation to have the case removed from the December agenda for further details. Ms. Carter-Coley asked that the case be added to the next Commission meeting agenda. Ms. Carter-Coley asked for a motion to remove the case from the December agenda. Commissioner Stout motion to have the case removed and added to the next agenda. Commissioner Mitchell seconded the motion. A vote was held, the motion passed.

General Counsel Stacey Carter-Coley recommended approval of the remaining Offers in Compromise on the agenda. Chairman Bauer asked if there was anyone present who would like to address any of the Offers in Compromise on the agenda. The chairman asked a second time. After hearing no response, Chairman Bauer asked the Commissioners if they had any questions. The Commissioners stated they had

no questions. The chairman stated if there were no questions a motion would be in order to approve the remaining offers. Commissioner Mitchell made a motion to approve the remaining offers. Commissioner Stout seconded. A vote was held, the motion passed.

## **II. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – LAUGHING WATERS, LLC AND NOCTURNAL BREWING COMPANY, LLC**

Chairman Bauer again called upon General Counsel Stacey Carter-Coley to address the exemption request. Ms. Carter-Coley stated the exemption request was a matter of an ownership exemption.

Ms. Carter-Coley stated that Mr. Plummer holds 100% ownership interests in Nocturnal Brewing and 100% ownership interest in Laughing Waters. The joint ownership was the subject of the exemption request. Ms. Carter-Coley asked if Mr. Plummer was present and, if so, would he like to be heard. There was no response.

Ms. Carter-Coley continued with the legal staff's recommendation. The petition had been reviewed and the legal staff recommended granting the exemption with the following condition, no Nocturnal Brewing malt beverage products will be sold directly or indirectly to Laughing Waters except through an independent third-party wholesaler.

Chairman Bauer asked the Commissioners if they have any questions as to Ms. Carter-Coley's recommendation. Commissioners Stout and Mitchell stated they had no questions. The chairman stated a motion would be in order. Commissioner Stout made a motion to accept the legal staff's recommendation. Commissioner Mitchell seconded the motion. A vote was held, the motion passed.

## **III. EXEMPTION REQUEST PURSUANT TO N.C.G.S. §18B-1116(b) – JONATHAN SEELBINDER; OAK CITY MARKET, LLC; LITTLE CITY TAVERN, LLC; EAST ENTERTAINMENT, LLC; 1255LIH, LLC; AND 701LIH, LLC**

Chairman Bauer recognized General Counsel Stacey Carter-Coley to present item three on the agenda, an exemption request.

General Counsel Stacey Carter-Coley named the parties involved for the record (see caption above). Ms. Carter-Coley stated that the request was for an amendment to an exemption granted in January 2017, based on a new retail establishment, Skyline Village Inn, with joint ownership by Jonathan Seelbinder, 100% owner of Oak City Market, which is Little City Brewing and Provisions Company. Both held commercial and retail permits. A prior exemption was granted regarding retail permits held by Little City Tavern and East Hargett Entertainment. Ms. Carter-Coley stated the petition also requests an exemption for 701LIH, LLC, because no location or trade name had been established the matter of the 701LIH exemption was not addressed.

Ms. Carter-Coley stated there were issues with "trading as" names in the petition not matching those in the Commission's database. Ms. Carter-Coley stated the exemption may only be granted to businesses that have permits, therefore, Mr. Seelbinder will have to make changes with the Permit Section for the order to correlate with the permits held.

Ms. Carter-Coley asked if there was anyone present who wanted to speak regarding the request. Attorney John Szymankiewicz was present and stated he represented Mr. Seelbinder and the LLC's. Mr. Szymankiewicz stated Mr. Seelbinder is aware and will handle all pending issues.

Ms. Carter-Coley stated the legal staff has reviewed the Petition and recommend granting the exemption based on the following conditions, Oak City Market malt beverage products will not be sold at Skyline Village Inn; the remaining Affiliated Retailers will have independent managers who will order all malt beverage products for their respective Affiliated Retail locations. The managers will not be Jonathan Seelbinder, who shall also not have day-to-day operational control of the Affiliated Retailers. Each Affiliated Retailer shall offer a reasonable selection of comparable non-Oak City Market malt beverage products at fair and reasonable prices. The order shall apply only if Oak City Market sells fewer than 5,000 barrels per year.

Chairman Bauer asked the Commissioners if either of them had any questions as to Ms. Carter-Coley's recommendation. Both Commissioner Mitchell and Commissioner Stout stated they had no questions. The chairman asked for a decision from the Commissioners. Commissioner Mitchell made a motion to approve the legal staff's recommendation. Commissioner Stout seconded. A vote was held, the motion passed. The chairman announced the next item on the agenda.

**IV. ABC STORE LOCATION – GREENSBORO ABC BOARD**  
***(106 BANTIFF WAY, GREENSBORO, NC)***

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

Deputy Commissioner Mike DeSilva addressed the Commission and stated there are two other similar items on the agenda to be addressed, and how he plans to present the requests.

Mr. DeSilva stated the Greensboro ABC Board requested approval from the NC ABC Commission for a new ABC store location at 106 Baniff Way, Greensboro, NC. The property was listed as parcel number 93227, currently owned by Brittway I Investments, LLC. The location was an improved lot, located near Interstate 85 and a thorough-fare, Elm Eugene Road in Greensboro. Mr. DeSilva stated none of the board members had any personal or financial interests in the property.

Mr. DeSilva asked if there were any questions. Commissioners Mitchell and Stout stated they had no questions. There were no other responses.

Chairman Bauer asked the Commissioners if they had any questions. They both stated they did not. Commissioner Stout made a motion to approve the ABC store location. Commissioner Mitchell seconded. A vote was held, the motion passed. The chairman announced the next item on the agenda.

**V. ABC STORE LOCATION – LINCOLN COUNTY ABC BOARD**  
***(437 ATWATER LANE, DENVER, NC)***

Chairman Bauer again called upon Deputy Commissioner Mike DeSilva to present item five, a request for approval of a new ABC store location by the Lincoln County ABC Board.

Deputy Commissioner Mike DeSilva stated the Lincoln County ABC Board requested approval from the NC ABC Commission for a new ABC store location at 437 Atwater Lane, Denver, NC, tax parcel number 100359. The property will replace the existing location located approximately .4 miles away at 7531 Waterside Crossing Boulevard. The location was in a shopping center known as Cambridge Village Shopping Center, which has access from NC Business Highway 16 and NC Highway 27. The property

was owned by Cambridge-Denver, LLC, of Charlotte, NC. Mr. DeSilva stated none of the board members had any personal or financial interests in the property.

Chairman Bauer asked the Commissioners if they had any questions. Both stated they did not. Commissioner Mitchell made a motion to approve the new ABC store location. Commissioner Stout seconded. A vote was held, the motion passed.

**VI. ABC STORE LOCATION – WARSAW ABC BOARD  
(2715 WEST NC 24 HIGHWAY, WARSAW, NC)**

Chairman Bauer again called upon Deputy Commissioner Mike DeSilva to present item six, a request for approval of a new ABC store location by the Warsaw ABC Board.

Deputy Commissioner Mike DeSilva stated the request was continued from last month for further research. Mr. DeSilva stated that on October 25, 2022, the Warsaw ABC Board submitted a request for approval to the NC ABC Commission for a new ABC store location at 2715 West NC 24 Highway, Warsaw, NC. The new location would be in addition to the current location at 114 South Pine Street in Warsaw. Upon approval by the Commission an offer to purchase contract will be signed by Raeford Holdings, LLC. All board members had provided financial statements as requested.

Mr. DeSilva stated there had been several objections to the new ABC store. Mr. DeSilva yielded to comments or questions. Anthony Moore was present and stated his objection to the new ABC store. Mable, Warsaw ABC General Manager made a statement for approval of the new ABC store. Nicole Mobley stated her concerns for the new ABC store. The chairman asked if anyone else who had anything else to add. There was no response.

Chairman Bauer asked the Commissioners if they had any questions. Commissioner Mitchell stated he had a comment. Commissioner Mitchell thanked the staff for their due diligence. Angela Mayer commented on the Warsaw ABC store. Commissioner Mitchell made a motion to approve the new Warsaw ABC store location. Commissioner Stout seconded. A vote was held, the motion passed.

**VII. REQUEST FOR EXTENSION OF THE MEMORANDUM OF UNDERSTANDING FOR THE RECEIPT, STORAGE, AND TRANSPORT OF ALCOHOLIC BEVERAGES AT THE RDU AIRPORT**

Chairman Bauer called upon General Counsel Stacey-Carter Coley to present item seven on the agenda, a motion for extension of time to the Memorandum of Understanding (“MOU”) with Raleigh Durham International Airport (“RDU”). Mrs. Carter-Coley yielded to Assistant General Counsel Renee Metz who summarized the MOU and asked Jennifer Morgan, counsel for RDU, if she would like to make any remarks. Jennifer Morgan asked for a six-month extension, through June 30, 2023.

Chairman Bauer asked the Commissioners if they had any questions. Both stated they did not have any questions. Commissioner Stout made a motion to approve the extension for six months. Commissioner Mitchell seconded. A vote was held, the motion passed.

## VIII. WAREHOUSE CONTRACT REVIEW REQUEST

Chairman Bauer recognized Deputy Commissioner Mike DeSilva to present item eight on the agenda, a request for a review of the warehouse contract with LB&B Associates, LLC (“LB&B”). Deputy Commissioner summarized the requests of LB&B. Mr. DeSilva yielded to LB&B’s legal representative, Ben Thompson. Mr. Thompson thanked the ABC Commission legal staff, and stated he especially enjoyed working with General Counsel Stacey Carter-Coley, Assistant General Counsel Renee Metz, and other members of the legal staff. Mr. Thompson summarized the conditions of the contract that were accepted by the state. Mr. Thompson stated .85% was the compromised amount proposed for a fair resolution of the contract negotiations.

Mr. DeSilva recommends a .6% adjustment and in consideration for the presentation by Mr. Thompson. Chairman Bauer asked the Commissioners if they had any questions. Both stated they did not have any questions. Commissioner Mitchell made a motion to compensate LB&B .6% for the KPI’s that were met and zero on the two that were half-way met. Commissioner Stout seconded. A vote was held, the motion passed.

## IX. OTHER BUSINESS

Chairman Bauer asked Ms. Stacey Cater-Coley and Mr. DeSilva if they had any other business to be heard. They both stated that there was no other business to be heard. Chairman Bauer stated the next Commission meeting, January 11, 2023, will be held in-person at the ABC Commission. The chairman asked for a motion for adjournment of the December 2022 meeting.

Commissioner Stout made a motion to adjourn the meeting. Commissioner Mitchell seconded. A vote was held, the motion passed. The meeting adjourned.

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

Respectfully submitted by,

/s/Teresa Fuller  
Teresa Fuller for the Legal Section