

FEBRUARY 16, 2010

MINUTES OF MECKLENBURG COUNTY BOARD OF COMMISSIONERS

NORTH CAROLINA
MECKLENBURG COUNTY

The Board of Commissioners of Mecklenburg County, North Carolina, met in Special Session in Conference Center Room 267 of the Charlotte-Mecklenburg Government Center located at 600 East Fourth Street at 1:00 p.m. on Tuesday, February 16, 2010.

ATTENDANCE

Present: Chairman Jennifer Roberts and Commissioners Karen Bentley, Dumont Clarke, Harold Cogdell, Jr. George Dunlap, Bill James, Vilma Leake and Daniel Murrey
County Manager Harry L. Jones, Sr.
Deputy County Attorney Tyrone Wade
Clerk to the Board Janice S. Paige

Absent: Commissioner Neil Cooksey

Chairman Roberts and Commissioners Clarke and Dunlap were absent when the meeting was called to order and until noted in the minutes.

The meeting was called to order by Vice-Chairman Cogdell.

The purpose of the meeting was to discuss the Alcoholic Beverage Control Board (ABC Board).

County Manager Jones outlined the format of the meeting.

Chairman Roberts entered the meeting. Vice-Chairman Cogdell turned the meeting over to Chairman Roberts.

The following were noted by County Manager Jones as items for consideration by the Board:

- 1) ABC Board Compensation
- 2) ABC Board Member Qualifications
- 3) ABC Board Member Appointments

The Board was provided the following background information:

- ABC Board General Information
- ABC Board Appointment Suggestions
- ABC Board Compensation Information
- ABC Board Member and Applicant Information
- Questions & Answers from Deputy County Attorney Tyrone Wade

A copy of this information is on file with the Clerk to the Board.

County Manager Jones called upon Elton Shoemaker, Acting Chairman of the ABC Board to give a general overview of some of the things the ABC Board was doing.

Mr. Shoemaker addressed what an ABC Board member should be prepared to review. He also referenced the following:

- ABC Board Annual Report
- The annual budget
- Meeting agendas

Commissioner Clarke entered the meeting during Mr. Shoemaker's remarks.

Mr. Shoemaker said despite what has been stated in the media, the ABC Board staff was very qualified, capable and hardworking.

Mr. Shoemaker addressed the distribution of funds by the ABC Board.

Mr. Shoemaker concluded his remarks by saying as an ABC Board member, one should be prepared to spend the necessary time that's required and prepared to review all of the necessary information, so the board could work effectively. Mr. Shoemaker asked the Board to consider this when appointing members to the ABC Board.

Comments

Commissioner Murrey asked Mr. Shoemaker to comment on his background and tenure on the ABC Board, which he did.

Mr. Shoemaker, with respect to membership qualifications, said retail experience was important but not "essential." He said the person that the Board appoints should be "well-rounded."

Commissioner Murrey asked Mr. Shoemaker if he was recently elected interim chairman of the ABC Board. *Mr. Shoemaker said according to ABC Board by-laws, when the chairman resigns, the next most senior member on the board moves to acting chairman, which was what occurred in this case.*

Commissioner Murrey asked Mr. Shoemaker was he also currently serving as the acting Chief Executive Officer (CEO) of the Mecklenburg ABC Board. *Mr. Shoemaker said he had not titled himself as that. He said he checked with the State Alcoholic Beverage Control Commission and that anything that he was doing, the acting chairman has the legal authority to do.*

Commissioner Murrey asked about the allocation process through the ABC Board grants program and the criteria used to determine who would receive an allocation. *Mr. Shoemaker said, per state statute, the funds must be allocated for alcohol education or rehabilitation purposes.*

Commissioner Murrey referenced the County's evaluation process for funding outside agencies. He suggested that perhaps there needed to be some coordination and collaboration between the County and the ABC Board. *Mr. Shoemaker addressed the system used by the ABC Board in determining allocations, which he said was overseen by Mary Ward.*

Commissioner Murrey encouraged Mr. Shoemaker to consider having Ms. Ward collaborate with the County to discuss ways in which the two entities could use some similar concepts. *Mr. Shoemaker said there were statutes that control that process. Thus, they would have to see if there could be some collaboration.*

Commissioner Murrey asked Mr. Shoemaker what were his thoughts regarding having specific qualifications for board membership. *Mr. Shoemaker said he would recommend going with a well-rounded individual that has business and community experience.*

Commissioner Murrey asked Mr. Shoemaker if he thought the way the County was currently

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appointing members was fine. *Mr. Shoemaker said he does but he thinks individual qualifications need to be increased a little.*

Commissioner Bentley addressed compensation and asked what would be the ramifications, with respect to the quality of applicants, if the Board decided to cease compensation. *Mr. Shoemaker said he didn't think it would matter or make that much of a difference.*

Commissioner Leake asked Mr. Shoemaker about the roll he's been playing as CEO and decisions made with respect to the selection of the committee to select a new CEO and his dissemination of information. Commissioner Leake said she was expressing these concerns on behalf of an ABC Board member.

Mr. Shoemaker said he was not serving as CEO, nor was he titling himself CEO. Mr. Shoemaker said he was serving as acting chairman of the ABC Board. He said as acting chairman, and with the approval of the state, he has the authority to do what he's done and continues to do.

Commissioner Leake said when the Board appointed the former chair of the ABC Board, H. Parks Helms, there was no discussion of qualifications for membership, but now the issue has come up, with respect to qualifications. Commissioner Leake said this was a concern of the community.

Chairman Roberts said in response to Commissioner Leake's comment, that the Board was following ethics changes and operational changes that have been strongly encouraged by the state in terms of correcting some of the procedures in the ABC Board system as a whole. Chairman Roberts said this would mean a change in the Board's normal appointing process for this particular advisory board.

Commissioner Clarke noted for the record, that N.C. General Statute 18B-700 (d) addressed qualifications for serving on the ABC Board, which he felt the Board has followed in making appointments. He said it states the appointing authority shall appoint members of a local board on the basis of the appointees' interest in public affairs, good judgment, knowledge, ability, and good moral character.

Commissioner Leake said she wasn't aware that there were qualifications, which was why she brought it up. Commissioner Leake said she didn't recall those qualifications being discussed by the Board previously when making appointments to the ABC Board.

Mr. Shoemaker said his suggestions for membership qualifications expressed to Chairman Roberts in a memo was just his thoughts based on his service on the ABC Board.

Commissioner Leake asked Mr. Shoemaker when was his tenure up on the ABC Board. *The response was June of this year 2010.*

Commissioner Leake asked about the tenure of other ABC Board members. *It was noted that information was included in the Board's agenda packet.*

Commissioner James said he agreed with Commissioner Murrey with respect to coordinating the grant process. Commissioner James said there were organizations receiving funds from the ABC Board that also received County funding. He said the County has its own evaluation process and that there needed to be some coordination between County staff and ABC Board staff.

Commissioner James asked Mr. Shoemaker if he was interested in being CEO. *Mr. Shoemaker said the ABC Board would be discussing personnel matters today in a Closed Session meeting, thus, he could not answer the question.*

Commissioner James asked Mr. Shoemaker if he was interested in being appointed chairman of the ABC Board. *Mr. Shoemaker said the ABC Board would be discussing personnel matters today in a Closed Session meeting, thus, he could not answer the question. Further, that*

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whatever decisions were made by the ABC Board, as a result of the Closed Session meeting, Chairman Roberts would be notified.

Commissioner James said the Board needed to discuss the process to be used in making appointments to the ABC Board. Commissioner James said in the past, many of those appointed were politically connected and/or active in the community.

Commissioner James asked Mr. Shoemaker to comment on qualifications. *Mr. Shoemaker said he didn't think there would be any contradiction between someone that was politically connected versus business experienced.*

Chairman Roberts noted the suggestions from Commissioner Clarke regarding a process for making this appointment to the ABC Board, which was included in the Board's agenda packet.

Commissioner James said one of the things to be decided was whether the Board was going to make any additional qualifications applicable to current members and/or the vacant position only.

Commissioner James said the Board needed to adopt a policy to make the additional qualifications applicable as appointments come up and not apply them to those currently serving.

Commissioner Dunlap entered the meeting.

Mr. Shoemaker concurred to not make any additional qualifications applicable to existing Members, but apply them as current members are replaced.

Mr. Shoemaker in response to Commissioner Leake's concern about the selection of the search committee for a new CEO, said he did ask those persons to serve without consulting with the other members of the ABC Board. Mr. Shoemaker said he thought the action was necessary to get it moving. Mr. Shoemaker said the search committee would only narrow the list down and present recommendations to the full ABC Board, who would be responsible for the selection of a new CEO.

Commissioner Leake said she inquired about that because other members of the ABC Board felt they should have been a part of that process and that it should have been a committee of five rather than a committee of three.

Mr. Shoemaker said those were good points, but that as acting chairman, he felt he needed to get the process moving.

Chairman Roberts reminded the Board that its connection was not in managing the procedures in place for selecting a new CEO for the Mecklenburg ABC Board. She said the Board's role was to appoint board members to the ABC Board.

Commissioner Cogdell asked about the educational grant program and the distribution of funds by the ABC Board. He asked where in the state statutes did it say the ABC Board would distribute the funds. Commissioner Cogdell said per his review, it appeared the County could distribute those funds as well. *Mr. Shoemaker said he would have to get with their attorney to see if that's a correct interpretation.*

Commissioner Clarke asked Mr. Shoemaker "what makes for a bad board member." *Mr. Shoemaker said it would be someone that came unprepared for meetings. Secondly, someone that didn't have much business experience.*

Commissioner Clarke asked about micro management of the operation and was that an issue. *Mr. Shoemaker said it hadn't been an issue.*

Mr. Shoemaker said the CEO has to be able to run the operation and cannot be micro-managed by a board that meets once a month. He said the board could review, discuss, and challenge, but

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that the operation has to run.

Commissioner Clarke asked had attendance been a problem for the ABC Board. *Mr. Shoemaker said no and that the ABC Board follows the County's advisory board attendance policy.*

Commissioner Dunlap questioned whether the distribution schedule, set by statute and the local vote from 1947, was still adequate or appropriate.

Commissioner James asked were funds distributed to town police. *Mr. Shoemaker said the ABC Board doesn't distribute funds to the police. He said the \$1.4 million noted in the information was for ABC Board law enforcement.*

Commissioner James said a long term issue that needed addressing was should the Board consider selling the Mecklenburg County ABC Board system, which he said would require legislative approval. Commissioner James said the idea in 1947 was to have government control the sale of liquor so it wouldn't get "out of hand." Commissioner James said in light of today's environment where you can purchase alcoholic beverages at grocery stores, he wonders if that's still necessary.

Commissioner James said there's a value to the Mecklenburg ABC Board system. Further, that years ago he suggested selling the Mecklenburg ABC Board system and use the proceeds to fund schools and substance abuse programs but the matter was not pursued.

Chairman Roberts thanked Mr. Shoemaker for attending and addressing the Board.

Mr. Shoemaker thanked the Board for allowing him the opportunity to appear.

Note: Mr. Shoemaker left the meeting because of another meeting obligation.

Chairman Roberts addressed the process for moving forward.

Commissioner Clarke acknowledged the high number of applications (90) already received for the current vacancy. He suggested the Board consider appointing an Ad Hoc Committee to screen the applications. Thus, he made the motion below.

Motion was made by Commissioner Clarke, seconded by Commissioner James, 1) to create an Ad Hoc Committee for the purpose of filling the current vacancy on the Alcoholic Beverage Control Board, to be comprised of the Chairman of the County Commission; two additional commissioners to be selected by the Chairman; the County Manager and his designee. 2) The Ad Hoc Committee is charged to review the applications of all applicants for appointment consideration to the Alcoholic Beverage Control Board. 3) The Ad Hoc Committee shall report back to the full Board with a recommended slate of five-seven nominees. 4) Other members of the Board would be allowed to advocate to members of the Ad Hoc Committee, via in writing or orally, on behalf of any of the applicants. 5) All applicants would be screened based on the qualifications outlined in N.C. General Statute 18B-700 (d) Qualifications; and any additional screening guidelines that the Board may deem appropriate.

Note: N.C. General Statute 18B-700 (d) Qualifications states the appointing authority shall appoint members of a local board on the basis of the appointees' interest in public affairs, good judgment, knowledge, ability, and good moral character.

Commissioner Murrey offered a friendly amendment, which was accepted by Commissioners Clarke and James, makers of the motion, that at the time the proposed slate of nominees is presented to the full Board, that Board members would be allowed to nominate someone that wasn't on the proposed slate, one individual per slot.

Chairman Roberts said meetings of the Ad Hoc Committee would be open meetings and any Board member desiring to sit in on the Ad Hoc Committee meeting may do so, but not as a

voting member.

Commissioner Cogdell said his initial thought was each Board member would be allowed to nominate one person, which could then be viewed by the committee or the Board would just nominate and vote as it usually did.

Commissioner Cogdell expressed concern for placing staff on Board committees as a voting member. He said it puts staff in an awkward position.

Commissioner Clarke said he felt everyone that applies should be considered, which was why he suggested a committee, in light of the number of applications already received.

Commissioner Bentley said she was not opposed to having staff on the Committee but that ultimately the Board would be held accountable, as it should be. Thus, Commissioner Bentley suggested that staff be allowed to serve on the committee but as non-voting members.

Commissioners Clarke and James, makers of the motion, accepted Commissioner Bentley suggestion as a friendly amendment, that staff serve as non-voting members.

The vote was then taken on original motion as amended and reads as follows:

Motion was made by Commissioner Clarke, seconded by Commissioner James and unanimously carried with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, Murrey, and Roberts voting yes, 1) to create an Ad Hoc Committee for the purpose of filling the current vacancy on the Alcoholic Beverage Control Board, to be comprised of the Chairman of the County Commission; two additional commissioners to be selected by the Chairman; the County Manager and his designee, who would serve as non-voting members. 2) The Ad Hoc Committee is charged to review the applications of all applicants for appointment consideration to the Alcoholic Beverage Control Board. 3) The Ad Hoc Committee shall report back to the full Board with a recommended slate of five-seven nominees. 4) Other members of the Board would be allowed to advocate to members of the Ad Hoc Committee, via in writing or orally, on behalf of any of the applicants. 5) All applicants would be screened based on the qualifications outlined in N.C. General Statute 18B-700 (d) Qualifications; and any additional screening guidelines that the Board may deem appropriate. 6) At the time the proposed slate of nominees is presented to the full Board, Board members would be allowed to nominate someone that wasn't on the proposed slate, one individual, per slot.

It was noted that the Board has the option of selecting a chairman from new appointees or from the existing membership.

Commissioner Murrey left the meeting and was absent for the remainder of the meeting.

Screening Guidelines

Motion was made by Commissioner Clarke, seconded by Commissioner James and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, and Roberts voting yes, to direct the Ad Hoc Committee to use, in addition to the qualifications set forth in Chapter 18B-700(d) of the N.C. General Statutes, the following qualifications in the screening process for all nominees for appointment consideration to the ABC Board.

- High personal and professional ethics, integrity, practical wisdom and mature judgment;
- Broad training and experience in policy-making decisions in business, government, education, technology, substance abuse education or prevention training;
- Expertise, including, but not limited to, financial literacy, retailing experience at the management level, and board governance, performance and dynamics, that is useful to the ABC Board and complementary to the background and experience of other directors;

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- Willingness to devote the amount of time necessary to prepare thoroughly for all Board meetings in advance to carry out the duties and responsibilities of Board membership; knowledge of the ABC Laws, rules of the State ABC Commission and the Mecklenburg County Board's ethics and other policies applicable to Board members;
- Willingness to objectively appraise management performance.

Prior to the above vote:

Commissioner Clarke said the Board should also remain committed, as it had in the past, to have diverse individuals from different backgrounds with varying perspectives, professional experience and skills serving as members of the ABC Board.

Commissioner Clarke said he would hope when the Committee reports back that it would include not only a list of the nominees but an explanation as to why they were selected.

Commissioner Dunlap asked when would the Board make any changes it agreed upon applicable. He said those that have already applied did so based on criteria that was in place at the time they applied. He said if you go back and change the criteria it could eliminate someone.

Chairman Roberts said the Committee could communicate with individuals, if necessary, that don't meet the qualifications.

Chairman Roberts said the motion regarding additional qualifications should be applicable to the nominating process the Board was about to embark upon for the purpose of filling the current vacancy. Chairman Roberts said she felt anyone that applied after the recent ABC Board issue came up, should be aware that the Board was considering coming up with additional qualifications, which would be the majority of the applicants.

Chairman Roberts said information regarding the qualifications would be placed on-line.

Commissioner Dunlap with respect to compensation for the ABC Board said he felt a lot of people applied because there was some expectation that they would be compensated.

Chairman Roberts said the compensation issue hadn't been discussed yet.

Commissioner Dunlap said at some point compensation needed to be discussed.

Commissioner Clarke said what he proposed was really just a further definition of ability as noted in N.C. General Statute 18B-700 (d) and not new qualifications. He said he felt these were things that people probably already knew they had to meet.

Commissioner Cogdell suggested substance abuse education or prevention training be added to the qualification of Broad training and experience in policy-making decisions in business, government, education, technology.

Commissioner James asked was the Board going to appoint someone as chairman. *Chairman Roberts said the Board would take two separate actions. The first would be to fill the current vacancy. The second would be to appoint someone as chairman of the ABC Board. Further, that the Board had the discretion to appoint a current member or a new member as chairman of the ABC Board.*

County Manager Jones asked could the committee request additional information from applicants. *The consensus of the Board was yes.*

Commissioner Dunlap asked would screening also involve doing background checks. Chairman Roberts said the committee could decide to do that.

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Commissioner Clarke asked about the timeframe for bringing this matter to the full Board for consideration.

Chairman Roberts said her thought was to bring the matter back on March 16, 2010. Also, that the deadline for receiving applications was March 1, 2010.

ADJOURNMENT

Motion was made by Commissioner James, seconded by Commissioner Bentley and carried 7-0 with Commissioners Bentley, Clarke, Cogdell, Dunlap, James, Leake, and Roberts voting yes, that there being no further business to come before the Board that the meeting be adjourned at 2:53 pm.

Janice S. Paige, Clerk

Jennifer Roberts, Chairman