

Durham County ABC Board

Minutes of the Meeting December 19, 2011

The Durham County ABC Board met at the administrative office, 3620 Durham Chapel Hill Boulevard on the 19th day of December 2011.

Presiding board member Kim Shaw called the meeting to order at 5:30 PM.

Other board members present were Deirdre Guion, Michael Nelson, Erroll Reese and Connie J. White. Law Enforcement Chief Derrick McMillan, General Manager Emily Page and Attorney George W. Miller, Jr. were present.

Consent Items

Consent agenda items included the Board Attendance Report, Adoption of Agenda and the Minutes of the November 21, 2011 meeting. On motion by Ms. White, seconded by Mr. Reese, the consent agenda items were approved without objection.

Law Enforcement Report and the Financial Reports for November 2011

- **Law Enforcement Report for November 2011**

In November, there were 20 persons arrested with 20 total charges for various alcohol-related offenses and other offenses. There are now 4 cases pending in traffic court, 182 cases in district criminal court and 0 cases in superior court.

Chief McMillan requested to submit the monthly Law Enforcement report in the State format only in the future. Currently, an additional report has to be generated for the Board in order to provide three items which are not included in the State report:

- Cases that are pending—this information can be tracked by the individual officer during the disposition of their cases.
- Number of warnings to include during mixed beverage inspections—this information can be tracked internally during each monthly report submitted to the Chief.
- A breakdown of cases by each type of court—the State report breaks down charges by alcohol charges, drug charges and other charges.

A motion by Ms. White, which was seconded by Mr. Reese, to accept Chief McMillan's request to submit the monthly Law Enforcement report to the Board in the State format was approved without objection.

Ms. Page noted that Law Enforcement will not be trained on Pictometry, a surveillance tool that was discussed at November's board meeting, until sometime in January. She suggested that a demonstration can be provided at a future board meeting.

- **Financial Reports for November 2011**

The November retail sales were up 7.61% compared to last year. MXB sales were up

2.56% compared to last year.

Total sales for the month were \$2,127,495, representing an increase of \$132,961 which is 6.67% over last year in November. Monthly sales were above the budget projections by \$100,649, a positive variance of 4.97%. Year-to-date sales of \$10,143,115 were up 5.85% compared to last year and 4.08% over budget.

Monthly profit before distributions of \$94,695 was below budget by \$3,474, representing a negative variance of 3.54%.

After profit distributions totaling \$60,116, there was net income of \$34,579, a negative variance of \$14 under budget. Year-to-date, net income of \$238,160 was above budget by \$217,009.

Compared to last year, November net income increased \$31,078. Year-to-date net income was up \$134,051.

Contract Approvals:

- a. **Woodcroft site** - Based on the bids received and the architect's certification of the bids, Ms. Page recommended that Trout & Riggs be selected for the Hope Valley Road (Store 14) construction project. Subsequent to the bid opening, Ms. Page was informed by the architect that a change order will be required to the existing design on which the bid was based. The change order is due to the City of Durham's requirement for a backflow preventer and double check valve. The architect estimates these additions will cost in the range of \$2,000 - \$5,000; however, this estimate is not based on a contractor's review. On motion by Ms. White, seconded by Mr. Nelson, the recommendation to accept Trout & Riggs as the contractor for the Hope Valley Road construction project was approved without objection.
- b. **Holloway Street site** - Based on the bids received and the architect's certification of the bids, Ms. Page recommended Mixon Construction for the Holloway Street (Store 1) construction project. Mixon Construction was the lowest bidder on the project. On motion by Mr. Nelson and seconded by Ms. White, the recommendation to accept Mixon Construction as contractors for the Holloway Street construction project was approved without objection.

ABC Commission New Rules Review

Ms. Page brought the Board's attention to two new rulings that affect this Board. The first pertains to the amount of working capital a Board can maintain. The new rule which applies to our Board states "a local board shall set its working capital requirements at not less than two weeks' average gross sales of the latest fiscal year nor greater than: ... three months of the latest fiscal year for boards with gross sales greater than or equal to one million five hundred thousand dollars (\$1,500,000) and less than fifty million dollars (\$50,000,000)." Ms. Page stated that the working capital for DCABC easily falls within these guidelines.

Ms. White asked Ms. Page to apprise Mechanics & Farmers of this new requirement to ensure that DCABC's loan covenants are in line with this new requirement.

The second pertinent ruling states that “if a local board has a price discrepancy between the price on the shelf or bottle and the cash register, and the price on the shelf or bottle is lower, the local board shall sell the item at the shelf or bottle price and correct the shelf or bottle price to match the Commission’s published price.” Ms. Page has distributed guidelines to the stores as to how they are to handle these situations in order to be in compliance with the Commission rule.

Ms. Page also mentioned the new ruling that local boards are now allowed to join the Chamber of Commerce and Convention and Visitor’s Bureaus. The board asked Ms. Page to investigate the advantages of such memberships compared to costs and to make a recommendation regarding DCABC joining these organizations.

Strategic Planning and General Manager’s Report

Ms. Page reported that she has visited the ABC Commission. The Commission will be conducting a Performance Audit of DCABC Board this year. A time period was not specified but advance notification will be provided. The set of performance standards by which DCABC will be measured was provided. Ms. Page is asking each department to review these standards to ensure that DCABC is in compliance.

Ms. Page reported that Laurie Lee from the ABC Commission will provide a schedule of the next Ethics training so that Dr. Guion can plan to attend.

The asbestos was removed from the new Holloway Street location and the building has been certified as safe for construction to begin.

General Services is still seeking a contractor to repair the backflow problem at the warehouse. General Services is in contact with the City to keep them abreast of progress in resolving this problem to ensure the City does not cite DCABC for being out of compliance.

Ms. Page stated that the Point-of-Sale system problems continue. At this point, she is recommending that a technology consultant be engaged to assess the system, diagnose the problems and recommend solutions as part of a technology strategy. Ms. Page hopes to submit a recommendation to the Board at the next meeting.

Ms. Page reported that she contacted North Carolina Central University (NCCU) to follow up on the Board’s previous request for them to modify their Alcohol Education program such that it provides more interaction with the Durham school system. After her discussion with NCCU, they will assess ways to incorporate the modifications requested by the Board. Ms. Page hopes to provide an update at the January 2012 Board meeting.

Other Business

Board of County Commission’s New Rules for County Board Memberships - Ms. Page introduced the Board of Commissioners new rules. She pointed out several changes impacting the board:

- 1) New members appointed to the Board must contact the County to be sworn in and must also attend an orientation within six months of appointment.
- 2) There is a new eight year term limit for serving on County boards. Ms. Page queried the Clerk to the Commissioners about the eight year term limit because an eight year term limit does not coincide with the three year terms that ABC Board members are appointed to by law. If an ABC Board member is reappointed twice then their term will be nine years. She

is awaiting a reply from the Clerk about this matter.

- 3) There is a requirement for an annual report to the Commissioners. Ms. Page is to explore whether this report needs to be in a different format from DCABC's usual annual report.

Ms. Page asked the Board if they wanted to publish a formal 2011 annual report for the public or create a special report to provide only to the Board of Commissioners. In the past, the annual report has been issued in approximately October, however, this year the General Manager position was still vacant at that time and no report was initiated. The report can still be published, but it will be well past the usual October issue date. The Board agreed that they wanted the annual report to be created.

Ms. Page inquired if the current Board meeting day and time worked for everyone since it was set by a previous set of board members. All Board members responded affirmatively.

Ms. Page asked the Board if they are interested in her drafting some potential policy changes that will enable them to utilize remote meeting options periodically such as Skype. She will submit a recommendation to the Board at a future meeting.

Finally, Ms. Page asked if the Board was planning to make a recommendation to the County Commissioners regarding a Board Chair. Board members were not sure the Commissioners wanted a recommendation from them since, by statute, the Board of Commissioners appoints the Chairperson. Ms. Page will contact the County Manager and report back to the board regarding this question.

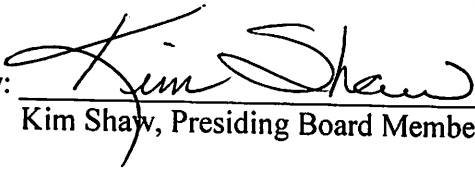
Closed Business

There were no closed business items this meeting.

Adjournment

On motion by Ms. White, seconded by Mr. Nelson, the meeting was adjourned without objection.

Approved By: _____


Kim Shaw, Presiding Board Member