

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

June 10, 2015

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
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

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

5:44 p.m.

1
2
3 CHAIRPERSON MILLER: All right. We
4 are back on the record for our agendas for June
5 10, 2015. I'm going to start with the Legal
6 Agendas.

7 We have one item on the Legal Agenda
8 which is a settlement agreement between ANC-4B
9 and Takoma Park Liquors dated May 25, 2015.
10 Takoma Park Liquors is located at 6200 Eastern
11 Avenue, N.E., License No. 019598.

12 So I would move that we approve this
13 settlement agreement with a few modifications
14 starting on Page 2, Clause 6, that needs to be
15 amended to provide for a unilateral termination.

16 Also on Page 2, No. 7, they should
17 remove the reference to assigned.

18 No. 8, the grounds for -- this is
19 Paragraph 8 or Clause 8, grounds for filing a
20 complaint. I believe we have standard language
21 that should be inserted instead of what is there.

22 Is that all of them? Did anybody else

1 have --

2 MEMBER SHORT: Did you have Page 2 and
3 page -- and 7 and 8?

4 CHAIRPERSON MILLER: Page 2, Clauses
5 7 and 8, yes.

6 MEMBER SHORT: Well, 6, 7 and 8, I
7 guess.

8 MEMBER ALBERTI: 6, 7 and 8.

9 CHAIRPERSON MILLER: 6, 7 and 8,
10 correct.

11 MEMBER SHORT: Not to be addressed
12 more.

13 CHAIRPERSON MILLER: Anybody else have
14 any others? Okay. Then I move to approve as so
15 modified. Do I have a second?

16 MEMBER ALBERTI: Second.

17 CHAIRPERSON MILLER: Mr. Alberti
18 seconded the motion.

19 All those in favor say aye.

20 ALL: Aye.

21 CHAIRPERSON MILLER: All those
22 opposed? All those abstaining? The motion

1 passes 6-0-0.

2 Okay. Then we have a Supplemental
3 Legal Agenda.

4 And the first item on the agenda is a
5 letter seeking a clarification of Board Order No.
6 2015-273 submitted by Andre Barlow, Esq. on
7 behalf of The Showtime dated June 2, 2015. The
8 Showtime is located at 113 Rhode Island Avenue,
9 N.W., License No. 089196.

10 They submitted, I guess, a letter or
11 motion asking us to clarify our order with
12 respect to smoking. There is a provision in it
13 that says "There shall be no smoking within 25 of
14 the entrance of the establishment." So I think
15 that means 25 feet.

16 MEMBER RODRIGUEZ: 25 feet.

17 CHAIRPERSON MILLER: Yes, they have a
18 typo there. They say the Board specifically
19 states the Board orders the applicant to prohibit
20 or disallow patrons from smoking within 25 feet
21 of the establishment's sidewalk cafe and they
22 wanted a clarification whether patrons can smoke

1 within the boundaries of the sidewalk cafe, which
2 is for six seats.

3 MEMBER SHORT: Madam Chair, if I
4 might?

5 CHAIRPERSON MILLER: Yes?

6 MEMBER SHORT: We said 25 feet in the
7 order?

8 CHAIRPERSON MILLER: Well, what it
9 says "within 25 feet of the establishment's
10 sidewalk cafe. The Board orders the applicant to
11 prohibit or disallow patrons from smoking within
12 25 feet of the establishment's sidewalk cafe."
13 That's what they quoted. I'll see if that's
14 correct.

15 MEMBER ALBERTI: I just -- I wasn't
16 part of this, but that is not correct.

17 CHAIRPERSON MILLER: Okay. Let me go
18 right to the Board Order. Well, it says -- okay.
19 "Therefore, in order to protect neighbors from
20 disturbances by potential crowds, the Board
21 orders the applicant to prohibit or disallow
22 smoking within 25 feet of the establishment's

1 sidewalk cafe."

2 So that's probably why they are asking
3 for clarification.

4 MEMBER SHORT: And I think --

5 MEMBER SILVERSTEIN: It should have
6 been from the building entrance is the 25 feet.
7 And that would have encompassed the sidewalk
8 cafe. We cannot control areas beyond -- they
9 cannot control areas beyond the sidewalk cafe.
10 They are beyond their legal purview and their
11 legal control.

12 CHAIRPERSON MILLER: So you are saying
13 that you would clarify the order by changing
14 sidewalk cafe to the front of the building?

15 MEMBER SHORT: No. I think the order
16 should stand just the way it is. I think that's
17 what we discussed in the back.

18 MEMBER ALBERTI: But they are asking
19 for clarification.

20 CHAIRPERSON MILLER: Well, it's not
21 clear what this means.

22 MEMBER ALBERTI: Okay.

1 CHAIRPERSON MILLER: Mr. Alberti, do
2 you have something you want to say?

3 MEMBER ALBERTI: The order says "There
4 shall be no smoking within 25 feet of the
5 establishment."

6 CHAIRPERSON MILLER: It doesn't say
7 that on my -- on the order that I'm looking at.
8 Maybe that's what you think it should say.

9 MEMBER ALBERTI: No, that's what --
10 the Order that was in our agenda.

11 CHAIRPERSON MILLER: Okay. I'm in
12 Paragraph 19. I'm in Paragraph 19.

13 MEMBER ALBERTI: I'm looking at Order.
14 I'm looking at order in the Board Order. Under
15 the section that says Order.

16 CHAIRPERSON MILLER: Okay. You are --

17 MEMBER ALBERTI: Under the section
18 that says Order it says (1) "The establishment's
19 entrance shall not block egress and ingress."

20 CHAIRPERSON MILLER: Okay.

21 MEMBER ALBERTI: (2) "There shall be
22 a fixed barrier to define the boundaries of the

1 sidewalk cafe."

2 (3) "There shall be no smoking within
3 25 feet of the establishment." That's what it
4 says under Order.

5 CHAIRPERSON MILLER: You're right.
6 Okay. And so but there was -- I can see why they
7 asked for clarification given that Paragraph 19
8 says "within 25 feet of the establishment's
9 sidewalk cafe."

10 So we aren't going to grant them a
11 reconsideration of the order, right?

12 MEMBER SILVERSTEIN: Mr. Alberti?

13 MEMBER ALBERTI: They are asking for
14 a clarification.

15 CHAIRPERSON MILLER: A clarification.

16 MEMBER ALBERTI: I think in all --

17 MEMBER SILVERSTEIN: The clarification
18 is --

19 MEMBER ALBERTI: -- fairness, I think
20 you ought to give them a clarification.

21 CHAIRPERSON MILLER: I think we agree
22 on that.

1 MEMBER ALBERTI: Right.

2 MEMBER SILVERSTEIN: A clarification.

3 CHAIRPERSON MILLER: I can do a motion
4 that we clarify the order and then we can decide
5 what. Is everybody in favor? Do I have a second
6 to clarify the order?

7 MEMBER RODRIGUEZ: Aye.

8 MEMBER SHORT: I think --

9 CHAIRPERSON MILLER: Okay.

10 MEMBER SHORT: I think --

11 CHAIRPERSON MILLER: Wait a minute.

12 Did you have a comment on the motion to clarify?

13 MEMBER SHORT: I do have a comment on
14 the motion.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER SHORT: There was a vote in the
17 back today --

18 CHAIRPERSON MILLER: No, we don't talk
19 about that.

20 MEMBER SHORT: We don't talk about
21 that?

22 CHAIRPERSON MILLER: No.

1 MEMBER SHORT: But we made a decision.
2 We did make a decision. And we thought you were
3 going to read that decision.

4 CHAIRPERSON MILLER: No. There is no
5 decision to read. The decisions are actually
6 really made out here. If we have a preliminary
7 discussion in the back and a preliminary
8 consensus, it's still -- I don't have any
9 decision to read.

10 MEMBER SHORT: That's what I thought
11 we were doing. Okay.

12 MEMBER RODRIGUEZ: So, Madam Chair?

13 CHAIRPERSON MILLER: Wait a second.
14 We need to vote.

15 MEMBER SHORT: We need to clarify
16 this, right?

17 CHAIRPERSON MILLER: First of all, we
18 need to vote to clarify it and then we will
19 decide how you want to clarify it.

20 MEMBER RODRIGUEZ: Just say that.
21 Just say that.

22 CHAIRPERSON MILLER: Okay. So the

1 first --

2 MEMBER RODRIGUEZ: Madam Chair, I make
3 a motion that we --

4 CHAIRPERSON MILLER: I did.

5 MEMBER RODRIGUEZ: If motions are
6 open --

7 CHAIRPERSON MILLER: No.

8 MEMBER RODRIGUEZ: -- to the floor --

9 CHAIRPERSON MILLER: No. Because I
10 have made a motion.

11 MEMBER RODRIGUEZ: Okay.

12 CHAIRPERSON MILLER: It has been
13 seconded. The motion is to clarify. Once we
14 vote on that, then we can decide on how it is
15 clarified. Okay?

16 MEMBER RODRIGUEZ: Okay.

17 CHAIRPERSON MILLER: So I have a
18 motion. I can have a vote on whether to clarify.

19 MEMBER SHORT: I have one more
20 comment, Madam Chair, just for the record.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER SHORT: I don't think that we

1 are going to make a decision on this, based on
2 what the conversations were, what the order says
3 and what the intention, I think, of the majority
4 of this Board had said. We was -- the vote was
5 4-1 and we are going to go with that one and
6 prolong this.

7 CHAIRPERSON MILLER: We didn't vote.

8 MEMBER ALBERTI: No.

9 CHAIRPERSON MILLER: There has been no
10 vote.

11 MEMBER SHORT: Okay. Please --

12 CHAIRPERSON MILLER: My question is --

13 MEMBER SHORT: May I put this on the
14 record?

15 CHAIRPERSON MILLER: Okay. My
16 question --

17 MEMBER SHORT: We said in the order
18 that there will be no smoking in the sidewalk
19 cafe.

20 CHAIRPERSON MILLER: I don't know that
21 we said that specifically.

22 MEMBER SHORT: Well, I think that's

1 the clarification we need to make.

2 MEMBER SILVERSTEIN: We didn't say
3 that in the order. We need to clarify that
4 that's what we mean.

5 CHAIRPERSON MILLER: It's not -- if
6 you can find it in the order, let me know.

7 MEMBER RODRIGUEZ: No, no, no.

8 MEMBER SILVERSTEIN: The
9 establishment, but that includes, Mr. Short,
10 areas that are beyond the areas --

11 MEMBER SHORT: I understand.

12 MEMBER SILVERSTEIN: -- that they can
13 control.

14 MEMBER SHORT: We know that.

15 MEMBER SILVERSTEIN: So let us clarify
16 it.

17 MEMBER SHORT: Okay.

18 MEMBER SILVERSTEIN: As you want to
19 clarify it.

20 MEMBER SHORT: Now, can I tell --

21 MEMBER SILVERSTEIN: We will open it
22 up to --

1 MEMBER SHORT: -- you where I think
2 the clarification needs --

3 MEMBER SILVERSTEIN: -- clarify.

4 MEMBER SHORT: -- to --

5 CHAIRPERSON MILLER: No, no.

6 MEMBER SHORT: Why?

7 CHAIRPERSON MILLER: Because --

8 MEMBER SHORT: Why not?

9 CHAIRPERSON MILLER: -- the first
10 motion is whether we are going to clarify it.
11 Okay? And then we will go into how we are going
12 to clarify it.

13 MEMBER SHORT: The motion that will
14 change that? That's the motion now that you
15 are --

16 CHAIRPERSON MILLER: Yes.

17 MEMBER SHORT: -- making? Can
18 somebody second that?

19 CHAIRPERSON MILLER: It has been
20 seconded.

21 MEMBER SHORT: It has been seconded.
22 Okay.

1 CHAIRPERSON MILLER: All those in
2 favor say aye.

3 MEMBER RODRIGUEZ: Aye.

4 CHAIRPERSON MILLER: Aye.

5 MEMBER SILVERSTEIN: Aye.

6 MEMBER BROOKS: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? Okay. What --

9 MEMBER ALBERTI: I oppose only -- and
10 I oppose because --

11 CHAIRPERSON MILLER: Okay.

12 MEMBER ALBERTI: -- I think that the
13 process that we are following here is out norm
14 and unnecessarily inefficient.

15 CHAIRPERSON MILLER: Okay. So that's
16 one. Mr. Brooks, did you vote?

17 MEMBER BROOKS: I did not. Now, what
18 did we decide in the boardroom?

19 CHAIRPERSON MILLER: Okay. We had a
20 preliminary discussion --

21 MEMBER BROOKS: A while ago.

22 CHAIRPERSON MILLER: -- in the

1 boardroom to clarify the motion in a certain way
2 that the majority wanted to do it.

3 MEMBER BROOKS: But didn't we say that
4 we did not want to permit smoking?

5 CHAIRPERSON MILLER: But the point is
6 are we going to clarify the motion?

7 MEMBER BROOKS: On the sidewalk cafe.
8 Didn't we say that though?

9 MEMBER ALBERTI: On the sidewalk cafe.

10 MEMBER SILVERSTEIN: Yes, yes.

11 MEMBER BROOKS: We said that.

12 CHAIRPERSON MILLER: Okay.

13 MEMBER BROOKS: So what's the
14 difference now?

15 CHAIRPERSON MILLER: The difference is
16 that was private. This is public. We are
17 dealing with it in a public forum.

18 MEMBER BROOKS: Well, then say the
19 same -- then you make the same motion.

20 MEMBER SILVERSTEIN: Mr. Brooks?

21 CHAIRPERSON MILLER: But I just broke
22 it up into whether we wanted to clarify it.

1 Okay. I get the majority that we are going to
2 clarify it, so we might as well move into the
3 merits of the clarification. Okay.

4 MEMBER SILVERSTEIN: Madam Chair?

5 CHAIRPERSON MILLER: That was a 4-1-1,
6 I think.

7 MEMBER ALBERTI: But that's not on the
8 agenda, so that won't get published.

9 MEMBER SILVERSTEIN: Madam Chair?

10 CHAIRPERSON MILLER: Yes?

11 MEMBER SILVERSTEIN: The counsel for
12 the licensee asks for clarification of what we
13 mean by 25 feet from the establishment. And I
14 would suggest that that does not mean areas in
15 the middle of the street or areas on the sidewalk
16 beyond the legal control of the establishment.

17 CHAIRPERSON MILLER: Okay.

18 MEMBER SILVERSTEIN: But that what we
19 meant was that there will be no smoking in the
20 sidewalk cafe or in outside areas under the
21 control, under the jurisdiction of the
22 establishment.

1 CHAIRPERSON MILLER: Okay.

2 MEMBER SHORT: I concur with that. I
3 concur with that. That was the decision we made.

4 MEMBER SILVERSTEIN: Does anyone have
5 any comments on that or will that be --

6 MEMBER RODRIGUEZ: Well, that's
7 clarification right there.

8 MEMBER SILVERSTEIN: Will that be the
9 clarification?

10 CHAIRPERSON MILLER: I would say that
11 that is a clarification of, you know, this order.
12 It's not one that I would go along with --

13 MEMBER RODRIGUEZ: Okay.

14 CHAIRPERSON MILLER: -- because I
15 don't think there is substantial evidence in the
16 record to support banning smoking by the patrons
17 in six seats. I think that the order does
18 concern crowds of people smoking and that that
19 was the basis, at least for my vote, to put
20 limits on where they could smoke, but I didn't
21 intend that. I didn't personally intend that to
22 mean --

1 MEMBER ALBERTI: May I ask a question?

2 Oh, I'm sorry, go ahead. You were not finished.

3 CHAIRPERSON MILLER: -- the seats in
4 the sidewalk cafe, because -

5 MEMBER ALBERTI: Well --

6 CHAIRPERSON MILLER: -- I think that
7 people are going to go smoke somewhere and I
8 think that --

9 MEMBER SHORT: That's their business.

10 CHAIRPERSON MILLER: Excuse me. That
11 that is my view that, you know, if it's contained
12 within those six seats within the physical
13 barriers that we are requiring. But others can
14 think otherwise and that's fine.

15 MEMBER ALBERTI: Can I make a comment?

16 CHAIRPERSON MILLER: Yes.

17 MEMBER ALBERTI: My reading of the
18 order and my interpretation of the majority was
19 that they -- when the order says that there will
20 be no smoking -- "there shall be no smoking
21 within 25 feet of the establishment," I assume
22 that the majority found substantial evidence to

1 make that conclusion.

2 And I believe it is supported by what
3 I see in the order. So there is at least
4 substantial evidence in -- from the hearing, I
5 assume --

6 CHAIRPERSON MILLER: What is it?

7 MEMBER ALBERTI: -- based on
8 everything I have read that there shall be no
9 smoking within 25 feet of the establishment.

10 CHAIRPERSON MILLER: Okay. The
11 establishment can mean the establishment's
12 property, so that's why I think it is ambiguous
13 here. And there is -- there was substantial
14 evidence in the record about crowds of people
15 smoking and going over to the next door
16 neighbor's property and into the bus stop.

17 MEMBER ALBERTI: Well, I mean, I
18 interpret the establishment as being the front
19 wall of the establishment.

20 CHAIRPERSON MILLER: Okay.

21 MEMBER ALBERTI: I mean, just as a
22 sort of naive interpretation of what the words

1 say and, obviously, my fellow Board Members have
2 confirmed that in their clarification.

3 MEMBER SHORT: That is correct.

4 MEMBER SILVERSTEIN: To clarify --

5 CHAIRPERSON MILLER: We can vote.

6 MEMBER SILVERSTEIN: -- I think we
7 clarify that all that property within -- that is
8 in the sidewalk cafe is under the control of the
9 establishment. There shall be no smoking.

10 However, we are not ordering that they not allow
11 smoking in areas that they don't control. That
12 if someone is smoking on the sidewalk waiting for
13 the bus, it's not their fault and we can't hold
14 them to do things that they legally cannot do.

15 Is that clear?

16 CHAIRPERSON MILLER: Well, we will --
17 I assume, after the vote our attorneys would --
18 will rewrite part of the order to make it clear.

19 MEMBER SILVERSTEIN: I also --

20 CHAIRPERSON MILLER: But that's what
21 we mean. We mean non-smoking, the Board means no
22 smoking in the sidewalk cafe. That was never

1 specifically laid out in the order as I can find
2 it.

3 MEMBER SHORT: Well, I think that has
4 been laid out today, Madam Chair.

5 CHAIRPERSON MILLER: It looks like
6 that is what the majority of the Board would like
7 to lay out.

8 MEMBER SILVERSTEIN: Shall we vote on
9 it?

10 CHAIRPERSON MILLER: And I'm
11 suggesting that that then be put into an order
12 that clarifies it. Okay.

13 MEMBER ALBERTI: And I think that that
14 was the intent of the majority from the
15 discussion, preliminary discussions we had is
16 that an amended order would be written.

17 CHAIRPERSON MILLER: Okay. I'm not
18 going to move the motion because I'm not going to
19 vote for it. Does somebody want to vote for that
20 with modification?

21 MEMBER SILVERSTEIN: I presented it,
22 so I moved the motion. Is there a second?

1 MEMBER SHORT: Second.

2 CHAIRPERSON MILLER: Okay. Mr. Short
3 has seconded the motion.

4 All those in favor say aye.

5 MEMBER SHORT: Aye.

6 MEMBER SILVERSTEIN: Aye.

7 MEMBER BROOKS: Aye.

8 MEMBER RODRIGUEZ: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? Opposed. All those abstaining?

11 MEMBER ALBERTI: I will abstain
12 because although I have read the order and have
13 heard the discussion, I was not -- did not sit on
14 this case, so I will abstain.

15 CHAIRPERSON MILLER: That's good.
16 Okay.

17 MEMBER ALBERTI: I'm glad you approve.

18 CHAIRPERSON MILLER: Okay. So the
19 vote is 4-1-1 with Miller opposed and Alberti
20 abstaining.

21 All right. No. 2 is a letter
22 requesting Sunday delivery dated May 26, 2015

1 submitted by Dave Stander, President and General
2 Manager, Premium Distributors of Washington,
3 D.C., LLC. I move that we approve this request.

4 MEMBER SHORT: Second.

5 CHAIRPERSON MILLER: Mr. Short has
6 seconded the motion.

7 All those in favor say aye.

8 ALL: Aye.

9 CHAIRPERSON MILLER: All those
10 opposed? All those abstaining? The motion
11 passes 5-0-0.

12 No. 3 is a settlement agreement
13 between ANC-5E and Super Liquors submitted by
14 ANC-2F dated May 31, 2015. The establishment is
15 Super Liquors located at 1631 North Capitol
16 Street, N.E., License No. 079241.

17 So I would move to approve this
18 settlement agreement with modifications. So
19 let's see which -- okay, the first one that I see
20 is on Page 2, Paragraph 5. I believe that some
21 Board Members have concerns with the paint color
22 reference, so that's the last line on Page 5. It

1 says "The paint color used to cover up graffiti
2 shall be the same color as the rest of the
3 building."

4 That was going to far and not
5 enforceable by ABRA. So I would move to delete
6 that one.

7 No. 6 talks about a written record.

8 MEMBER SHORT: But didn't we --
9 forgive me. Didn't we say they had to cover the
10 graffiti?

11 CHAIRPERSON MILLER: Pardon?

12 MEMBER SHORT: We didn't say -- we did
13 have a discrepancy about the color of the paint,
14 but we did say if there is graffiti they have to
15 remove it.

16 CHAIRPERSON MILLER: Yes, that's still
17 in there.

18 MEMBER RODRIGUEZ: Just remove it
19 period.

20 CHAIRPERSON MILLER: That's still in
21 there.

22 MEMBER SHORT: That's still in there?

1 CHAIRPERSON MILLER: Yes.

2 MEMBER SHORT: Okay.

3 MEMBER RODRIGUEZ: Okay.

4 CHAIRPERSON MILLER: If there is
5 anything else, let me know. That's on Paragraph
6 5, Page 2.

7 Paragraph 6(d), 6(d), talks about
8 making records available for inspections at the
9 request of -- there is loitering reports, at the
10 request of MPD. And so we are recommending that
11 they delete "or ANC-5E or the Eckington Civic
12 Association." And adding in "or the ABC Board,"
13 so that these records could be available for
14 inspection at the request of MPD or ABC Board.

15 Okay. Moving on, No. 16 I believe a
16 Board Member has a concern with the last sentence
17 because it's going too far with respect to "Any
18 subsequent sales of alcohol to a person who has
19 at any time been determined to have been a straw
20 man buyer will be deemed a willful violation of
21 the settlement agreement."

22 So that line should be deleted. The

1 first part of 16 is fine.

2 17, I believe that the modification
3 there would go to providing ANC-5E with notice if
4 it intends to sell in whole or in part, that that
5 shouldn't be a requirement.

6 And 19 has the assigns language in it,
7 again, that should be deleted.

8 And 20, let me see, what to do if
9 there is a violation. We have standard language
10 that our General Counsel will give them in place
11 of the last sentence.

12 That is all the modifications that I'm
13 aware of. So I would move to approve as so
14 modified. Do I have a second?

15 MEMBER RODRIGUEZ: Second.

16 CHAIRPERSON MILLER: Mr. Rodriguez
17 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 No. 4 is another settlement agreement
2 between ANC-6B and Elaine's One, LLC submitted by
3 ANC-6B dated May 18, 2015. Elaine's One, LLC is
4 located at 715 8th Street, S.E., License No.
5 098700.

6 And I would move that we approve with
7 a modification to Paragraph 2 deleting "without
8 the ANC-6B's agreement to seek to increase"
9 language and will not without -- will not -- that
10 part referencing the ANCs having to agree to the
11 increase. Okay.

12 So I guess it would start with and and
13 go "And will not without the ANC-6B's agreement
14 seek to increase," that language should be taken
15 out.

16 No, it's okay. The applicant
17 currently seeks the total seating for 65 patrons,
18 that is what it should say. Okay. And then our
19 General Counsel will assist in any questions
20 related to the modifications.

21 MEMBER ALBERTI: So it's --

22 CHAIRPERSON MILLER: Yes.

1 MEMBER ALBERTI: -- so we are
2 approving -- so your motion is to approve this
3 with modifications to No. 2?

4 CHAIRPERSON MILLER: To No. 2.

5 MEMBER ALBERTI: Thank you.

6 CHAIRPERSON MILLER: Yes, the part
7 with the -- the part about the ANC's agreement.

8 MEMBER ALBERTI: Thank you.

9 CHAIRPERSON MILLER: Yes. Anything
10 else on that one? All right. Not hearing
11 anything, do I have a second to approve so as
12 modified?

13 MEMBER ALBERTI: Second.

14 CHAIRPERSON MILLER: Mr. Alberti
15 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 an amendment to settlement
22 agreement between ANC-2F and CherCher Ethiopian

1 Restaurant submitted by ANC-2F dated June 3,
2 2015. CherCher Ethiopian Restaurant is located
3 at 1334 9th Street, N.W., License No. 090311.

4 I move we approve this settlement
5 agreement. Do I have a second?

6 MEMBER SILVERSTEIN: Second.

7 CHAIRPERSON MILLER: Mr. Silverstein
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 Okay. No. 6 is a Motion to Continue
15 a Qualifications Hearing submitted by Andrew
16 Kline, Esq. on behalf of The Alibi Restaurant &
17 Lounge dated June 8, 2015. The Alibi Restaurant
18 & Lounge is located at 237 2nd Street, N.W.,
19 License No. 093941.

20 I move that we approve this motion,
21 this request.

22 MEMBER SILVERSTEIN: Second.

1 CHAIRPERSON MILLER: Mr. Silverstein
2 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. This will be set --

8 MEMBER RODRIGUEZ: Correction,
9 correction, Madam Chair, sorry to interrupt.

10 CHAIRPERSON MILLER: Yes? Correction
11 on a vote?

12 MEMBER RODRIGUEZ: No, correction on
13 the seconded. It was Mr. Brooks that seconded.

14 CHAIRPERSON MILLER: Oh, okay. Mr.
15 Brooks seconded that 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 And this will be set forth in Board
22 Order No. 2015-296.

1 Okay. Next, we have 7, 8 and 9 all
2 relate to Sylvia's Liquors located at 1818
3 Benning Road, N.E., License No. 077726.

4 No. 7 is a Motion to Dismiss the
5 Protest submitted by Michael Fonseca asked on
6 behalf of Sylvia's Liquors, dated June 2, 2015.

7 No. 8 is the opposition to that motion
8 submitted by Kathy Henderson on behalf of
9 protestant group of five or more individuals
10 dated June 8, 2015.

11 And No. 9 is a reply to the opposition
12 to the Motion to Dismiss submitted by Michael
13 Fonseca, Esq. on behalf of Sylvia's Liquors dated
14 June 9, 2015.

15 Okay. I move that we grant the Motion
16 to Dismiss and fine that the party lost standing
17 based on the facts that the, I think it was at
18 least four or so, individuals that were
19 identified lived outside the protest area and
20 they didn't share common ground. All of them,
21 the people who lived within the geographical area
22 for a protest, so finding that they didn't share

1 a common ground, that would be one ground.

2 My second ground would be that the
3 opposition was not assigned. But the first
4 grounds is basically on the merits. And this
5 would result in a dismissal of the party of five
6 as they don't have five individuals in that group
7 sharing common ground.

8 Do I have a second on that?

9 MEMBER ALBERTI: Second.

10 CHAIRPERSON MILLER: Any further
11 discussion? Okay.

12 Then all those in favor of the motion
13 say aye.

14 ALL: Aye.

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

18 No. 10 is a withdraw, a letter of
19 withdrawal of protest submitted by ANC-2F,
20 Chairperson John Fanning dated June 5, 2015. The
21 establishment is Modern Liquors located at 901 M
22 Street, N.E., License No. 084387.

1 I move we approve.

2 MEMBER ALBERTI: Second.

3 CHAIRPERSON MILLER: Mr. Alberti
4 seconded the motion.

5 All those in favor say aye.

6 ALL: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining? The motion
9 passes 6-0-0. And this will be set forth in
10 Board Order No. 2015-291.

11 No. 11 is a letter of withdrawal of
12 protest submitted by ANC-2F Chairperson, John
13 Fanning dated June 5, 2015 related to A-1 Wine &
14 Liquors located at 901 M Street, N.E., License
15 No. 060704.

16 I move that we approve this letter of
17 withdrawal.

18 MEMBER ALBERTI: Second.

19 CHAIRPERSON MILLER: Mr. Alberti
20 seconded the motion.

21 All those in favor say aye.

22 ALL: Aye.

1 CHAIRPERSON MILLER: All those
2 opposed? All those abstaining? The motion
3 passes 6-0-0. And this will be set forth in
4 Board Order No. 2015-290.

5 Okay. That completes our Legal
6 Agenda. And we have our Licensing Agenda and a
7 Supplemental Licensing Agenda.

8 Okay. Looking at the Licensing
9 Agenda, the first item is an application for
10 safekeeping of license. It's an original request
11 by Ris at Union Market located at 1309 5th Street,
12 N.E., License No. 094391.

13 I move that we grant this application
14 for safekeeping for six months. Do I have a
15 second?

16 MEMBER RODRIGUEZ: Second.

17 CHAIRPERSON MILLER: Mr. Rodriguez
18 seconded the motion.

19 All those in favor say aye.

20 ALL: Aye.

21 CHAIRPERSON MILLER: All those
22 opposed? All those abstaining? The motion

1 passes 6-0-0.

2 No. 2 is a request for a change of
3 hours for 11th & M Corner Market located at 1133
4 11th Street, N.W. This is License No. 086606.

5 I move that we approve.

6 MEMBER SHORT: Second.

7 CHAIRPERSON MILLER: Mr. Short has
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. 3 is a change of hours for Nagomi
15 located at 1990 M Street, N.W., License No.
16 096999.

17 I move that we approve this request.
18 Do I have a second?

19 MEMBER SILVERSTEIN: Second.

20 CHAIRPERSON MILLER: Mr. Silverstein
21 seconded the motion.

22 All those in favor say aye.

1 ALL: Aye.

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

5 No. 4 is an application for
6 entertainment endorsement to include DJ or live
7 band during happy hours and late night hours in
8 ANC-2B. This is for Stonefish Grill & Lounge
9 located at 1050 17th Street, N.W., License No.
10 094562.

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

13 MEMBER SHORT: Second.

14 CHAIRPERSON MILLER: Mr. Short has
15 seconded the motion. Any comments?

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 an application for a
22 manager's license for Alex H. Lopez, ABRA No.

1 099193.

2 I move that we approve.

3 MEMBER RODRIGUEZ: Second.

4 CHAIRPERSON MILLER: Mr. Rodriguez
5 seconded the motion.

6 All those in favor say aye.

7 ALL: Aye.

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

11 And No. 6 is an application for a
12 manager's license by Keela E. Young, ABRA No.
13 099203.

14 I move that we approve. Do I have a
15 second?

16 MEMBER ALBERTI: Second.

17 CHAIRPERSON MILLER: Mr. Alberti
18 seconded the motion.

19 All those in favor say aye.

20 ALL: Aye.

21 CHAIRPERSON MILLER: All those
22 opposed? All those abstaining? The motion

1 passes 6-0-0.

2 MEMBER RODRIGUEZ: Supplemental?

3 CHAIRPERSON MILLER: Yes,
4 Supplemental.

5 The first item on the Supplemental is
6 a request for a stipulated license with letter of
7 ANC support in ANC-1A. This is for Walters
8 located at 3632 Georgia Avenue, N.W., License No.
9 099133.

10 I move that we approve. Do I have a
11 second?

12 MEMBER RODRIGUEZ: Second.

13 CHAIRPERSON MILLER: Mr. Rodriguez
14 seconded the motion.

15 All those in favor say aye.

16 ALL: Aye.

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

20 No. 2 is a request for stipulated
21 license with letter of ANC support. This is in
22 ANC-6D. This is Hill Country Homestead located

1 at 1244 South Capitol Street, S.E., License No.
2 099056.

3 I move that we approve. Do I have a
4 second?

5 MEMBER ALBERTI: Second.

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

8 All those in favor say aye.

9 ALL: Aye.

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

13 No. 3 is a request for stipulated
14 license with letter of ANC support from Matthew
15 Hayes #1, Commander Jacques #2, and Miss
16 Christian #3. Okay. The address is 205 The
17 Strand, Alexandria, Virginia. This is License
18 No. 098753.

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

21 MEMBER ALBERTI: Second.

22 CHAIRPERSON MILLER: Mr. Alberti

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 a request for expansion of
8 the establishment which will include the total
9 occupancy load to 48. This is in ANC-2F. The
10 establishment is CherCher Ethiopian Restaurant,
11 1334 9th Street, N.W., License No. 090311. This
12 is related to one of the items we had on Legal.

13 I think there was a settlement
14 agreement amendment to increase the occupancy
15 load, which is higher than this 48, so I move
16 that we approve. Do I have a second?

17 MEMBER BROOKS: Second.

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

20 All those in favor say aye.

21 MEMBER ALBERTI: Aye.

22 CHAIRPERSON MILLER: Aye.

1 MEMBER RODRIGUEZ: Aye.

2 MEMBER SILVERSTEIN: Aye.

3 MEMBER BROOKS: Aye.

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

7 MEMBER SHORT: I abstain on that one.

8 CHAIRPERSON MILLER: Okay. So the
9 motion passes 5-0-1 with Mr. Short abstaining.
10 Okay.

11 No. 5 concerns a letter and an
12 application. The letter we received was from
13 ANC-2F dated June 1, 2015, which brings to the
14 Board's attention that the Board had denied
15 another application by Mr. Nwaeze who we are
16 considering an application at this time for XO
17 Restaurant located at 1426 L Street, N.W. and the
18 License No. on that would be 098370.

19 The ANC has written this letter to
20 make sure the Board is aware that in another
21 order, a very recent order in May, the Board
22 found that Mr. Nwaeze was unfit to hold a

1 license, hold a CT License and this is an
2 application for a CT License.

3 And under our statute, I believe it is
4 25-338 that if a licensee is found to -- or an
5 applicant is found be unfit for one license, then
6 they can't have a license. They can't be granted
7 another license in the same class.

8 MEMBER SHORT: What else applies,
9 about five years?

10 CHAIRPERSON MILLER: Thank you, yes.
11 Just kind of look at the statute.

12 MEMBER ALBERTI: For a period of five
13 years.

14 CHAIRPERSON MILLER: For a period of
15 five years. And this is, obviously, just a month
16 later than or a little less than our order
17 finding Mr. Nwaeze unfit or a denial.

18 25-338 says it's a limitation on
19 successive applications after denial. So "A
20 second and any subsequent application for the
21 same class of license for the same person or
22 persons shall not be considered within five years

1 of a denial."

2 So, therefore, the letter is an FYI,
3 but we should take action on denying this
4 application based on 25-338, at least I would
5 move that. Do I have a second?

6 MEMBER ALBERTI: Second.

7 CHAIRPERSON MILLER: Okay. Mr. --

8 MEMBER ALBERTI: So the motion is what
9 to deny?

10 CHAIRPERSON MILLER: To deny the
11 application, the XO Restaurant & Lounge.

12 MEMBER ALBERTI: Okay. I second that.

13 CHAIRPERSON MILLER: Based on the fact
14 of 25-338.

15 MEMBER SHORT: Right.

16 CHAIRPERSON MILLER: Okay. Mr.
17 Alberti seconded the motion. Any other comments?
18 All right.

19 All those in favor of the motion to
20 deny say aye.

21 ALL: Aye.

22 CHAIRPERSON MILLER: All those

1 opposed? All those abstaining? The motion
2 passes 6-0-0.

3 No. 6 is a request for reinstatement
4 of a canceled license. This is by the Washington
5 Club located at 15 Dupont Circle, N.W., License
6 No. 000741.

7 They have paid their annual and late
8 fees to ABRA, so I would move that we grant
9 reinstatement.

10 MEMBER SHORT: Second.

11 CHAIRPERSON MILLER: Okay. Mr. Short
12 has seconded the motion.

13 All those in favor say aye.

14 ALL: Aye.

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

18 Okay. I think that concludes our
19 agendas. And we have left just to vote on the
20 closed meetings for next week.

21 As Chairperson of the Alcoholic
22 Beverage Control Board for the District of

1 Columbia and in accordance with Section 405 of
2 the Open Meetings Amendment Act of 2010, I move
3 that the ABC Board hold a closed meeting on June
4 17, 2015 for the purpose of seeking legal advice
5 from our counsel on the matters identified on the
6 Board's Agenda for June 17, 2015 as published in
7 the DC Register on June 12, 2015.

8 Is there a second?

9 MEMBER RODRIGUEZ: Second.

10 CHAIRPERSON MILLER: Mr. Rodriguez
11 seconded the motion. I'll now take a roll call
12 vote on the motion before us know that it has
13 been seconded.

14 Mr. Brooks?

15 MEMBER BROOKS: I agree.

16 CHAIRPERSON MILLER: Mr. Alberti?

17 MEMBER ALBERTI: I agree.

18 CHAIRPERSON MILLER: Mr. Rodriguez?

19 MEMBER RODRIGUEZ: I agree.

20 CHAIRPERSON MILLER: Ms. Miller
21 approves.

22 Mr. Silverstein?

1 MEMBER SILVERSTEIN: I agree.

2 CHAIRPERSON MILLER: Mr. Short?

3 MEMBER SHORT: I agree.

4 CHAIRPERSON MILLER: Okay. It appears
5 the motion has passed by a 6-0-0 vote.

6 I hereby give notice that the ABC
7 Board will hold this aforementioned closed
8 meeting pursuant to the Open Meetings Amendment
9 Act of 2010. Notice will also be posted on the
10 ABC Board hearing room bulletin board, placed on
11 the electronic calendar on ABRA's website and
12 published in the DC Register in as timely a
13 manner as practicable.

14 As Chairperson of the Alcoholic
15 Beverage Control Board for the District of
16 Columbia and in accordance with Section 405 of
17 the Open Meetings Amendment Act of 2010, I move
18 that the ABC Board hold a closed meeting on June
19 17, 2015 for the purpose of discussing and
20 hearing reports concerning ongoing or planned
21 investigations of alleged criminal or civil
22 misconduct or violations of law or regulations

1 and seeking legal advice from our counsel on the
2 Board's Investigative Agenda for June 17, 2015 as
3 published in the DC Register on June 12, 2015.

4 Is there a second?

5 MEMBER SILVERSTEIN: Second.

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

10 Mr. Brooks?

11 MEMBER BROOKS: I agree.

12 CHAIRPERSON MILLER: Mr. Alberti?

13 MEMBER ALBERTI: I agree.

14 CHAIRPERSON MILLER: Mr. Rodriguez?

15 MEMBER RODRIGUEZ: I agree.

16 CHAIRPERSON MILLER: Ms. Miller
17 agrees.

18 Mr. Silverstein?

19 MEMBER SILVERSTEIN: I agree.

20 CHAIRPERSON MILLER: Mr. Short?

21 MEMBER SHORT: I agree.

22 CHAIRPERSON MILLER: It appears that

1 the motion has passed by a 6-0-0 vote.

2 I hereby give notice that the ABC
3 Board will hold this aforementioned closed
4 meeting pursuant to the Open Meetings Amendment
5 Act of 2010. Notice will also be posted on the
6 ABC Board hearing room bulletin board, placed on
7 the electronic calendar on ABRA's website and
8 published in the DC Register in as timely a
9 manner as practicable.

10 And that concludes our proceedings,
11 our business for June 10, 2015 and we are
12 adjourned.

13 MEMBER RODRIGUEZ: Thank you, Madam
14 Chair.

15 CHAIRPERSON MILLER: Thank you.

16 (Whereupon, the Agenda Hearing in the
17 above-entitled matter was concluded at 6:24 p.m.)
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19
20
21
22

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