

**Durham County ABC Board
Minutes of the Meeting
February 18, 2013**

The Durham County ABC Board met at the administrative office, 3620 Durham Chapel Hill Boulevard on the 18th day of February 2013.

Board Chair Kim Shaw called the meeting to order at 5:35 PM.

Board members Wayland Burton, Deirdre Guion, Kevin Nelson and Erroll Reese were present. General Manager Emily Page, Attorney George W. Miller, Jr., and Jarvis Martin from Martin & Company were also present.

Conflict of Interest Review and Declaration

Ms. Shaw read the Board's Conflict of Interest Review and Declaration statement. She asked Board members to declare that they had no conflicts of interest with any items coming before the Board and, if so, that they would recuse themselves from voting. All Board members declared their agreement.

Consent Items

Consent agenda items included the Board Attendance Report, Adoption of Agenda and Minutes of the January 22, 2013 Meeting.

Mr. Reese motioned for the consent agenda items to be accepted and Mr. Nelson seconded the motion. The Board approved the motion without objection.

General Business

Holloway Street Properties – Update on Eminent Domain Offer from NCDOT

Mr. Jarvis Martin of Martin & Company was retained by the Board to assess the eminent domain offers from NCDOT for the Holloway Street properties. Mr. Martin presented his findings regarding the impact of the loss of land on the traffic flow at 1928 Holloway Street. His report is included as Appendix A.

Mr. Martin recommended that DCABC work with an engineer who can provide plans for parking and traffic flow after the front of the building has been narrowed. Mr. Martin can better recommend a fair market value for the loss of land once the impact on parking is known.

The board agreed to request that an engineer or architect provide a report before Mr. Martin recommends fair market compensation. Ms. Page will engage the appropriate professionals to assist and will provide an update at the next meeting.

Law Enforcement Report for January 2013

In January, there were 10 ABC law violations and 0 controlled substance violations. Law Enforcement provided alcohol education to 2 groups, assisted other agencies during 12 incidents, and conducted 75 mixed beverage inspections and 80 compliance checks.

Ms. Page reported on a question raised at last month's meeting regarding the lower number of

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compliance checks in December 2012 vs. December 2011. Ms. Page explained that compliance checks are based on the number of individuals that are asked to show ID to prove that they are of legal drinking age while Law Enforcement is in a mixed beverage establishment. Numerous compliance checks may be conducted at an establishment during a single visit depending on the need as determined by Law Enforcement officers.

A question was raised about the nature of the reported "assists" to Agencies by DCABC Law Enforcement. Ms. Page will look into these incidents and respond at next month's meeting.

Financial Reports for January 2013

The January retail sales were up 10.26% and Mixed Beverage sales were up 17% compared to last year.

Ms. Page noted that Durham County ABC had another good month in January. In reference to a question raised at last month's meeting about additional cash in the bank as of 12/31/12, Ms. Page explained that cash was higher at the end of December than in typical months for the following reasons:

- Cash generated from the Christmas holiday sales was still in the bank
- Most of the holiday inventory invoices were not due before the following month
- Quarterly distributions to the County and City were not due to be paid until January 2013

Ms. Page highlighted the Holloway Street store's continued strong growth. She also noted the increase in sales at the T.W. Alexander store and commended the store staff for their merchandising efforts to increase sales despite the challenges of their location. The board discussed whether the signage is sufficient at this store location. Ms. Page will explore whether there are options available to increase the visibility of our signage.

Total sales for the month were \$1,978,569 which is an increase of \$206,871(11.68%) as compared to last January. Monthly sales were \$91,871(4.87%) above budget. Year-to-date sales of \$15,770,477 were up 6.49% compared to last year and 6.44% over budget.

January Profit before Distributions was 78.07% above budget and year-to-date is 52.3% above budget.

After profit distributions, January net income was \$78,073 and year-to-date was \$807,024 which is an increase of \$27,963 for the same month and \$342,662 for the same period year-to-date in FY2012.

Credit Card Policy – Revised Draft Review

Ms. Page provided the most recent revision of the credit card policy draft which was based on continued discussions from the December and January meetings.

Ms. Page indicated that she is still looking into gas purchasing alternatives including Go Gas and will make a recommendation at a future meeting once all analyses are complete.

A question was raised about whether mileage logs should be implemented. After discussion, the Board decided to defer that decision until a new overall gas purchasing process is created.

Mr. Reese made a motion that the Credit and Gas Card Policy be accepted. Dr. Guion seconded the motion and it was approved by the Board without objection. The approved policy is included as Appendix B.

Code of Ethics – Revised Policy Review

Ms. Page provided the updated Code of Ethics which was revised based on discussion from last month's meeting. After discussion, Mr. Nelson made a motion to accept the revised Code of Ethics. Mr. Reese seconded the motion and it was unanimously approved by the Board. The approved policy is included as Appendix C.

Personnel Policies Amendment – Meal Policy – Review

The Board agreed in their December 2012 meeting that a meal policy should be created to provide guidelines for the provision of meals when business necessity warrants such action. A draft revision to the Personnel Policy Manual was developed to include Policy 915 – Meal Provision under Section 9 – Workplace Administration.

Dr. Guion made the motion to approve the revision to the Personnel Policy Manual with the new Meal Policy included. Mr. Nelson seconded the motion and the Board approved the motion without objection. The approved policy is attached as Appendix D.

All of the new or revised policies will be forwarded to the ABC Commission noting that they have been approved by the Board for immediate implementation unless the Commission indicates objection.

Budget Amendments

An Amendment to the FY2013 Budget Document was presented for review. The Amendment is included as Appendix E.

Dr. Guion made a motion to approve the budget amendment and Mr. Nelson seconded. The Board approved the motion without objection.

Strategic Planning and General Manager's Report

The Strategic Planning and General Manager's Report was included in the Board meeting packet which was distributed prior to the meeting. Topics from the report and additions that were discussed include:

- Bid opening for the technology proposal is Friday, February 22nd at 3 PM. Bids are due by 12 noon. Two vendors have indicated an intention to bid.
- Ms. Shaw asked for follow up regarding DCABC's salaries compared to other Boards. The question was initially raised in January's meeting. Ms. Page stated that DCABC salaries are comparable or better than other boards based on analysis of the NC ABC Commission's reports and discussions with a few other General Managers. DCABC conducted a salary survey in 2009 which is more recent than several other boards that she spoke with.
- Ms. Shaw stated that the grant program information will go out to a network of non-profits on March 1 and will be available on the Volunteer Center's website as well.

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Ms. Shaw indicated that she will send an e-mail notice to the non-profit organizations this week regarding the upcoming February 21st Q&A meeting since the March 1st notice will be after that date.

Other Business

- The Board agreed that they will attend the Durham Convention and Visitor's Bureau Annual Tribute Luncheon on April 24th at the Convention Center.
- Mr. Reese asked if DCABC was a member of the Chamber of Commerce. Currently, DCABC is not a member of the Chamber but after some discussion it was determined that Ms. Page should bring some information about dues and benefits of joining the Chamber to the next meeting.
- Ms. Shaw will draft a letter to go to staff about the Suggestion Boxes and distribute it to the other Board members for review.

Closed Business

Mr. Reese made a motion for the Board to go into closed session per GS 143-318.11(a): (3) consult with attorney (5) facility leases or purchases (6) personnel matters. Dr. Guion seconded the motion and the Board approved without objection.

Adjournment

The Board returned from closed session. Mr. Nelson made a motion to adjourn the meeting and Mr. Reese seconded the motion. The Board approved without objection.

Approved By: 
Kim Shaw, Board Chair

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DESCRIPTION OF THE TAKING

The road project is called the East End Connector, and according to the NCDOT, the road updates will improve traffic capacity by relieving future congestion on the Durham Freeway (NC 147) and other north-south routes in downtown Durham. The project will ultimately provide a direct connection between the Durham Freeway (NC 147) and US 70 (Miami Boulevard), providing direct access to Interstate 40 to the south and Interstate 85 to the north. Concurrent with this are improvements to US 70 from Pleasant Drive to just north of Holloway Street (NC 98), and there will also be realignment work done to other impacted streets. The project will upgrade US 70 to a limited access freeway from Holloway Street to Pleasant Drive. US 70 is already a controlled access freeway north of Holloway Street.

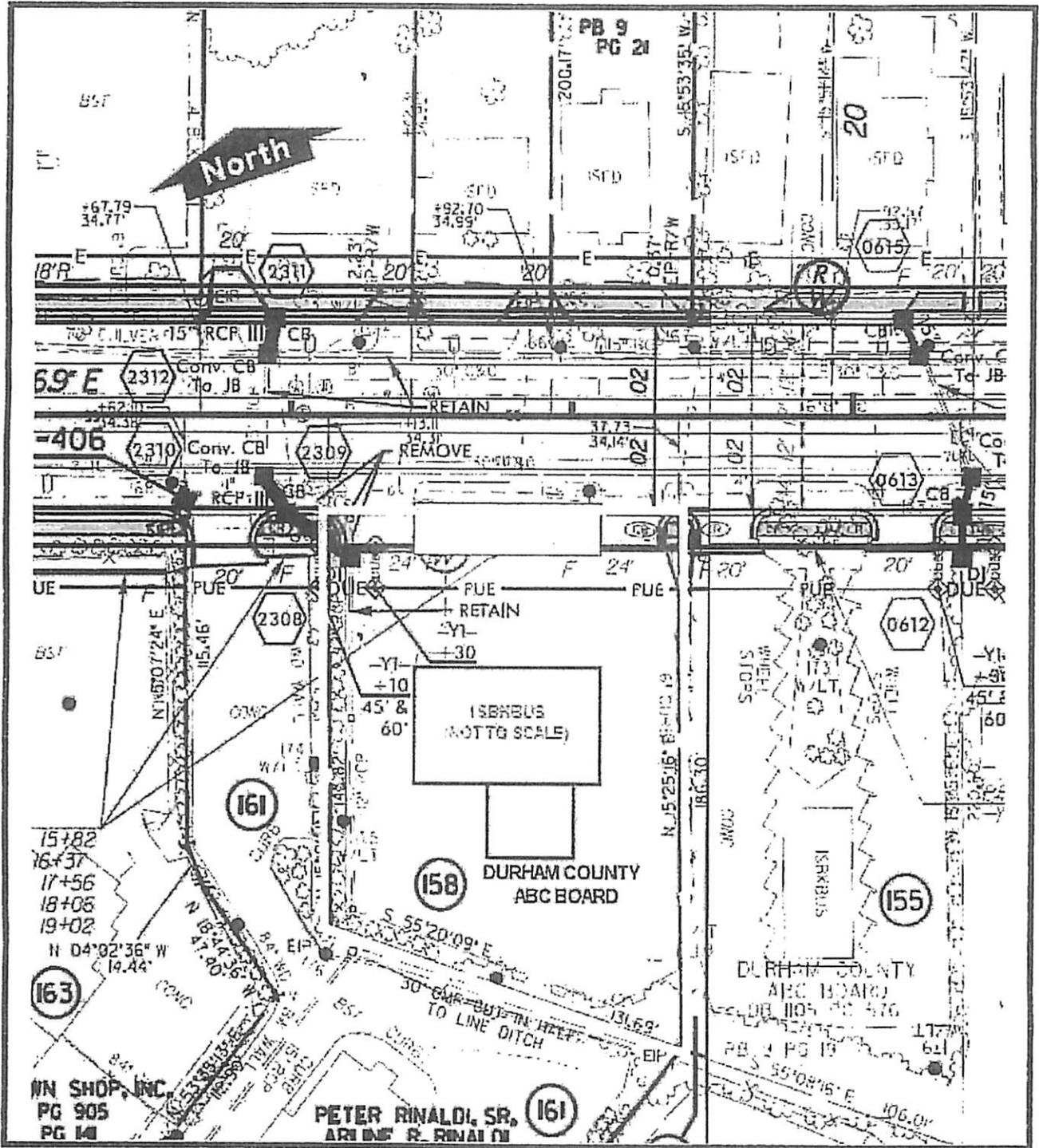
The subject property is affected by the realignment and general improvements being made to intersecting streets. In this case, it is a widening of Holloway Street from US 70 west toward Miami Boulevard that is the focus of this appraisal. The widening is for a new center turn lane. A copy of the plan sheet detailing the taking on the subject property is on the following page.

Land – According to information provided by Professional Property Services, Inc. (PPS), there is an acquisition of 1,342 SF (0.031 acre) of additional right-of-way that is for the widening of Holloway Street. It is a strip along the road frontage to a depth of about 10 feet. Also being acquired as part of this road project are various easement areas. A permanent utility easement (PUE) of 1,623 SF (0.037 acre) will be acquired to codify existing utility company usage. A permanent drainage easement is also being acquired that overlaps the PUE, with this shared area denoted as a Drainage/Utility Easement (DUE) with 245 SF (0.006 acre). The drainage easement is for work to a storm sewer drain. Any changes to the slope of the land outside of the right-of-way is designated by the Cut and Fill lines on the plan sheet, with no significant changes to be made to the subject site.

Improvements – The site improvements within the right-of-way and easement acquisitions include a portion of the parking lot, the two entrance signs, and some landscaping. There is about 2,300 SF of asphalt-paved area and 50 LF of concrete curbing with the remainder lawn area.



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TAKING MAP

	Before	20,538 SF	0.471 Acres	WBS NO.:	34725.2.8
	Taken	1,342 SF	0.031 Acres	I.D. NO.:	U-0071
	Remainder	19,196 SF	0.441 Acres	OWNER:	Durham County ABC Board
	TCE	0 SF	0.000 Acres	PARCEL:	158
	PDE	0 SF	0.000 Acres		
	PUE	1,623 SF	0.037 Acres		
	DUE	245 SF	0.006 Acres		

Prepared by John McCracken & Associates, Inc.

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DESCRIPTION OF THE REMAINDER AND EFFECTS OF THE TAKING

Land

The remainder area is marginally smaller at 19,196 SF (0.440 acre), which represents a 6.5% reduction in size. The subject site remains in conformity to zoning requirements. There is also no permanent encumbrance to the site from the permanent easements that will extend out beyond their respective boundaries. Both the PUE and DUE are along the road frontage, and mostly in what is perceived as the typical setback area, so when completed they will have no further deleterious effect on site utility beyond the appropriate compensation. Given the small taking of right-of-way and the nature of the easements, the functional utility of the subject site after the taking is unchanged in these physical regards. The subject site was positively impacted by the carryover of ISL ratio from the prior use, which was the basis for the land value in the before value. As the taking includes some pervious surface area, this will actually increase the current ISL back toward the 85% level allowed by right. Accordingly, there are no direct damages to the site.

Improvements

The taking includes a portion of the two driveway entrances, with the actual parking not affected in that there is the same level of parking as before. However, access into, out of, and through the front parking area will be negatively affected somewhat. The subject building was developed with an island between the two driveway entrances to a depth of about 10 feet into the property, which along with the distance from the actual roadway provided a stacking distance suitable for one car. This would allow a car to wait to exit the subject property without blocking the travel lane for the front parking area. After the taking, there is no onsite stacking distance. This can also cause problems for vehicles turning into the property from Holloway Street such that the rear ends of the vehicles may be left hanging out into the roadway while waiting for cars to clear the parking lot. While the parking lot for the subject building was apparently designed with this right-of-way acquisition in mind, the negative impact upon the property is still a result of the taking, and some remediation may be in order. Again noted is that the existing parking was already substandard in the before scenario, as the owner had always intended to utilize the

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adjacent NCDOT Parcel 155 for parking, and that this will ultimately require a total reconfiguration of the parking. Even so, the stacking and diminished turn radius into the property will remain noticeable as a standalone property, and there will likely be some residual impact with the redesigned parking addition from Parcel 155. The worst case scenario is that only two handicap spaces and bicycle parking will remain at the front door, with the other spaces possibly relocated to the east side of the building. While this could be construed as seeking a cure on a different property, the unity of ownership is noted, as well as the intent of the owner. This was considered in the before value in that the substandard parking as a standalone property would normally have required consideration as functional obsolescence. Given all this, the ultimate impairment to parking in the after value is noticeable, though not significant overall. This will need to be considered in terms of damages in the after value analysis.



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Holloway Street – ABC Store

Before Condition

Front



Land in Taking

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One Car Stacking



After Taking No Stacking -Space

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Durham County ABC Credit and Gas Card Policy

I. Purpose - To provide specific authorization for the use of credit and gas cards issued to the Durham County Alcoholic Beverage Control Board in order to ensure that all cards are used for official Board purposes only.

II. Applicability - This policy applies to all employees and board members of the Durham County Alcoholic Beverage Control (ABC) Board.

III. Policy

Authorized Applications and Users

- 1) Only the General Manager can open credit or gas card accounts in the name of the Durham County ABC Board with approval from the Board.
- 2) The following credit cards will be assigned or available:
 - General Manager
 - Administrative
 - Travel
 - Miscellaneous
- 3) Credit cards are to be used for budgeted Durham County ABC business purposes only. Credit cards that are not assigned to an individual are to be used by employees only with approval from the General Manager or her/his designee. Board members may use non-assigned credit cards with approval from the Board. The Credit Card Usage Authorization Form should be completed whenever a credit card purchase will be made on a non-assigned credit card account.
- 4) Durham County ABC Board gas credit cards are issued as follows:
 1. Law Enforcement Chief – Exxon & Shell Cards
 2. 2 Law Enforcement Officers – Exxon & Shell Cards
 3. Warehouse Staff (one account) – BP Card

Gas credit cards are to be used for vehicles owned by Durham County ABC only.

Usage and Accountability

- 1) Credit or gas cards issued to Durham County ABC Board are to be used only when prior billing arrangements have not been established and may only be used for business related expenses for the following purposes:
 - Supplies
 - Fuel for DCABC vehicles

- Small equipment
 - Services
 - Training costs
 - Travel expenses [i.e. hotel, meals, air or ground transportation]
- 2) Itemized receipts (i.e. includes a detailed list of what has been purchased) must be provided to the Accountant for all purchases within 5 business days of the purchase of supplies, fuel, equipment, services and training costs.
 - 3) Itemized receipts for all travel costs charged to a Durham County ABC credit card are to be submitted to the Accountant within 15 days of the completion of travel in accordance with Durham County ABC Travel Policy.
 - 4) Any person with outstanding charges on a Durham ABC credit card will not receive any type of reimbursement from Durham County ABC until all outstanding charges are properly accounted for with receipts and explanation. Such reimbursements include mileage, clothing allowance (law enforcement only), stipend (board only), business-related expenses paid for by cash or by personal credit card, etc.
 - 5) Purchases made on Durham County ABC credit cards that are not accounted for with receipts within the required expense reporting periods are to be reimbursed to Durham County ABC Board.
 - 6) Travel expenses charged to a Durham County ABC Board credit card but unaccounted for beyond 30 days must be reimbursed to Durham County ABC Board. Any exceptions must be approved by the Board.
 - 7) Personal use of Durham County ABC credit cards is prohibited.
 - 8) Credit card purchases must comply with the Durham County ABC's Purchasing Policy and/or the Durham County ABC Travel Policy.
 - 9) The General Manager or Fiscal Services Director will review credit card statements monthly to ensure that all employee charges were authorized and have been accounted for appropriately.
 - 10) A designated board member (rotating) will review credit card statements monthly to ensure that all General Manager and Board Member charges were authorized and have been accounted for appropriately.

Misuse and Failure to Return Undesignated Cards

Misuse of Durham County ABC credit or gas cards is strictly prohibited and may lead to a report to public law enforcement authorities. Misuse will result in disciplinary action up to and including termination for

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employees. Misuse will result in censure up to and including a recommendation for dismissal for board members.

Undesignated cards are to be returned to Durham County ABC by the next business day for all purchases. Undesignated cards are to be returned to Durham County ABC within 5 business days of the completion travel. Any card that is not returned to Durham County ABC within 20 business days will be cancelled.

Failure to return a Durham County ABC credit card within the required time frames may lead to disciplinary action up to and including termination for employees. Failure to return a Durham County ABC credit card within the required time frames may lead to censure up to and including a recommendation for dismissal for board members.

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APPENDIX C

Code of Ethics for the
Durham County ABC Board of
Durham County,
North Carolina

(Original adopted December 20, 2010. Revision adopted February 18, 2013)

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PREAMBLE

WHEREAS, the Constitution of North Carolina, Article I, Section 35, reminds us that a "frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty," and

WHEREAS, a spirit of honesty and forthrightness is reflected in North Carolina's state motto, *Esse quam videri*, "To be rather than to seem," and

WHEREAS, Section 18B-706 of the North Carolina General Statutes requires local ABC boards to adopt a code of ethics, and

WHEREAS, as public officials we are charged with upholding the trust of the citizens of this County, and with obeying the law, and

WHEREAS, the successful business operation and reputation of the Durham County ABC Board is built upon the principles of fair dealing and ethical conduct, and

WHEREAS, the reputation of Durham County ABC Board for integrity and excellence requires careful observance of the spirit and letter of all applicable laws and regulations, as well as a scrupulous regard for the highest standards of conduct and personal integrity,

NOW THEREFORE, in recognition of our blessings and obligations as citizens of the State of North Carolina and as public officials representing the citizens of the County of Durham, and acting pursuant to the requirements of Section 18B-706 of the North Carolina General Statutes, we the Durham County ABC Board do hereby adopt the following General Principles and Code of Ethics to guide the Durham County ABC Board in its lawful decision-making.

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GENERAL PRINCIPLES UNDERLYING

THE CODE OF ETHICS

- The stability and proper operation of democratic representative government depend upon public confidence in the integrity of the government and upon responsible exercise of the trust conferred by the people upon their elected and appointed officials.
- Governmental decisions and policy must be made and implemented through proper channels and processes of the governmental structure.
- Board members must be able to act in a manner that maintains their integrity and independence, yet is responsive to the interests and needs of those they represent.
- Board members must always remain aware of their responsibilities:
 - As decision-makers, who strive to implement the controlled sale by law of spirituous liquor, consistent with the laws, rules and regulations of the State of North Carolina.
 - As trustees, charged with a fiduciary duty to the public to use sound business judgment in overseeing a government-operated commercial enterprise.
 - As decision-makers, to strive to make fair and impartial quasi-judicial and administrative determinations.

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CODE OF ETHICS

The purpose of this Code of ethics is to establish guidelines for ethical standards for the Durham County ABC Board (board members, general manager and employees).

Section 1

Board members should obey all laws applicable to their official actions as members of the board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

Board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens.

Board members should endeavor to keep up to date, through the ABC Commission, the Board's attorney, and other sources about the most pertinent statutory and other legal and ethical requirements with which they must be familiar to meet their legal responsibilities.

Section 2

Board members should act with integrity and with independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- Adhering firmly to a code of sound values.
- Behaving consistently and with respect toward everyone with whom they interact.
- Conducting themselves in all matters in the best interests of the ABC Board executing their duties as board members honestly, fairly, ethically and with integrity.
- Using their best independent judgment to pursue the common good as they see it, presenting their opinion to all in a reasonable, forthright, and consistent manner.
- Base decisions upon all available facts in each situation, vote their honest convictions, and not reach a conclusion on issues until all sides have been heard, abiding by the final majority decision of the Board.
- Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others.
- Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about

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quasi-judicial matters outside of the quasi-judicial proceedings themselves.

- At the same time, board members must respect the confidentiality of information and deliberations of the Board, pursuant to the NC Open Meetings Law (not disclosing information that would frustrate the purpose of a closed session) and North Carolina General Statute 18B-201 (j) (“A local board member shall not improperly use or improperly disclose any confidential information”).
- Recognizing that individual board members are not generally allowed to act on behalf of the Board unless the Board specifically authorizes them to do so, and that as board members, they function together as a whole and must conduct their relationships with the staff and public on that basis, rather than as independent authorities.

Section 3

Board members should avoid impropriety, in fact and in appearance, in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is appropriate, this board will consider impropriety in terms of whether a reasonable person who is aware of all the relevant facts and circumstances surrounding the board member’s action would conclude that the action was inappropriate.

Section 4

Board members should faithfully perform the duties of their offices. They should act as the especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

Board members should be willing to bear their fair share of the board’s workload. To the extent appropriate, they should put the Board’s interests ahead of their own.

Section 5

Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records.

In order to ensure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor is to be maintained at all times. They should prohibit unjustified delay in fulfilling public records requests. They should take deliberate steps to make certain that any closed sessions held by the Board are lawfully conducted.

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Section 6

It is the Board's responsibility and duty to establish policies on ethical conduct which establish a code of behavior to be followed by the general manager and employees of the Durham County ABC Board that is consistent with State law, North Carolina Alcoholic Beverage Commission Administrative Rules, and the established ethics policy applicable to the members of this Board.

The general manager and employees are expected to:

- Obey all laws applicable to their official actions and should be guided by the spirit as well as the letter of the law.
- Maintain and exercise the highest ethical standard of conduct in the performance of their official duties and responsibilities. Characteristics and behaviors consistent with this standard include; adhering to a code of sound values and professionalism, and exhibiting trustworthiness and integrity.
- Conduct themselves in a manner which upholds the integrity of the board, and which avoids or prevents all types of impropriety (including but not limited to, placement of self interest above the public interest, partiality, favoritism and undue influence).
- Avoid conflicts of interest in fact and in appearance. A conflict of interest arises when a private interest, usually of a personal, financial or economic nature, conflicts or creates an appearance of a conflict with the individual's official duties and responsibilities. An appearance of a conflict of interest exists when a reasonable person would conclude from the circumstances that the individual's ability to perform official duties is compromised by personal interest.
- Contribute equitably towards the achievement of the Board's goals and to faithfully perform their duties to the best of their abilities.
- Comply with all applicable laws governing public records as directed by the Board.
- Serve the public, customers, and each other with professionalism, integrity, courtesy, and respect.
- Follow policies established by the Board as outlined in the Personnel Policies Manual.

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REFERENCES

Following is a list of applicable subject matter and the laws and regulations pertaining thereto:

Open Meetings— (NCGS Chapter 143, Article 33C)

Public Records— (NCGS Chapter 132)

Contract Bidding Requirements – (NCGS Chapter 143, Article 8)

Sale and Disposition of Property – (NCGS Chapter 160A, Article 12)

“Gift Ban” – (NCGS § 133-32)

NCGS Chapter 18B provisions and ABC Commission Rules

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Durham County ABC Board – Personnel Policies – Amendment approved February 18, 2013

Personnel Policy Section: Section 9 - Workplace Administration

Policy Name: 915 - Meal Provision

I. Purpose - To amend the Durham County ABC Personnel Policies Manual with a new policy that provides specific guidelines for the provision of meals for business purposes at the expense of Durham County ABC.

II. Applicability - This policy applies to all employees and board members of the Durham County Alcoholic Beverage Control (ABC) Board.

III. Policy

915 – Meal Provision

In order to accommodate unusual business requirements or conditions, Durham County ABC may provide a meal in the following situations, whenever budgeted:

- For store and warehouse staff on each of the last business days falling before Christmas Day and New Year's Day
- For board members and General Manager whenever a regular/special/emergency board meeting is anticipated to run for two or more hours
- For special/emergency board meetings or committee meetings that are held during the normal business day which are anticipated to run for more than one hour and that are planned during usual lunch hours (i.e. 11:30 am – 2:00 pm)

The General Manager has authority to decide whether a meal will be provided in each circumstance. Meals will be reasonable in cost and are intended to ensure that business can run efficiently without interruption.

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APPENDIX E



AS APPROVED by the Durham County ABC Board at the February 18, 2013 meeting, the following amendment was made to the annual budget document for the fiscal year ending June 30, 2013.

Section 1.

	<u>Account</u>					<u>Decrease</u>	<u>Increase</u>	
	OPERATING EXPENSES:							
A	Personnel Expenses - Increased Salaries & Wages Expense						136,614	
B	Personnel Expenses - Increased Payroll Tax Expense						19,667	
C	Professional Services - Increased Legal Fees (Atty Miller)						48,000	
	DISTRIBUTIONS:							
D	Law Enforcement - Decreased Store Security (error correction)							
	ESTIMATED REVENUES:						28,800	
E	Increased Sales Revenue and Gross Profit on Sales						-175,481.00	
						<u>\$28,800.00</u>	<u>\$28,800.00</u>	

A Increased Salaries & Wages Expense due to the correction of a spreadsheet calculation error contained in the original budget preparation work papers. Special formulas are built into the Salaries & Wages monthly budget projection to account for the first 7 months of the Fiscal Year (July to January) being based on the pay rates continuing from the prior Fiscal Year. Then for the remaining 5 months (February to July), the pay rates must be increased based on the Annual Pay Increase budgeted for the month of February. The calculation error occurred because the calculation formula for the first 7 months erroneously omitted the Part-Time Payroll line on the budget spreadsheet. When this calculation was reviewed and corrected, the total Salaries and Wages budget for the Fiscal Year was increased by \$136,614.

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B Increased Payroll Tax Expense due to two reasons: 1) With the increase to Salaries and Wages Expense per "A" above, this created a corresponding increase to Payroll Tax Expense of \$10,451 for the Fiscal Year. 2) Due to an October 12, 2012 billing for Durham ABC's claims with the Employment Security Commission, the billing for \$9,216 should be added as an increase to the Payroll Tax Expense Budget. The total for these two increases is \$19,667.

C Increased Professional Services – Legal Expense due to the need to correct/increase the Legal Fees budget to make it realistically in-line with the anticipated Legal Expense for the year. Looking back several years, prior Legal Expense budgets were sometimes set lower than the fees that were actually incurred on an accrual basis. Currently, we have focused on this process to obtain up-to-date quarterly billings of Legal Fees. Based on the billings for the first 6 months of the Fiscal Year, the new estimate for the year is \$66,000 (\$5,500 per month) but the original budget was for a total of \$18,000 (\$1,500 per month). This gives rise to the need to amend the Legal Expense budget and make an increase of \$48,000.

D Decrease Law Enforcement Department Store Security Expense to correct an error in the original FY 2013 budget. In prior years, Store Security Expense had been 100% recorded in the Law Enforcement Department. Beginning in FY2013, this expense was recorded directly to the Operating Budget to the appropriate stores where the security officers were assigned. The result was that the Law Enforcement Department should have had a ZERO budget for Store Security. Due to an oversight, a budget of \$28,800 for Store Security was incorrectly listed for the Law Enforcement Department. This budget amendment removes and corrects this error.

E Increased Sales Revenue and Gross Profit on Sales: To maintain a balanced budget for Fiscal Year 2013, the net amount of decrease to Net Income per the budget was offset by increasing the Sales Revenue Budget equal to the expense increases in the amount of \$175,481. Due to favorable year-to-date operating results for Fiscal Year 2013 the Net Income YTD through January 31, 2013 was \$458,845 in excess of the budgeted Net Income. A portion of this favorable variance (i.e., \$175,481) will be utilized as explained in this paragraph.

Section 2.

Copies of this budget amendment shall be furnished to the Clerk to the Durham County Commissioners, the NC ABC Commission, and to the Durham County ABC Board's Budget Officer and Finance Director for their direction.

Adopted this 18th day of FEBRUARY, 2013

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