

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

Adams Morgan
Moratorium Zone
Emergency and Proposed
Rules

Public
Announcement

July 9, 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
MIKE SILVERSTEIN, Member
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member

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

2 (9:05 a.m.)

3 CHAIRPERSON MILLER: Good morning,
4 everyone. I would like to welcome you to the
5 regularly scheduled meeting of the District of
6 Columbia's Alcoholic Beverage Control Board.
7 Today is July 9, 2014.

8 My name is Ruthanne Miller. I'm
9 the Chairperson. Joining me today to my far
10 right is Mr. Donald Brooks and next to Mr.
11 Brooks is Mr. Nick Alberti. And to my
12 immediate right is Mr. Hector Rodriguez. To
13 my immediate left is Mr. Mike Silverstein and
14 next to Mr. Silverstein is Mr. James Short.

15 We have six Members in attendance
16 this morning and three constitute a quorum.

17 Please be aware that these
18 proceedings are being recorded by a court
19 reporter. Accordingly, we must ask you to
20 refrain from any disruptive noises or actions
21 in the hearing room. If you have any
22 electronic devices, pagers or cell phones,

1 please, make certain they are turned off to
2 avoid any interruption of the proceeding.

3 Copies of today's hearing calendar
4 and agenda are available at the receptionist
5 desk.

6 We are starting our proceedings a
7 little earlier than usual because we are
8 starting off to announce our Rulemaking in the
9 Adams Morgan Moratorium case.

10 As Chair of this Board, I would
11 like to share with you some of the background
12 and reasoning behind the decision we are
13 issuing today. Please note that these remarks
14 are intended to reflect the Board's views as
15 a whole as documented in the decision and
16 rulemaking.

17 Following these remarks, Board
18 Members may also share their personal views on
19 the rulemaking.

20 By way of background, the Board
21 voted on an emergency basis to extend the
22 existing moratorium for 120 days, so that the

1 Board could hear from the public on the future
2 of the moratorium.

3 Many of you present today were
4 here for the Board's hearing on May 7th and we
5 are grateful to the ANC, the residents and the
6 business owners for making known your concerns
7 and desires for the future of the
8 neighborhood.

9 As you know, the Board received
10 two proposals regarding the moratorium. One
11 proposal was from the ANC. It requested that
12 the Board renew the moratorium for five years
13 with certain modifications. The two main
14 modifications are the allowance of new
15 Retailer CR Restaurant Licenses and the
16 prohibition of entertainment endorsements for
17 the type of entertainment that shares
18 nightclub characteristics.

19 The second proposal was submitted
20 by the Kalorama Citizens Association. It
21 calls for a renewal of the existing moratorium
22 for five years. No modifications to the

1 current restrictions.

2 As I mentioned above, we heard
3 from a number of you regarding the moratorium.
4 We took your oral and written testimony,
5 emails and correspondence into consideration
6 to formulate what we determine to be the best
7 conditions needed for Adams Morgan.

8 We measured your concerns against
9 the appropriateness standards set forth in
10 Title 25 of the D.C. Code and we concur the
11 problems remain with peace, order and quiet.

12 We also believe that problems
13 persist with residential parking and vehicular
14 and pedestrian safety.

15 However, we also recognize that
16 the current moratorium may have had some
17 negative consequences on Adams Morgan, such as
18 economic stagnation and a deterrence on
19 quality restaurants choosing to locate there.

20 For these reasons, we are keeping
21 the moratorium in place, but with a few
22 modifications.

1 We agree with the ANC proposal
2 with two exceptions. The first exception is
3 that the Board has chosen not to adopt the
4 ANC's recommendation that it prohibits certain
5 entertainment endorsements for new licenses.
6 It is our view that the issuance of
7 entertainment endorsements should be left to
8 the Board's discretion with community input as
9 part of that process.

10 The neighborhood can be assured
11 that the Board will scrutinize entertainment
12 endorsement applications on a case-by-case
13 basis. The Board recognizes that this is one
14 of several tools, other than the moratorium,
15 to address various neighborhood concerns.

16 As the ANC knows, settlement
17 agreements are another tool that have served
18 to prohibit promoters and pub crawls.

19 Second, we have concluded that the
20 moratorium should be renewed for three years,
21 not five years. In our view, three years is
22 sufficient time for the Board to assess

1 whether the moratorium in this modified form
2 is continuing to contribute to economic
3 stagnation or is enabling new quality
4 establishments to develop and whether there
5 has resulted an increased infringement on the
6 community's peace, order and quiet.

7 This will allow the Board and
8 community to adapt and react more quickly to
9 changes in the neighborhood.

10 Finally, the Board agrees with the
11 ANC, the D.C. Fiscal Policy Institute and the
12 Office of Deputy Mayor for Planning and
13 Economic Development and others, that the
14 moratorium on the issuance of new Retailer CR
15 Licenses should be lifted.

16 It is our hope that allowing new
17 restaurants to locate within Adams Morgan
18 without the mantle of artificially escalated
19 licensing costs will bring to the neighborhood
20 the vibrancy it has been missing without the
21 negative impacts caused by other types of
22 alcohol establishments.

1 All other provisions of the
2 existing moratorium remain unchanged.

3 So that concludes my remarks on
4 behalf of the Board with respect to this
5 rulemaking. And at this point, I would like
6 to ask if there are comments from fellow Board
7 Members?

8 MEMBER SILVERSTEIN: Madam Chair?

9 CHAIRPERSON MILLER: Yes, Mr.
10 Silverstein?

11 MEMBER SILVERSTEIN: Thank you,
12 Madam Chair. I concur with the Board's
13 decision as far as it goes, but I believe we
14 should do more to protect the residents'
15 concerns about peace, order and quiet. I fear
16 the Board's order is a triumph of hope over
17 experience.

18 I concur with the continued
19 moratorium on new CR -- on new CT and CN
20 Licenses and agree with the lifting of the
21 moratorium on new restaurant licenses. The
22 expiring moratorium on CRs has led to an open

1 market in which those licenses were being
2 bought and sold and the high cost of
3 purchasing one created a chilling effect on
4 new entrepreneurs, especially those wanting to
5 open small restaurants.

6 For them it was easier and cheaper
7 to open in other neighborhoods outside the
8 Moratorium Zone. Now, hopefully they will be
9 able to open in Adams Morgan and hopefully
10 residents and visitors will have a wider
11 selection of real restaurants.

12 The sticking point though is how
13 can we accomplish this without exacerbating
14 the already well-documented problems of peace,
15 order and quiet within the Moratorium Zone?
16 Too often our experience, Madam Chair, has
17 been that we have heard the promises of
18 applicants to open a high-end steak house or
19 something similar only to find those promises
20 not kept and the establishment becoming either
21 a nuisance or worse.

22 And yet, once that license has

1 been granted, the licensee of course has due
2 process rights and shutting down or limiting
3 operations is, as it should be, a difficult
4 and lengthy process, unless there has been an
5 act of violence, God forbid, and it can be
6 shown that the establishment poses an imminent
7 danger to public safety.

8 The ANC had proposed, among other
9 steps, that moratorium on new entertainment
10 endorsements is a way of ensuring that new
11 establishments would be, in fact, restaurants
12 and not the kind that morph into nightclubs
13 after midnight. That would create a two-tier
14 system in Adams Morgan and possibly even a
15 market to buy and sell entertainment
16 endorsements.

17 Admittedly, there would have been
18 problems with that, but I would have been
19 willing to confront those problems as a way to
20 protect the neighborhood against the problem
21 of another bogus high-end steak house.

22 I supported the ANC's proposal and

1 means of protecting the neighbors from any
2 more restaurants that morph into late night
3 clubs.

4 I would point out that applicant's
5 will still have to apply for entertainment
6 endorsements under this new moratorium and the
7 Board will consider each application on a
8 case-by-case basis, so this is not the opening
9 of any flood gates.

10 Troubled establishments take up a
11 lot of the Board's time and are one big
12 headache for us, but that's nothing compared
13 to the headache that they cause to the people
14 who live nearby.

15 So the issue for this Board is to
16 ensure proper enforcement in a timely manner.
17 There are noise laws and other laws that need
18 to be strictly enforced and without
19 unwarranted delays in adjudication.

20 The promise we are making to you
21 today is that we will examine our enforcement
22 procedures and make improvements as needed,

1 but sadly we have all heard promises made that
2 became empty promises.

3 So I concur with my colleagues so
4 far as they have gone, but I would have gone
5 further personally in providing additional
6 neighborhood protections and I truly hope that
7 they are right and I'm wrong.

8 Thank you, Madam Chair.

9 CHAIRPERSON MILLER: Thank you.

10 Others?

11 MEMBER RODRIGUEZ: Madam Chair?

12 CHAIRPERSON MILLER: Mr.

13 Rodriguez?

14 MEMBER RODRIGUEZ: Yes. Madam
15 Chair, Members of the Board and public, I
16 support this decision. I want to say that I
17 was very impressed with the very committed
18 group of people that came before this Board to
19 present their concerns. There was no one that
20 came before this Board that did not care about
21 what is going on in Adams Morgan.

22 The conditions have not changed

1 greatly and so, therefore, I believe the Board
2 looked at the moratorium as a necessary
3 decision. Cutting down to three years gives
4 us a chance to look at the best changes that
5 are taking place.

6 This neighborhood is highly dense
7 and getting denser by the day. It's a very
8 popular neighborhood for good reasons and bad
9 reasons for others to come.

10 So the three years gives us a
11 chance to analyze the fast changes and make
12 course corrections. We intend to work very
13 closely with the different organizations that
14 presented their views here. All of the views
15 were respected.

16 We had very intense discussion in
17 this Board. Very intense discussion, as
18 intense as your presentations were. So we
19 gave it very, very important merit. And so I
20 want to say that the moratorium now for three
21 years has given us a chance to look at the
22 changes that are taking place and I am hopeful

1 that the conditions in Adams Morgan will
2 improve. Thank you, Madam Chair.

3 CHAIRPERSON MILLER: Thank you.
4 Others? Okay. I'll just make just a few
5 personal remarks as my remarks earlier were
6 basically reflective of the Board Order.

7 I just want to say that I very
8 much appreciated everyone who came out to give
9 testimony and submit written testimony about
10 the problems in Adams Morgan and possible
11 solutions. And I would encourage a dialogue
12 to continue in any way it can.

13 Rulemaking presents an
14 opportunity, but if anyone wants to submit
15 things in writing, ideas as to how to improve
16 enforcement, that was one of the issues that
17 we heard, feel free to do so.

18 I found the arguments very
19 compelling on all sides, even the argument
20 about getting rid of the moratorium
21 altogether, because it has been in existence
22 for so long and the problems still exist and

1 some of the negative ramifications of it.

2 However, I think that this was the
3 best approach to try for three years and see
4 how this works and then we will take it from
5 there.

6 Okay. I think that concludes my
7 remarks. Any other remarks? All right. Then
8 I am going to then call the vote.

9 I'm going to move that we approve
10 the Emergency and Proposed Rules to extend the
11 existing Adams Morgan Moratorium Zone with
12 certain modifications for a period of three
13 years.

14 Do I have a second?

15 MEMBER SHORT: Second.

16 CHAIRPERSON MILLER: Mr. Short
17 seconded the motion. Any other comments?

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 I would like to say that greater
2 detail regarding the Board's decision is
3 contained in the Emergency and Proposed Rules,
4 which will be published to ABRA's website
5 later today.

6 So thank you everyone who is here
7 for this proceeding. And we hope that this
8 process works and that you will continue to be
9 involved. Thank you.

10 Okay. So that concludes this
11 meeting.

12 (Whereupon, the Public
13 Announcement Hearing in the above-entitled
14 matter was concluded at 9:19 a.m.)

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