

DISTRICT OF COLUMBIA

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ALCOHOL BEVERAGE REGULATION ADMINISTRATION

ALCOHOL BEVERAGE CONTROL BOARD

+ + + + +

AGENDA HEARING

+ + + + +

WEDNESDAY

JULY 24, 2013

+ + + + +

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

PRESENT:

RUTHANNE MILLER, Chairperson

NICK ALBERTI, Member

DONALD BROOKS, Member

HERMAN JONES, Member

MICHAEL SILVERSTEIN, Member

ALSO PRESENT:

Chrissy Gephardt, OAG

Ghenene Abyie, Investigator, ABRA

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

2 (7:02 p.m.)

3 CHAIRPERSON MILLER: We are on the
4 record now for the Agenda Wednesday, July
5 24th, 2013. First on the Agenda are requests
6 dated July 9th, 10th, 15th, 2013, from E&F
7 Gallo Winery for approval to provide retailers
8 with products valued at more than \$50, and
9 less than \$500. I move that we approve. Do
10 I have a second?

11 MEMBER BROOKS: Second.

12 CHAIRPERSON MILLER: Mr. Brooks
13 has seconded the motion. All those in favor
14 say, aye.

15 VOTING MEMBERS: Aye.

16 CHAIRPERSON MILLER: All those
17 opposed? Those abstaining? Motion passes 4-
18 0-0.

19 Number 2 and 3 are items that
20 relate to Aramark Educational Services at
21 American University. At this point, I
22 understand that these are FYI, and no action

1 is required.

2 Number 4 is, oh, okay. Number 4,
3 5, and 6 are letters related to Policy. And
4 one is from Elwyn Ferris dated July 5th, 2013.
5 One is from Tanya Barbour dated July 5th,
6 2013. And the last, Number 6, is from Ramon
7 Estrada dated July 1st, 2013 related to Policy
8 and I would suggest that these requests are
9 FYI at this point.

10 And if these individuals would
11 like the Board to consider official action on
12 it, that their concerns be put in the form of
13 a motion and filed with the Board and served
14 on the parties. We need a vote on that?

15 MEMBER ALBERTI: I don't think so.

16 CHAIRPERSON MILLER: I don't think
17 so either. Okay, so they are FYI at this
18 point.

19 Number 7 is a settlement agreement
20 dated July 10, 2013 between Ruby Tuesday
21 #5320, and ANC 1A. Ruby Tuesday is located at
22 3365 14th Street NW. License Number 75456.

1 I believe that there are a few paragraphs that
2 some Board Members would like the parties to
3 rework.

4 They are Number 5, Number 10, and
5 Number 12. And I believe that our Counsel
6 will work with the parties on language for
7 those three paragraphs. So I would move
8 approval with modification to Paragraph 5, 10
9 and 12. Do I have a second?

10 MEMBER BROOKS: Second.

11 CHAIRPERSON MILLER: Mr. Brooks
12 has seconded the motion. All those in favor
13 say, aye?

14 VOTING MEMBERS: Aye.

15 CHAIRPERSON MILLER: All those
16 opposed? All those abstaining? The motion
17 passes 5-0-0. Okay.

18 Number 8 is a settlement agreement
19 dated July 8th, 2013 between Agua 301 and ANC
20 6D. Aqua 301 is located at 301 Water Street
21 SE. License Number 92094. This one, there
22 have been requests for modifications to

1 Paragraph 2 and Paragraph 8, therefore again
2 I would move that we approve the settlement
3 agreement with modifications to 2 and 8, and
4 that our Counsel will communicate with the
5 parties regarding the language in those
6 paragraphs. Do I have a second?

7 MEMBER BROOKS: Second.

8 CHAIRPERSON MILLER: Mr. Brooks
9 has seconded the motion. All those in favor
10 say, aye.

11 VOTING MEMBERS: Aye.

12 CHAIRPERSON MILLER: All those
13 opposed? All those abstaining? Motion passes
14 5-0-0.

15 Number 9 is a settlement agreement
16 dated June 19th, 2013 between Sonoma and ANC
17 6B. Sonoma is located at 223 Pennsylvania
18 Avenue SE. License Number 72017. I move that
19 we approve this settlement agreement.

20 MEMBER BROOKS: Second.

21 CHAIRPERSON MILLER: Mr. Brooks
22 has seconded the motion. All those in favor

1 say, aye.

2 VOTING MEMBERS: Aye.

3 CHAIRPERSON MILLER: All those
4 opposed? All those abstaining? Motion passes
5 5-0-0.

6 Number 10 is a change of hours
7 application to add Sunday hours to Capitol
8 Hill Wine and Spirits. Located 323
9 Pennsylvania Avenue SE. License Number 81749.
10 I move that we approve the change of hours.
11 Do I have a second?

12 MEMBER SILVERSTEIN: Second.

13 CHAIRPERSON MILLER: Mr.
14 Silverstein has seconded the motion. All
15 those in favor say, aye.

16 VOTING MEMBERS: Aye.

17 VOTING MEMBERS: Aye.

18 CHAIRPERSON MILLER: All those
19 opposed? All those abstaining? Did you all
20 vote to approve the change of hours?

21 VOTING MEMBERS: Approve.

22 VOTING MEMBERS: I approve.

1 CHAIRPERSON MILLER: Okay, then
2 the vote is 5-0-0.

3 Number 11 is also a change of
4 hours, to add Sunday hours. And that is for
5 Benning Liquors located at 3445 Benning Rd.
6 NE. License Number 78782. And ANC 7D. I move
7 that we approve this application. Do I have
8 a second?

9 MEMBER SILVERSTEIN: Second.

10 CHAIRPERSON MILLER: Mr.
11 Silverstein seconded the motion. All those in
12 favor say, aye.

13 VOTING MEMBERS: Aye.

14 CHAIRPERSON MILLER: All those
15 opposed? All those abstaining? The motion
16 passes 5-0-0.

17 Number 12 we have already
18 addressed last week, so there is no action
19 required on that one.

20 Number 13. Okay, Number 13 and 14
21 concern Duplex Diner, and they concern change
22 of hours and an Entertainment Endorsement

1 Application. And I suggest that we postpone
2 these two until next week.

3 (Off the record comments)

4 Number 15 is a review of summer
5 garden application for 16 seats for Rose
6 Luxury located at 717 8th Street SE. License
7 Number 80, I mean 90884. I move that we
8 placard this application. Do I have a second?

9 MEMBER BROOKS: Second.

10 CHAIRPERSON MILLER: Mr. Brooks
11 had seconded the motion. All those in favor
12 say, aye.

13 VOTING MEMBERS: Aye.

14 CHAIRPERSON MILLER: All those
15 opposed? All those abstaining? Motion passes
16 5-0-0.

17 Number 16 is a letter dated June
18 14th, 2013 requesting to expand the third
19 floor and increase the occupancy to 149. This
20 is for a Black Cat located at 1811 14th Street
21 NW. License Number 60476. And ANC 1B. I
22 move that we placard this application.

1 MEMBER BROOKS: Second.

2 CHAIRPERSON MILLER: Mr. Brooks
3 has seconded the motion. All those in favor
4 say, aye.

5 VOTING MEMBERS: Aye.

6 CHAIRPERSON MILLER: All those
7 opposed? All those abstaining? Motion passes
8 5-0-0.

9 Number 17 is a letter dated May
10 6th, 2013 requesting to expand the current
11 side walk caf, to include an additional 12
12 seats. This is for Siroc located at 915 15th
13 Street NW. License Number 80975. And ANC 2F.
14 I move that we approve this application. Do
15 I have a second?

16 MEMBER BROOKS: Second.

17 CHAIRPERSON MILLER: Mr. Brooks
18 has seconded the motion. All those in favor
19 say, aye.

20 VOTING MEMBERS: Aye.

21 CHAIRPERSON MILLER: All those
22 opposed? All those abstaining? Motion passes

1 5-0-0.

2 Number 18 is a application for a
3 retailer Class A license submitted by Savita
4 Malhotra using 401 M, LLC.

5 MEMBER ALBERTI: This issue is
6 moot based on recent correspondence.

7 CHAIRPERSON MILLER: I thought we
8 were placarding this one. No?

9 MEMBER ALBERTI: Well, yes. I
10 guess we can handle it that way, by placarding
11 the license?

12 CHAIRPERSON MILLER: Yes, that, I.

13 MEMBER ALBERTI: Yes, that's fine.
14 Yes, you're right.

15 CHAIRPERSON MILLER: Okay, so this
16 is an application for a retailer Class A
17 license. I would move that we placard this.

18 MEMBER BROOKS: Second.

19 CHAIRPERSON MILLER: Mr. Brooks
20 has seconded the motion. All those in favor
21 say, aye.

22 VOTING MEMBERS: Aye.

1 CHAIRPERSON MILLER: All those
2 opposed? All those abstaining? Motion passes
3 5-0-0. Okay that completes our Agenda, and we
4 also have a Supplemental Agenda.

5 Number 1, our Supplemental Agenda
6 has a letter dated July 15th, 2013 from
7 Novella Nesbitt requesting reinstatement as
8 protestants for Busboys & Poets. We had
9 dismissed the protestants this morning at our
10 roll call for --

11 I don't know if we did that this
12 morning, but the protestants were dismissed.
13 Two other ones for failure to appear and so my
14 understanding the protestants then had lacked
15 standing. And the protest has been dismissed,
16 so --

17 MEMBER ALBERTI: Well we're
18 denying their --

19 CHAIRPERSON MILLER: We would deny
20 this.

21 MEMBER ALBERTI: I think the issue
22 is whether we approve or deny their request

1 for reinstatement?

2 CHAIRPERSON MILLER: Yes. Well,
3 it is. But it may be moot, but we haven't
4 issued an order on dismissal yet and we were
5 doing that today, I believe. Do you recall?

6 MEMBER ALBERTI: Dismissal of
7 these folks?

8 CHAIRPERSON MILLER: The whole,
9 the protest. Do you recall that they, they
10 didn't have enough standing. They didn't have
11 enough for a group of five because the one
12 where they were counting on their ANC to
13 represent them, but their ANC had not been,
14 did not have a written designation of
15 representation. Well, what's before us then
16 is --

17 MEMBER ALBERTI: We're to issue
18 some, so okay, right, right, right. Well we
19 already denied reinstatement I think.

20 CHAIRPERSON MILLER: We did to two
21 others, a similar situation. We could deny
22 this as well?

1 MEMBER ALBERTI: Oh, I see we've
2 already denied several other people.

3 CHAIRPERSON MILLER: Right, so
4 that the group has enough standing on it.

5 MEMBER ALBERTI: Okay. I got you.
6 So with or without this person, they don't
7 have standing.

8 CHAIRPERSON MILLER: Correct,
9 right.

10 MEMBER ALBERTI: I got you. Okay,
11 I understand.

12 CHAIRPERSON MILLER: So actually I
13 don't think any action is required unless we
14 want to take it?

15 MEMBER ALBERTI: It's up to you.
16 I don't really care.

17 CHAIRPERSON MILLER: All right,
18 but I guess we can deny it as well. I move
19 that we deny the reinstatement. Do I have a
20 second?

21 MEMBER BROOKS: Second.

22 CHAIRPERSON MILLER: Mr. Brooks

1 has seconded the motion. All those in favor
2 say, aye.

3 VOTING MEMBERS: Aye.

4 CHAIRPERSON MILLER: All those
5 opposed? Abstaining? Motion passes 5-0-0.

6 All right, Number 2 is a request
7 by Al Tiramisu for a Stipulated license which
8 is supported by ANC 2B. Al Tiramisu is
9 located at 2014 P Street NW. License Number
10 075870. I move that we grant the Stipulated
11 license. Do I have a second?

12 MEMBER BROOKS: Second.

13 CHAIRPERSON MILLER: Mr. Brooks
14 has seconded the motion. All those in favor
15 say, aye.

16 VOTING MEMBERS: Aye.

17 CHAIRPERSON MILLER: All those
18 opposed? All those abstaining? Motion passes
19 5-0-0.

20 Our Number 3 is a request by
21 Custom Fuel/Fuel Pizza for a Stipulated
22 license. They are located at 1747

1 Pennsylvania Avenue NW. License Number
2 092719. I move that we grant the Stipulated
3 license. Do I have a second?

4 MEMBER BROOKS: Second.

5 CHAIRPERSON MILLER: Mr. Brooks
6 has seconded the motion. All those in favor
7 say, aye.

8 VOTING MEMBERS: Aye.

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

12 Number 4 is a request to expand
13 existing sidewalk caf, to include 12
14 additional seats. It's for Hank's Oyster Bar,
15 633 Pennsylvania Avenue SE. License Number
16 089718. I move that we placard this
17 application. Do I have a second?

18 MEMBER BROOKS: Second.

19 CHAIRPERSON MILLER: Mr. Brooks
20 has seconded the motion. All those in favor
21 say, aye.

22 VOTING MEMBERS: Aye.

1 CHAIRPERSON MILLER: All those
2 opposed? All those abstaining? Motion passes
3 5-0-0.

4 Next Number 5 is a request for a
5 change of hours. To add Sunday and to make
6 this a 24 hour, for the Sunday through Sunday
7 24 hours of operation of Safeway located at
8 490 L Street NW. Licence Number 760152. I
9 move that we approve.

10 MEMBER BROOKS: Second.

11 CHAIRPERSON MILLER: Mr. Brooks
12 has seconded the motion. All those in favor
13 say, aye.

14 VOTING MEMBERS: Aye.

15 CHAIRPERSON MILLER: All those
16 opposed? All those abstaining? Motion passes
17 5-0-0.

18 Number 6 is a request for change
19 of hours to add Sundays. This one is for
20 Whole Foods Market Group, Inc., located at
21 2323 Wisconsin Avenue NW. License Number
22 086069. I move that we approve the change of

1 hours request. Do I have a second?

2 MEMBER BROOKS: Second.

3 CHAIRPERSON MILLER: Mr. Brooks
4 has seconded the motion. All those in favor
5 say, aye.

6 VOTING MEMBERS: Aye.

7 CHAIRPERSON MILLER: All those
8 opposed? All those abstaining? Motion passes
9 5-0-0.

10 Number 7 is a request to place a
11 license in Safekeeping. The business is
12 closed pending sale. The restaurant is 901
13 Restaurant and Bar, located at 901 9th Street
14 NW. License Number 086025. I move that we
15 grant their request to put the license into
16 Safekeeping and that it be for a period of six
17 months. Do I have a second?

18 MEMBER BROOKS: Second.

19 CHAIRPERSON MILLER: Mr. Brooks
20 has seconded the motion. All those in favor
21 say, aye.

22 VOTING MEMBERS: Aye.

1 CHAIRPERSON MILLER: All those
2 opposed? All those abstaining? Motion passes
3 5-0-0.

4 Number 6, 8, I'm sorry, is review
5 of documentation for full service grocery
6 store. Related to Each Peach Market, located
7 at 3068 Mount Pleasant Street NW. License
8 Number 92449. I move that we schedule a Fact
9 Finding Hearing related to this documentation.

10 MEMBER BROOKS: Second.

11 CHAIRPERSON MILLER: Mr. Brooks
12 has seconded the motion. All those in favor
13 say, aye.

14 VOTING MEMBERS: Aye.

15 CHAIRPERSON MILLER: All those
16 opposed? All those abstaining? Motion passes
17 5-0-0.

18 Number 9 is a request by Stephen
19 M. Lans to withdraw a protest against
20 Georgetown Club at Suter Tavern, located at
21 1530 Wisconsin Avenue NW. License Number
22 000779. And this was done this morning, so

1 there's no further action required.

2 Number 10 is letter from Andrew
3 Klein on behalf of Policy, in response to
4 letters from Elwyn Ferris, Ramon Estrada, and
5 Tanya Barbour regarding a lack of notification
6 by the establishment regarding it's petition
7 to terminate the settlement agreement.

8 This is related to Policy located
9 at 1904 14th Street NW. License Number 76804.
10 This is related to Items Number 4, 5 and 6 on
11 the Agenda, which the Board acknowledged and
12 stated that we would be treating them as FYIs.

13 And that if those individuals
14 wanted to pursue their issues further, that
15 they should file a motion and serve it on all
16 the parties and the Board. So no action is
17 required here.

18 And that completes the
19 Supplemental Agenda and all the business for
20 the Board except voting on deliberating in
21 closed meeting with respect to a couple of
22 items, which will be as follows.

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(Off the record comments)

CHAIRPERSON MILLER: As

Chairperson of the Alcoholic Beverage Control Board for the District of Columbia, in accordance with Section 405 of the Open Meetings Amendment Act of 2010, I move that the ABC Board hold a closed meeting on July 31 for the purpose of seeking legal advice from our Counsel on the matters identified in the Board's Agenda for July 31, as published in the DC Register on July 26th, 2013. Is there a second?

MEMBER BROOKS: Second.

CHAIRPERSON MILLER: Mr. Brooks has seconded the motion. I'll take a roll call vote on the motion now that it's been seconded. Mr. Brooks?

MEMBER BROOKS: I agree.

CHAIRPERSON MILLER: Mr. Alberti?

MEMBER ALBERTI: I agree.

CHAIRPERSON MILLER: Ms. Miller agrees. Mr. Silverstein?

1 MEMBER SILVERSTEIN: I agree.

2 CHAIRPERSON MILLER: Mr. Jones?

3 MEMBER JONES: I agree.

4 CHAIRPERSON MILLER: It appears
5 the Motion has passed by a vote of 5-0-0. I
6 hereby give notice that the ABC Board will
7 hold this aforementioned closed meeting.

8 Pursuant to the Open Meeting
9 Amendment Act of 2010, notice will also be
10 posted on the ABC Board hearing room bulletin
11 board, placed on the electronic calendar in
12 ABRA's website, and published in the DC
13 Register in as timely a 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 Amendments Act of 2010, I
18 move that the ABC Board hold a closed meeting
19 on July 31, 2013 for the purpose of discussing
20 and hearing reports concerning ongoing or
21 planned investigations of alleged criminal or
22 civil misconduct or violations of law or

1 regulations and seeking legal advice of our
2 Counsel on the Board's Investigative Agenda
3 for July 31, 2013 as published in the DC
4 Register on July 26th, 2013. Is there a
5 second?

6 MEMBER BROOKS: Second.

7 CHAIRPERSON MILLER: Mr. Brooks
8 has seconded the motion. I'll take a roll
9 call vote on the motion now that it's been
10 seconded. Mr. Brooks?

11 MEMBER BROOKS: I agree.

12 CHAIRPERSON MILLER: Mr. Alberti?

13 MEMBER ALBERTI: I agree.

14 CHAIRPERSON MILLER: Ms. Miller
15 agrees. Mr. Silverstein?

16 MEMBER SILVERSTEIN: I agree.

17 CHAIRPERSON MILLER: Mr. Jones?

18 MEMBER JONES: I agree.

19 CHAIRPERSON MILLER: And it turns
20 out, the Motion has passed by a vote of 5-0-0.
21 I hereby give notice that the ABC Board will
22 hold this aforementioned closed meeting

1 pursuant to the Open Meetings Amendment Act of
2 2010. Notice will also be posted on the ABC
3 Board hearing room bulletin board, placed on
4 the electronic calendar in ABRA's website, and
5 published in the DC Register in as timely a
6 manner as practicable. And that now concludes
7 all our business for today, July 24th, 2013,
8 and the Board is adjourned.

9 (Whereupon, the hearing in the
10 above entitled matter concluded at 7:23 p.m.)
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A	Alcoholic 1:12,12 20:3 21:14 alleged 21:21 Amendment 20:6 21:9 23:1 Amendments 21:17 American 2:21 ANC 3:21 4:19 5:16 7:6 8:21 9:13 12:12,13 14:8 Andrew 19:2 appear 11:13 appears 21:4 application 6:7 7:7 8:1,5,8,22 9:14 10:2,16 15:17 approval 2:7 4:8 approve 2:9 5:2,19 6:10,20,21,22 7:7 9:14 11:22 16:9 16:22 Aqua 4:20 Aramark 2:20 Avenue 5:18 6:9 15:1,15 16:21 18:21 aye 2:14,15 4:13,14 5:10,11 6:1,2,15 6:16,17 7:12,13 8:12,13 9:4,5,19 9:20 10:21,22 14:2,3,15,16 15:7 15:8,21,22 16:13 16:14 17:5,6,21 17:22 18:13,14	Black 8:20 board 1:4,12 3:11 3:13 4:2 19:11,16 19:20 20:4,7 21:6 21:10,11,15,18 22:21 23:3,3,8 Board's 20:10 22:2 Brooks 1:18 2:11 2:12 4:10,11 5:7,8 5:20,21 8:9,10 9:1 9:2,16,17 10:18 10:19 13:21,22 14:12,13 15:4,5 15:18,19 16:10,11 17:2,3,18,19 18:10,11 20:13,14 20:17,18 22:6,7 22:10,11 Building 1:13 bulletin 21:10 23:3 Busboys 11:8 business 17:11 19:19 23:7	change 6:6,10,20 7:3,21 16:5,18,22 Chrissy 1:22 civil 21:22 Class 10:3,16 closed 17:12 19:21 20:7 21:7,18 22:22 Club 18:20 Columbia 1:1 20:4 21:16 comments 8:3 20:1 communicate 5:4 completes 11:3 19:18 concern 7:21,21 concerning 21:20 concerns 3:12 concluded 23:10 concludes 23:6 consider 3:11 Control 1:4,12,12 20:3 21:15 Correct 13:8 correspondence 10:6 Counsel 4:5 5:4 20:9 22:2 counting 12:12 couple 19:21 criminal 21:21 current 9:10 Custom 14:21	designation 12:14 Diner 7:21 discussing 21:19 dismissal 12:4,6 dismissed 11:9,12 11:15 District 1:1 20:4 21:15 documentation 18:5,9 doing 12:5 DONALD 1:18 Duplex 7:21 D.C 1:13
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