

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

A.B.R.A. Agenda

Agenda
Hearing

February 12, 2014

The Alcoholic Beverage Control Board met in the Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Suite 400S, Washington, D.C. 20009, Chairperson Ruthanne Miller, presiding.

PRESENT:

RUTHANNE MILLER, Chairperson
NICK ALBERTI, Member
DONALD BROOKS, Member
HERMAN JONES, Member
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

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P-R-O-C-E-E-D-I-N-G-S

(3:49 p.m.)

CHAIRPERSON MILLER: Okay. We are back on the record to do our agenda for February 12, 2014. We have Licensing Agendas and Legal Agendas and we will start with our Licensing Agenda.

The first item on the Licensing Agenda is an application to place a license in safekeeping by Pho Bar and Grill located at 1360 H Street, N.E., License No. 87813.

I move that we approve this request for a period of six months.

MEMBER RODRIGUEZ: Second.

CHAIRPERSON MILLER: Mr. Rodriguez has seconded the motion.

All those in favor say aye.

ALL: Aye.

CHAIRPERSON MILLER: All those opposed? All those abstaining? The motion passes 6-0-0.

No. 2 is a request and application

1 to place the license in safekeeping by The
2 Dancing Crab located at 4615 41st Street,
3 N.W., License No. 90297, in ANC-3E.

4 I move that we approve this one as
5 well for a period of six months. Do I have a
6 second?

7 MEMBER BROOKS: Second.

8 CHAIRPERSON MILLER: Mr. Brooks
9 has seconded the motion.

10 All those in favor say aye.

11 ALL: Aye.

12 CHAIRPERSON MILLER: All those
13 opposed? All those abstaining? The motion
14 passes 6-0-0.

15 No. 3 is an application from
16 Retailer Class C Tavern for an entertainment
17 endorsement. This is for Bar Pilar located at
18 1833 14th Street, N.W., License No. 72472.

19 I move that we approve this
20 application. Do I have a second?

21 MEMBER SHORT: Second.

22 CHAIRPERSON MILLER: Mr. Short has

1 seconded the motion.

2 All those in favor say aye.

3 ALL: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? All those abstaining? The motion
6 passes 6-0-0.

7 No. 4 is an application from
8 Retailer Class C Tavern for an entertainment
9 endorsement. This is for Stetson's located at
10 1610 U Street, N.W., License No. 60455.

11 I move that we approve this
12 application. Do I have a second?

13 MEMBER SILVERSTEIN: Second.

14 CHAIRPERSON MILLER: Mr.

15 Silverstein seconded the motion.

16 All those in favor say aye.

17 ALL: Aye.

18 CHAIRPERSON MILLER: All those
19 opposed? All those abstaining? The motion
20 passes 6-0-0.

21 No. 5 is a request for retailer
22 license class change from Retailer Class C

1 Restaurant to Retailer Class C Tavern. This
2 is for Sandovan Restaurant & Lounge located at
3 4809 Georgia Avenue, N.W., License No. 92705.

4 I move that we placard this
5 application. Do I have a second?

6 MEMBER BROOKS: Second.

7 CHAIRPERSON MILLER: Mr. Brooks
8 has seconded the motion.

9 All those in favor say aye.

10 ALL: Aye.

11 CHAIRPERSON MILLER: All those
12 opposed? All those abstaining? The motion
13 passes 6-0-0.

14 No. 6 is a request for a change of
15 hours for Circa at Dupont located at 1601
16 Connecticut Avenue, N.W., License No. 76074.
17 This is only for an hour each night and it is
18 already agreed to by the parties in a
19 settlement agreement that was approved by the
20 Board.

21 So I move that we approve this
22 change of hours. Do I have a second?

1 MEMBER BROOKS: Second.

2 CHAIRPERSON MILLER: Mr. Brooks
3 has seconded the motion.

4 All those in favor say aye.

5 ALL: Aye.

6 CHAIRPERSON MILLER: All those
7 opposed? All those abstaining? The motion
8 passes 6-0-0.

9 No. 7 is a request from a
10 wholesaler, Winebow Imports, Inc., to provide
11 Hotel Sofitel gifts less than \$500. Their
12 License No. is 72284, the wholesaler license.

13 I move that we approve this
14 request. Do I have a second?

15 MEMBER SILVERSTEIN: Second.

16 CHAIRPERSON MILLER: Mr.
17 Silverstein seconded the motion.

18 All those in favor say aye.

19 ALL: Aye.

20 CHAIRPERSON MILLER: All those
21 opposed? All those abstaining? The motion
22 passes 6-0-0.

1 Okay. We have a supplemental
2 agenda for licensing. No. 1 on that agenda is
3 an application for a new Retailer B 25 percent
4 grocery. The establishment is Newton Food
5 Mart located at 3600 12th Street, N.E.,
6 License No. 94313.

7 I move that we approve this
8 application. Do I have a second?

9 MEMBER ALBERTI: Second.

10 CHAIRPERSON MILLER: Mr. Alberti
11 has seconded the motion.

12 All those in favor say aye.

13 ALL: Aye.

14 CHAIRPERSON MILLER: All those
15 opposed? All those abstaining? The motion
16 passes 6-0-0.

17 No. 2 is a letter requesting
18 extension of safekeeping for Veronica Little
19 located at 1943 New York Avenue, N.E.

20 I move that we approve this
21 application for six months. Do I have a
22 second?

1 MEMBER BROOKS: Second.

2 CHAIRPERSON MILLER: Mr. Brooks
3 has seconded the motion.

4 All those in favor say aye.

5 ALL: Aye.

6 CHAIRPERSON MILLER: All those
7 opposed? All those abstaining? The motion
8 passes 6-0-0.

9 No. 3 is an application request to
10 place the license in safekeeping by Lee's Mini
11 Market located at 3853 Alabama Avenue, S.E.,
12 License No. 84939.

13 I move that we approve for a
14 period of six months. Do I have a second?

15 MEMBER BROOKS: Second.

16 CHAIRPERSON MILLER: Mr. Brooks
17 has seconded the motion.

18 All those in favor say aye.

19 ALL: Aye.

20 CHAIRPERSON MILLER: All those
21 opposed? All those abstaining? The motion
22 passes 6-0-0.

1 And No. 4 is a request to place
2 license in safekeeping by Seaton Market
3 located at 1822 North Capitol Street, N.W.,
4 License No. 14355.

5 I move that we approve this
6 application for six months.

7 MEMBER RODRIGUEZ: Second.

8 CHAIRPERSON MILLER: Mr. Rodriguez
9 has seconded the motion.

10 All those in favor say aye.

11 ALL: Aye.

12 CHAIRPERSON MILLER: All those
13 opposed? All those abstaining? The motion
14 passes 6-0-0.

15 Okay. That completes our
16 Licensing Agendas.

17 All right. We have a Legal Agenda
18 and then a Supplemental Legal Agenda.

19 The Legal Agenda, okay, one
20 minute. No. 1 is a request from Jason Sadlock
21 of 1407 W Street Group, protestants against
22 renewal of Kiel to grandfather their protest

1 letter that they submitted in the case that
2 previously applied to the same establishment.

3 And I move that we approve this
4 request and accept their protest letter. Do
5 I have a second?

6 MEMBER ALBERTI: Second.

7 CHAIRPERSON MILLER: Mr. Alberti
8 seconded the motion.

9 All those in favor say aye.

10 ALL: Aye.

11 CHAIRPERSON MILLER: All those
12 opposed? All those abstaining? The motion
13 passes 6-0-0.

14 No. 2 is a letter from ANC-3C.
15 The first sentence says that they expressed
16 their desire for any entertainment endorsement
17 applications, including renewals, from ANC-3C
18 merchants be regarded as a substantial change
19 that merits ANC-3C to be informed in advance,
20 so that our commission may have the
21 opportunity to express its great weight.

22 And then they say at the end they

1 would like written assurances that going
2 forward the Agency will give ANC-3C advance
3 notice of any application, so that community
4 input can be expressed.

5 Okay. So it's not exactly clear
6 what they are asking, but, number one, I would
7 say that they have been told that if they sign
8 up for email notifications, that they can get
9 advance notice of any item that is on our
10 agenda on Wednesdays. I believe they would
11 get this on Friday.

12 So in fact, they will be getting
13 that notice. And if they submit any
14 communications to the Board in response to
15 that, which they can, that the Board will
16 consider those communications.

17 I can't tell from the first
18 paragraph whether they are saying that every
19 entertainment endorsement should be placarded.
20 They don't use that word, but it looks like
21 they may be saying it.

22 I would say that based on the

1 statutory scheme that the Board considers that
2 on Wednesday and that we will be considering
3 their view that it should be placarded, but
4 not guaranteeing, at this point, that we would
5 placard it, but that we understand what their
6 views are and that they will be considered.

7 So does anybody else have a
8 comment before I make any motion, if it needs
9 a motion? I don't know.

10 MEMBER ALBERTI: I don't think it
11 needs a motion.

12 CHAIRPERSON MILLER: It's an FYI.

13 MEMBER ALBERTI: FYI.

14 CHAIRPERSON MILLER: We will treat
15 it as an FYI then. We have addressed it then
16 on the dias.

17 Okay. No. 3 is a request for E &
18 J Gallo to provide retailers with products
19 valued at more than \$50 and less than \$500.

20 I move that we approve this
21 request.

22 MEMBER ALBERTI: Second.

1 CHAIRPERSON MILLER: Mr. Alberti
2 has seconded the motion.

3 All those in favor say aye.

4 ALL: Aye.

5 CHAIRPERSON MILLER: All those
6 opposed? All those abstaining? The motion
7 passes 6-0-0.

8 No. 4 is a settlement agreement
9 dated January 21, 2014 between ANC-6A and Raso
10 Corporation. The establishment is Sahara
11 Hooka Lounge located at 1200 H Street, N.E.,
12 License No. 87558.

13 I move that we approve this
14 settlement agreement. Do I have a second?

15 MEMBER RODRIGUEZ: Second.

16 CHAIRPERSON MILLER: Mr. Rodriguez
17 has seconded the motion.

18 All those in favor say aye.

19 MEMBER SILVERSTEIN: Aye.

20 CHAIRPERSON MILLER: Aye.

21 MEMBER RODRIGUEZ: Aye.

22 MEMBER SHORT: Aye.

1 MEMBER BROOKS: Aye.

2 CHAIRPERSON MILLER: All those
3 opposed? All those abstaining?

4 MEMBER ALBERTI: I abstain. Mr.
5 Alberti abstains.

6 CHAIRPERSON MILLER: Um-hum, okay.
7 Then the vote is 5-0-1. Mr. Alberti
8 abstaining.

9 All right. That completes the
10 Legal Agenda. We also have a Supplemental
11 Legal Agenda.

12 Okay. No. 1 and 2 apply to
13 Riverfront at the Ballpark and I want to start
14 with No. 2 first.

15 No. 2 is a review of applicant's
16 motion to have the Board vote en banc on
17 Motion for Reconsideration. It's Riverfront
18 at the Ballpark located at 25 Potomac Avenue,
19 S.E.

20 The Board denied a motion by the
21 applicant for review of its Motion for
22 Reconsideration en banc on January 8th by a

1 vote of 4-1 with the Chair dissenting.

2 So this is now -- then I believe a
3 Board Member wants to move to have the Board
4 reconsider that vote and consider the
5 reconsideration en banc.

6 So I'm going to defer to a Board
7 Member. Who would like to do that?

8 MEMBER ALBERTI: Okay. I think I
9 know where we are. I move that we reconsider
10 our previous vote the motion for the Board to
11 vote en banc --

12 CHAIRPERSON MILLER: Okay.

13 MEMBER ALBERTI: -- on the Motion
14 for Reconsideration from Riverfront at the
15 Ballpark.

16 CHAIRPERSON MILLER: Okay.

17 MEMBER BROOKS: I'll second.

18 CHAIRPERSON MILLER: Okay. There
19 is a motion to consider the Motion for
20 Reconsideration en banc that has been
21 seconded.

22 All those in favor say aye.

1 ALL: Aye.

2 CHAIRPERSON MILLER: All those
3 opposed? Oh, you can't. I'm sorry, this is
4 just for participating Members.

5 MEMBER RODRIGUEZ: Oh, I can't.

6 CHAIRPERSON MILLER: Yes. This is
7 just for Members who participated on the
8 Riverfront. Okay.

9 MEMBER BROOKS: Strike that.

10 CHAIRPERSON MILLER: All those in
11 favor say aye.

12 MEMBER ALBERTI: Aye.

13 CHAIRPERSON MILLER: Aye.

14 MEMBER SILVERSTEIN: Aye.

15 MEMBER BROOKS: Aye.

16 MEMBER JONES: Aye.

17 CHAIRPERSON MILLER: All those
18 opposed? All those abstaining? Are you in
19 favor, Mike? Okay. Then the vote is 5-0-0 to
20 reconsider and consider the Motion for
21 Reconsideration en banc.

22 MEMBER ALBERTI: Board Members

1 Rodriguez and Short have -- I guess we call
2 that abstaining on that vote, just so the
3 record is clear.

4 CHAIRPERSON MILLER: They are not
5 participating.

6 MEMBER ALBERTI: They are not
7 participating.

8 CHAIRPERSON MILLER: Yes.

9 MEMBER ALBERTI: Just so the
10 record is clear.

11 CHAIRPERSON MILLER: Yes.

12 MEMBER ALBERTI: So the court
13 reporter knows who is not participating.

14 CHAIRPERSON MILLER: Okay. Good.

15 MEMBER RODRIGUEZ: Thank you.

16 CHAIRPERSON MILLER: Okay. So
17 now, I'm going to go to what is listed as No.
18 1 right now.

19 MEMBER ALBERTI: I guess No. 2, we
20 had to vote on --

21 CHAIRPERSON MILLER: You want to
22 vote on --

1 MEMBER ALBERTI: -- the Motion to
2 Reconsider. Now, we have to vote on the
3 motion --

4 CHAIRPERSON MILLER: Okay. Fine.

5 MEMBER ALBERTI: -- en banc.

6 CHAIRPERSON MILLER: So now the
7 motion before the Board is to consider the
8 applicant's Motion for Reconsideration en
9 banc, right?

10 MEMBER ALBERTI: Yes. The
11 applicant's motion to have the Board vote en
12 banc for the Motion of Reconsideration.

13 CHAIRPERSON MILLER: Okay.

14 MEMBER ALBERTI: That's the
15 motion.

16 CHAIRPERSON MILLER: Mr. Alberti
17 has made the motion. Is there a second?

18 MEMBER BROOKS: Second.

19 CHAIRPERSON MILLER: Mr. Brooks
20 has seconded the motion.

21 All those in favor say aye.

22 MEMBER BROOKS: Aye.

1 MEMBER ALBERTI: Aye.

2 CHAIRPERSON MILLER: Aye.

3 MEMBER SILVERSTEIN: Aye.

4 MEMBER JONES: Aye.

5 CHAIRPERSON MILLER: All those
6 opposed? All those abstaining? The motion
7 passes 5-0-0.

8 Mr. Alberti, maybe you want to
9 phrase this.

10 MEMBER ALBERTI: So I guess we'll
11 go through the same process here.

12 CHAIRPERSON MILLER: Okay.

13 MEMBER ALBERTI: That we
14 reconsider the original vote.

15 CHAIRPERSON MILLER: Um-hum.

16 MEMBER ALBERTI: Well, actually,
17 no. I think someone else needs to -- I don't
18 know if there has to be a motion, since we
19 have already voted to vote en banc.

20 CHAIRPERSON MILLER: Right.

21 MEMBER ALBERTI: Then the motion--
22 the Item 1 is ripe for a motion.

1 CHAIRPERSON MILLER: We have --

2 MEMBER ALBERTI: All right. And
3 so I move that the Board deny the applicant's
4 Motion for Reconsideration of the Board Order
5 denying the application for the Riverfront at
6 the Ballpark License No. 92040.

7 CHAIRPERSON MILLER: Okay. Before
8 we -- before there is a second on that, there
9 already was a vote on the Motion for
10 Reconsideration to deny. So are you voting to
11 reconsider that?

12 MEMBER ALBERTI: Well, that's what
13 I said.

14 CHAIRPERSON MILLER: Yeah.

15 MEMBER ALBERTI: I don't know if
16 the Motion to Reconsider --

17 CHAIRPERSON MILLER: I think so.

18 MEMBER ALBERTI: -- is necessary,
19 since that was covered by the motion to vote
20 en banc. Once we approved the motion to vote
21 en banc, that requires us to vote on Item 1.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER ALBERTI: And record our
2 votes.

3 CHAIRPERSON MILLER: And that
4 would supersede --

5 MEMBER ALBERTI: And so we are not
6 reconsidering that motion. I'm just restating
7 the original motion and we will now record our
8 votes for that.

9 CHAIRPERSON MILLER: Okay. We are
10 going to deliberate on No. 1?

11 MEMBER ALBERTI: Yeah, you can
12 make more statements, but we are not
13 reconsidering it. Really, we are voting en
14 banc.

15 CHAIRPERSON MILLER: You are
16 voting en banc to consider the motion.

17 MEMBER ALBERTI: Which means we
18 are all voting -- en banc means we are voting,
19 I guess, with a clean slate?

20 CHAIRPERSON MILLER: Yeah, we are
21 considering the motion for reconsideration en
22 banc.

1 MEMBER ALBERTI: En banc.

2 CHAIRPERSON MILLER: Yeah.

3 MEMBER ALBERTI: Right, right.

4 Which means we are sort of wiping out our
5 original vote and now we're considering that
6 motion fresh and that's what my motion was.

7 CHAIRPERSON MILLER: Okay.

8 MEMBER ALBERTI: The Board deny
9 the applicant's Motion for Reconsideration of
10 the Board Order denying the application for
11 Riverfront at the Ballpark, License No. 92040.

12 CHAIRPERSON MILLER: Okay. So we
13 are voting on the Motion for Reconsideration?

14 MEMBER ALBERTI: We are voting on
15 the Motion for Reconsideration.

16 CHAIRPERSON MILLER: For the
17 second time, but this will be en banc and this
18 will supersede --

19 MEMBER ALBERTI: Right.

20 CHAIRPERSON MILLER: -- any
21 previous votes.

22 MEMBER ALBERTI: Correct,

1 absolutely.

2 CHAIRPERSON MILLER: Okay. Is
3 there a -- my only question is whether we need
4 to second our -- you're saying we don't need
5 to because we have already decided to vote en
6 banc.

7 MEMBER ALBERTI: I made the
8 motion. Someone needs to second it.

9 CHAIRPERSON MILLER: Okay.

10 MEMBER BROOKS: I second it.

11 CHAIRPERSON MILLER: Okay. All
12 right. So I would like to deliberate then on
13 the motion that is before us.

14 And we are considering a Motion
15 for Reconsideration on the case of Riverfront
16 at the Ballpark. And the Board denied the
17 application for their license and we had a
18 Protest Hearing. And the applicant has then
19 filed a Motion for Reconsideration in which it
20 addressed the concerns that were delineated in
21 our order and has asked that the Board
22 consider these as conditions in reconsidering

1 the application.

2 In particular, we had MPD testify
3 at the Protest Hearing and they raised some
4 serious concerns with respect to safety,
5 noise, parking and traffic. And the
6 applicant, in my view, made a very good faith
7 effort to address these concerns that came out
8 at the hearing.

9 In particular, MPD was concerned
10 with the size and number of patrons and the
11 applicant has said that they are going to
12 limit the patrons to 800 and the capacity that
13 was identified at the hearing was 12,200 and
14 that they expected patrons in the number of
15 100 to 200.

16 That they are going to limit the
17 number of days, that they are going to be only
18 open on days when the Washington Nationals are
19 playing a home game at National Park, which
20 they say is consistent with an agreement
21 between a similar venue and the ANC.

22 And they are going to limit hours.

1 They are only going to operate between 11:00
2 a.m. and 12:30 a.m. And in the previous
3 application, they were going to be operating,
4 I believe, until closing time.

5 They addressed the traffic
6 concerns. They were going to be coordinating
7 with the other players in the area and they
8 weren't going to have parking on-site any more
9 which would create conflicts with the current
10 traffic plan.

11 They were going to have an
12 enclosed area where food and drink is sold.
13 They are going to address safety issues by
14 erecting a 6 foot high fence along the
15 property edge to prevent patrons from reaching
16 the river.

17 They are going to not allow anyone
18 under 21 into the area. They are going to
19 review all security measures with MPD. And
20 they are going to employ a sufficient number
21 of reimbursable police officers pursuant to
22 MPD Guidelines, including officers to monitor

1 pedestrian traffic on crosswalks from National
2 Park to the applicant's venue.

3 My view is that based on what I
4 think are good faith efforts to respond to the
5 concerns that were raised at the hearing and
6 in the order, that we should, at least,
7 schedule oral argument, so that we could hear
8 and explore more their proposal and that we
9 could hear from MPD, who I certainly put a lot
10 of weight on with respect to the concerns I
11 had about this case.

12 I would liked to have heard -- I
13 would like to hear what they think of this
14 scaled-down application. We did this in the
15 last case, protest case, that we had, which
16 was Townsquare. We let them have oral
17 argument and the Board actually reversed its
18 decision.

19 There is a lot that can be gained
20 from actually hearing from the parties. And
21 I think that there was enough presented to us
22 to justify that.

1 And Section 25-433(d)(1) provides
2 that "A petition for reconsideration,
3 rehearing, reargument or stay of a decision or
4 order of the Board may be filed by a party
5 within 10 days after receipt of the Board's
6 final order." So their petition was timely
7 and our regs allow for this kind of
8 consideration.

9 Finally, I just want to say that I
10 think that we have some very strict rules set
11 forth in 25-338 which prohibit an applicant
12 from subsequently applying for the same class
13 of license for five years from the date of
14 denial and, therefore, we should give this
15 applicant the opportunity of, at least, having
16 oral argument from the parties.

17 So if your motion is to deny, I
18 would be opposed to the motion. And I would
19 be interested in hearing from anybody else
20 with respect to why we shouldn't hear from the
21 parties in an, you know, oral argument
22 setting.

1 MEMBER ALBERTI: Are you opening
2 this up for other comments?

3 CHAIRPERSON MILLER: Sure. I'm
4 finished.

5 MEMBER ALBERTI: Okay.

6 CHAIRPERSON MILLER: Yes.

7 MEMBER ALBERTI: I guess I'll
8 comment. First of all, I just want to
9 clarify, I don't know the statute that you --
10 that the Chair referenced, but it was in
11 reference to rules that say the licensee can't
12 apply for the same class of license, that's
13 not quite correct. The licensee can't apply
14 for the same class of license at this venue,
15 at this location.

16 So they can apply. They are free
17 to apply some place else. It's just at this
18 location that they can't apply for the same
19 class of license.

20 CHAIRPERSON MILLER: Right. I
21 stand corrected. Go ahead.

22 MEMBER ALBERTI: All right. I

1 just wanted to make sure that that is clear
2 for the record.

3 CHAIRPERSON MILLER: Um-hum, okay.

4 MEMBER ALBERTI: You know, one of
5 the things that was very clear in the order
6 was our concerns over pedestrian safety and
7 having to do with traffic patterns and the
8 pedestrian traffic, both from this
9 establishment combined with the pedestrian
10 traffic from a game, from a National Stadium
11 game.

12 And the Motion for Reconsideration
13 was lacking in specifics. And, in my
14 estimation, I concluded that it fell far short
15 of addressing the concerns we had about
16 pedestrian safety.

17 There is another issue that, and I
18 don't know whether my fellow Board Members
19 share, but I personally am concerned about,
20 and that is the issues of ensuring the safety
21 of patrons in this establishment.

22 This is a unique venue. It is 6

1 acres. That's a quarter million square feet.
2 And both in their initial application and in
3 their Motion for Reconsideration, the licensee
4 seems to have not recognized that there is a
5 need to address the fact that you are going to
6 have this many people wandering that size of
7 a venue.

8 And that presents unique
9 challenges for safety. It also presents
10 unique challenges for monitoring the
11 responsible sale and consumption of alcohol.
12 And nowhere on the initial application nor in
13 the subsequent application did they address
14 those issues. So that's of concern to me.

15 And so that's why I'm voting to
16 deny the Motion for Reconsideration.

17 CHAIRPERSON MILLER: Okay. I just
18 think they may not have addressed it
19 sufficiently for you and I'm not even sure
20 that I am -- I am not saying that based on the
21 papers I would grant the application. I'm
22 just saying based on the papers, I would like

1 to hear from them in person and MPD and the
2 ANC and the parties.

3 They did say that, you know in
4 general, they were going to close the area
5 where food and drink is sold with respect to
6 limiting their property. And they did say
7 that -- they did address pedestrians.

8 MEMBER ALBERTI: They didn't --
9 I'm sorry to interrupt.

10 CHAIRPERSON MILLER: No, that's
11 okay.

12 MEMBER ALBERTI: But I didn't see
13 any specifics.

14 CHAIRPERSON MILLER: It was
15 general, that's what I'm saying. That is
16 general. They said they would enclose the
17 area.

18 MEMBER ALBERTI: This is -- it
19 concerns me, because this is, like I said, a
20 unique situation, but it has very serious
21 challenges to the -- to anyone who would want
22 to run -- serve alcohol on 6 acres. And the

1 fact that they didn't even come close to
2 addressing that, leaves me with little
3 confidence in their ability to properly manage
4 it.

5 And maybe that's just my
6 impression, but the fact is that they didn't
7 address it.

8 CHAIRPERSON MILLER: Okay. I
9 mean, I pulled it from their papers, but I
10 think it's general. So to you, they may be --
11 I think they "addressed it," but they probably
12 didn't address it sufficiently, because it
13 wasn't specific.

14 MEMBER ALBERTI: All right.

15 CHAIRPERSON MILLER: Yeah. But I
16 also would say the same thing with the
17 crosswalks, they did say they were going to
18 hire officers to monitor pedestrian traffic on
19 crosswalks. So they did address it, whether
20 that didn't rise to --

21 MEMBER ALBERTI: Well --

22 CHAIRPERSON MILLER: -- enough of

1 a level, you know.

2 MEMBER ALBERTI: -- I hate to
3 debate this, but --

4 CHAIRPERSON MILLER: Yes.

5 MEMBER ALBERTI: -- Madam Chair,
6 what they failed to recognize is that
7 reimbursable detail do not take the orders
8 from the licensees. And reimbursable detail
9 do what they think is best.

10 So they can't hire reimbursable
11 detail specifically to monitor and manage
12 pedestrian traffic. They can't do that.

13 CHAIRPERSON MILLER: Right.

14 MEMBER ALBERTI: And so, you know,
15 again, they are lacking in their understanding
16 of what they need to do.

17 CHAIRPERSON MILLER: Okay. They
18 might be able to hire other officers or
19 something to monitor pedestrian traffic. I
20 don't know.

21 MEMBER JONES: But that's not what
22 they presented in their plan, Madam Chair.

1 CHAIRPERSON MILLER: All I'm
2 saying is I'm not saying that it was, you
3 know, a foolproof plan and I'm ready to
4 approve it. All I was saying is I would have
5 liked to have given them the opportunity and
6 hear also from MPD, you know, with respect to
7 can this work or not or even more scaled-down.

8 Okay. Anybody else? Mr.
9 Silverstein?

10 MEMBER SILVERSTEIN: Madam Chair,
11 first, regarding our changing our decision on
12 a previous case, it was when we learned that
13 the licensee had been found guilty of a crime
14 that directly affected his operating of the
15 establishment. And the Board, the majority of
16 the Board, determined that he was unfit or
17 that we could not give him a license or renew
18 his license, because of crime. It wasn't that
19 we decided that he was a bad person. It was
20 statutory.

21 I don't believe that we are
22 required to engage in a negotiation process

1 with an applicant when an applicant seeks a
2 license and we turn it down.

3 In this case, there were four or
4 five protest groups, including Metropolitan
5 Police Department. The concerns that
6 Commander Hickson gave that day remain. This
7 was a woefully inadequate application. And
8 there still is no structure on the lot.

9 There is still no plumbing. There
10 are still no utilities. There are still
11 issues of general disorder to the community.
12 We cannot order a reasonable or a reimbursable
13 detail. And RDOs don't operate, in general,
14 on days other than the weekend.

15 MEMBER BROOKS: That's not true.

16 MEMBER SILVERSTEIN: So there are
17 a few, but in general, that's when they are
18 done. And we can't order them anyway and I
19 would have some serious issues about spending
20 taxpayer dollars if we would have to do so for
21 the overtime portion of an RDO.

22 But in any case, the serious

1 issues are still there. This -- I would
2 hesitate to ever involve in a situation where
3 anybody can apply, get turned down and then
4 engage in some sort of negotiating process
5 back and forth.

6 We have enough on our plate. We
7 have enough of a backlog of these things. I
8 think that this is unfortunate that this was
9 not acceptable at first and I just don't think
10 it is particularly a good idea and I don't
11 think we should go there.

12 CHAIRPERSON MILLER: Others? Yes,
13 Mr. Jones?

14 MEMBER JONES: I would just like
15 to briefly state that I believe the revised
16 plans still fell well-short of addressing the
17 concerns that were raised related to public
18 noise and what their active steps they are
19 going to take to mitigate/eliminate the noise
20 that was going to be coming from an open field
21 of individuals or patrons for the neighboring
22 community areas.

1 So I do not believe that that was
2 adequately addressed to the point where it
3 raised to the bar -- raises to the level that
4 I was satisfied that they had appropriately
5 addressed the concerns that were clearly
6 evident and noted during the hearing that we
7 did have.

8 Also, I'm aligning myself with the
9 comments as made by Board Member Silverstein
10 and Board Member Alberti.

11 CHAIRPERSON MILLER: Okay.
12 Anybody else? Well, I don't want to belabor
13 this, but I just want to say I think they did
14 address noise somewhat because they limited
15 the days that people are going to be there and
16 the hours, and so I think that is something.
17 But anyway, I think that it is clear where the
18 Board stands.

19 So that unless anybody else has
20 anything to say, there is a motion by Mr.
21 Alberti to deny the Motion for Reconsideration
22 en banc. I don't know who seconded it.

1 MEMBER BROOKS: I seconded it.

2 CHAIRPERSON MILLER: Okay. Mr.
3 Brooks has seconded it.

4 All those in favor of the motion
5 to deny say aye.

6 MEMBER ALBERTI: Aye.

7 MEMBER SILVERSTEIN: Aye.

8 MEMBER BROOKS: Aye.

9 MEMBER JONES: Aye.

10 CHAIRPERSON MILLER: All those
11 opposed? Opposed.

12 All those abstaining? The vote
13 then is 4-1-0.

14 All right. We have one more item
15 on the agenda and that is No. 3, a request
16 from Southern Wine and Spirits of DC to
17 participate in the International Wine & Food
18 Festival and provide retailers with products
19 valued at more than \$50 and less than \$500.

20 I move that we approve this
21 application.

22 MEMBER RODRIGUEZ: Second.

1 CHAIRPERSON MILLER: Mr. Rodriguez
2 has seconded the motion.

3 All those in favor say aye.

4 ALL: Aye.

5 CHAIRPERSON MILLER: All those
6 opposed? All those abstaining? The motion
7 passes 7-0-0. Okay.

8 All right. That concludes our
9 agendas for February 12, 2014. And what
10 remains is for us to vote on our closed
11 meetings for February 19th.

12 As Chairperson of the Alcoholic
13 Beverage Control Board for the District of
14 Columbia and in accordance with DC Official
15 Code Section 2-574(b) of the Open Meetings
16 Act, I move that the ABC Board hold a closed
17 meeting for the purpose of seeking legal
18 advice from our counsel on the matters
19 identified on the Board's agenda for February
20 19, 2014 as published in the DC Register on
21 February 14, 2014.

22 Is there a second?

1 MEMBER BROOKS: Second.

2 CHAIRPERSON MILLER: Mr. Brooks
3 has seconded the motion. I'll now take a roll
4 call vote on the motion now that it has been
5 seconded.

6 Mr. Brooks?

7 MEMBER BROOKS: I agree.

8 CHAIRPERSON MILLER: Mr. Alberti?

9 MEMBER ALBERTI: I agree.

10 CHAIRPERSON MILLER: Mr.

11 Rodriguez?

12 MEMBER RODRIGUEZ: I agree.

13 CHAIRPERSON MILLER: Ms. Miller
14 agrees.

15 Mr. Silverstein?

16 MEMBER SILVERSTEIN: I agree.

17 CHAIRPERSON MILLER: Mr. Short?

18 MEMBER SHORT: I agree.

19 CHAIRPERSON MILLER: Mr. Jones?

20 MEMBER JONES: I agree.

21 CHAIRPERSON MILLER: It appears
22 that the motion has passed by a vote of 7-0-0.

1 I hereby give notice that the ABC Board will
2 hold this aforementioned closed meeting
3 pursuant to the Open Meetings Act. Notice
4 will also be posted on the ABC Board hearing
5 room bulletin board, placed on the electronic
6 calendar on ABRA's website and published in
7 the DC Register in as timely a manner as
8 practicable.

9 As Chairperson of the Alcoholic
10 Beverage Control Board for the District of
11 Columbia and in accordance with DC Official
12 Code Section 2-574(b), closed meetings, and
13 Section 2-574, notice of meetings, of the Open
14 Meetings Act, I move that the ABC Board hold
15 a closed meeting on February 19, 2014 for the
16 purpose of discussing and hearing reports
17 concerning ongoing or planned investigations
18 of alleged criminal or civil misconduct or
19 violations of law or regulations and seeking
20 legal advice from our counsel on the Board's
21 Investigative Agenda for February 19, 2014 as
22 published in the DC Register on February 14,

1 2014.

2 Is there a second?

3 MEMBER BROOKS: Second.

4 CHAIRPERSON MILLER: Mr. Brooks
5 has seconded the motion. I'll now take a roll
6 call vote on the motion before us now that it
7 has been seconded.

8 Mr. Brooks?

9 MEMBER BROOKS: I agree.

10 CHAIRPERSON MILLER: Mr. Alberti?

11 MEMBER ALBERTI: I agree.

12 CHAIRPERSON MILLER: Mr.

13 Rodriguez?

14 MEMBER RODRIGUEZ: I agree.

15 CHAIRPERSON MILLER: Ms. Miller
16 agrees.

17 Ms. Silverstein?

18 MEMBER SILVERSTEIN: I agree.

19 CHAIRPERSON MILLER: Mr. Short?

20 MEMBER SHORT: I agree.

21 CHAIRPERSON MILLER: Mr. Jones?

22 MEMBER JONES: I agree.

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CHAIRPERSON MILLER: It appears that the motion has passed by a vote of 7-0-0. I hereby give notice that the ABC Board will hold this aforementioned closed meeting pursuant to the Open Meetings Act. Notice will also be posted on the ABC Board hearing room bulletin board, placed on the electronic calendar on ABRA's website and published in the DC Register in as timely a manner as practicable.

And this concludes our business for February 12, 2014 and we are adjourned. Okay.

(Whereupon, the Agenda Hearing in the above-entitled matter was concluded at 4:26 p.m.)

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