

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

: Agenda

A.B.R.A. Agenda : Hearing

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October 2, 2013

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

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

2 (8:32 p.m.)

3 CHAIRPERSON MILLER: This is the
4 agenda for October 2, 2013.

5 The first item on the agenda is a
6 review of an application for a Class CR
7 License for La Dulce Noche located at 3566
8 14th Street, N.W.

9 I move that we placard this
10 application. Do I have a second?

11 MEMBER BROOKS: Second.

12 CHAIRPERSON MILLER: Mr. Brooks
13 has seconded the motion.

14 All those in favor say aye.

15 ALL: Aye.

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

19 No. 2 is a request to change the
20 license class from CT to CR for Chupacabra
21 located at 822 H Street, N.E., License No.
22 92662.

1 I move that we grant this request.

2 Do I have a second?

3 MEMBER BROOKS: Second.

4 CHAIRPERSON MILLER: Mr. Brooks
5 has 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 4-0-0.

11 No. 3 is a request to withdraw an
12 application for an entertainment endorsement
13 for Sahra Hookah Lounge located at 1200 H
14 Street, N.E., License No. 87558.

15 I move that we approve this
16 request. Do I have a second?

17 MEMBER SILVERSTEIN: Second.

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

20 All those in favor say aye.

21 ALL: Aye.

22 CHAIRPERSON MILLER: All those

1 opposed? All those abstaining? The motion
2 passes 4-0-0.

3 No. 4 is a change of hours
4 application to change the hours of operation
5 and alcoholic beverage sales and consumption
6 to open one hour earlier for Ben's Next Door
7 located at 1211 U Street, N.W., License No.
8 77567.

9 I move that we approve.

10 MEMBER SILVERSTEIN: Second.

11 CHAIRPERSON MILLER: Mr.

12 Silverstein 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 4-0-0.

18 No. 5 is another change of hours
19 application and that's for Bar Charley's
20 located at 1825 18th Street, N.W., License No.
21 92461.

22 I move that we placard this

1 request for change of hours. Do I have a
2 second?

3 MEMBER SILVERSTEIN: Second.

4 CHAIRPERSON MILLER: Mr.
5 Silverstein has 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 4-0-0.

11 No. 6 is a request for
12 reinstatement of an application to terminate
13 the settlement agreement filed by Reed Landry
14 and Kin Jun Sung of Prospect Dining for George
15 located at 3251 Prospect Street, N.W., License
16 No. 078058.

17 The applicant missed the status
18 conference and moved for reinstatement on
19 grounds that he was confused because the
20 mediation got postponed and they hadn't had
21 the mediation prior to status conference,
22 which is the norm.

1 I think that's good cause. Do
2 others have points of view they want to
3 express on this?

4 MEMBER SILVERSTEIN: Madam Chair,
5 I would like to move that we deny. This is
6 not their first rodeo. These folks are very
7 well-experienced in these matters. And we
8 have good reason to deny this.

9 CHAIRPERSON MILLER: Okay. There
10 is a motion to deny. Is there a second?

11 MEMBER ALBERTI: I will second it.
12 I agree with Mr. Silverstein. I think this is
13 a very experienced owner and understands the
14 protest process, it's my impression from past
15 experience with them, so I vote to deny.

16 CHAIRPERSON MILLER: Okay. I have
17 already put my comments on the record. And
18 there is a motion to deny that has been
19 seconded.

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

22 MEMBER SILVERSTEIN: Aye.

1 MEMBER ALBERTI: Aye.

2 MEMBER BROOKS: Aye.

3 CHAIRPERSON MILLER: All those
4 opposed? Oppose.

5 All those abstaining? Then the
6 motion passes 3-1-0 to deny reinstatement.

7 No. 7 is related to what we just
8 ruled on, which we considered with respect to
9 the request for reinstatement. It's in
10 opposition of the request to reinstatement.

11 And No. 8 same case, related to
12 the same protest, is a motion for
13 reconsideration for dismissal of a protest of
14 the group of five.

15 And No. 9 is a motion for
16 consideration for dismissal of the protest of
17 the group of five or more filed by a different
18 protestant.

19 In any event, we have already
20 ruled with respect to 7. And 8 and 9 are moot
21 because the application has been dismissed.
22 So no further action is required on 7 through

1 9.

2 No. 10 is -- okay, we have some
3 requests for waiver of mediation from all of
4 the parties in the case of JP's located at
5 2412 Wisconsin Avenue, N.W., License No.
6 008511. They are Items No. 10, 11, 12 and No.
7 3 on our supplemental agenda.

8 So all of the parties here are
9 requesting that we waive their obligation to
10 go to mediation on this.

11 And I would move that we approve
12 the request, since they are all from all of
13 the parties. Do I have a second?

14 MEMBER BROOKS: Second.

15 CHAIRPERSON MILLER: Mr. Brooks
16 has seconded the motion. Are there any other
17 comments?

18 MEMBER ALBERTI: Because there is
19 mutual consent here, I have no objections to
20 granting their request. Is that the position
21 of the Board?

22 CHAIRPERSON MILLER: Because --

1 MEMBER ALBERTI: That we have no
2 objection to granting their request?

3 CHAIRPERSON MILLER: I made a
4 motion to approve the request.

5 MEMBER ALBERTI: I won't vote --

6 CHAIRPERSON MILLER: It's the same
7 thing.

8 MEMBER ALBERTI: -- really to
9 approve. Are you approving -- their request
10 is to waive it.

11 CHAIRPERSON MILLER: All of the
12 parties did.

13 MEMBER ALBERTI: I am not in favor
14 of waiving it. I have no objections to the
15 request to bypass the mediation. I know it's
16 a technicality, but I don't think the Board
17 should -- the law requires mediation.

18 CHAIRPERSON MILLER: The law
19 requires --

20 MEMBER ALBERTI: I don't think we
21 should waive it, but under their -- because
22 it's mutual consent, I have no objections to

1 granting their request to bypass it.

2 Anyway, I'll abstain from the
3 vote. Go ahead.

4 CHAIRPERSON MILLER: I was just
5 going to say that the rule is that they are
6 required to go to mediation, but our rules
7 also allow us to waive any rules and that's
8 why it's formed in the request for us to waive
9 that. And I don't think there is anything
10 wrong with our waiving that.

11 I think that the Board, in
12 general, doesn't force --

13 MEMBER ALBERTI: Fine, fine.

14 CHAIRPERSON MILLER: -- people to
15 go to mediation.

16 MEMBER ALBERTI: I just don't want
17 such strong language.

18 CHAIRPERSON MILLER: Okay.

19 MEMBER ALBERTI: I have no
20 objections to the request, so I will abstain
21 from the vote.

22 CHAIRPERSON MILLER: Okay. Any

1 other comments?

2 MEMBER SILVERSTEIN: Yes, Madam
3 Chair.

4 CHAIRPERSON MILLER: Yes.

5 MEMBER SILVERSTEIN: I share Board
6 Member Alberti's concerns, but being that we
7 are in a Federal Shutdown, that we need to
8 move things forward and that this is a very
9 unique case. I would grant at this time, sui
10 generis, this one time.

11 CHAIRPERSON MILLER: Okay. Any
12 other comments? Otherwise, there is a motion
13 to approve the request for a waiver of
14 mediation.

15 All those in favor say aye.

16 MEMBER BROOKS: Aye.

17 CHAIRPERSON MILLER: Aye.

18 MEMBER SILVERSTEIN: Aye.

19 MEMBER ALBERTI: Aye.

20 CHAIRPERSON MILLER: All those
21 opposed?

22 MEMBER ALBERTI: I apologize. I'm

1 abstaining. I'm sorry. I abstain.

2 CHAIRPERSON MILLER: All those
3 opposed?

4 MEMBER JONES: Oppose.

5 CHAIRPERSON MILLER: All those
6 abstaining?

7 MEMBER ALBERTI: I abstain.

8 CHAIRPERSON MILLER: Okay. Then
9 the vote is 3-1-1 and the motion passes with
10 Mr. Jones opposed and Mr. Alberti abstaining.

11 Okay. No. 13 is a request dated
12 August 23, 2013 from Crown Imports for the
13 Board to approve -- for Board approval to
14 provide retailers with products valued at more
15 than \$50 and less than \$500.

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

18 MEMBER SILVERSTEIN: Second.

19 CHAIRPERSON MILLER: Mr.

20 Silverstein has 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 5-0-0.

4 No. 14 is a settlement agreement
5 between Group of Five or More -- I'm sorry.
6 It's a review of an amendment to a settlement
7 agreement between Group of Five or More and
8 The Ghibellina. The Ghibellina is located at
9 1610 14th Street, N.W., License No. 088785.

10 I move that we approve this
11 amendment to the settlement agreement. Do I
12 have a second?

13 MEMBER SILVERSTEIN: Second.

14 CHAIRPERSON MILLER: Mr.
15 Silverstein has 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 5-0-0.

21 No. 15 is a settlement agreement
22 between ANC-6D and The Sequoia Presidential

1 Yacht Group. The Sequoia Presidential Yacht
2 Group is located at 600 Water Street, S.W., CX
3 License No. 090850.

4 I move that we approve this
5 settlement agreement with modifications to
6 paragraph 2, 10 and 11 and I believe the first
7 whereas clause. Let me just double check.
8 Does anybody else have any concerns about any
9 other paragraphs?

10 MEMBER ALBERTI: 2, 10, 11?

11 CHAIRPERSON MILLER: 2, 10, 11 and
12 the first whereas clause. Some of these are
13 fairly minor and I would suggest that we leave
14 it to our attorney to convey the modifications
15 to the applicant, unless you all want me to go
16 over them specifically.

17 MEMBER ALBERTI: No, we've spent
18 enough time.

19 CHAIRPERSON MILLER: I think they
20 can do that. Okay. All right. Then there is
21 a motion to approve with the modifications to
22 2, 10, 11 and the first whereas clause. Do I

1 have a second?

2 MEMBER ALBERTI: Second.

3 MEMBER BROOKS: Second.

4 CHAIRPERSON MILLER: Mr. Alberti
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 5-0-0.

11 No. 16 is a settlement agreement
12 between Abigail Nichols and Lillian Gaskins
13 and National Tap House. National Tap House is
14 located at 1331 Connecticut Ave., N.W.,
15 License No. 092156.

16 I move that we approve the
17 agreement with the addition of an appendix
18 that is referenced, but not attached to the
19 settlement agreement. Approved provided that
20 they provide that. Okay. Do I have a second?

21 MEMBER BROOKS: Second.

22 CHAIRPERSON MILLER: Mr. Brooks

1 has 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 5-0-0.

7 No. 17 is a settlement agreement
8 between ANC-6C and Indigo located at 243 K
9 Street, N.E., License No. 092792.

10 I move that we approve this
11 settlement agreement with modifications to
12 paragraphs 8, 9 and 10. The specifics to be
13 conveyed to the parties by our attorney. Does
14 anybody else have any modifications?

15 MEMBER ALBERTI: You said 3, 8 and
16 10?

17 CHAIRPERSON MILLER: No, I said 8,
18 9 and 10.

19 MEMBER ALBERTI: Okay. Yes, I
20 agree. That's fine.

21 CHAIRPERSON MILLER: Okay. Then
22 all those in favor of approving the settlement

1 agreement with modifications to paragraphs 8,
2 9 and 10 say aye.

3 ALL: Aye.

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

7 That completes our agenda. We
8 have a supplemental agenda to do.

9 Okay. The first item on the
10 supplemental agenda is a request to expand
11 service to the second floor. This is by
12 Lincoln Theater located at 1215 U Street,
13 N.W., License No. 93202.

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

16 MEMBER SILVERSTEIN: Second.

17 CHAIRPERSON MILLER: Mr.
18 Silverstein has 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 5-0-0.

2 No. 2 is a review of information
3 regarding the determination of a new full-
4 service grocery store with a Retailer DR
5 Restaurant on-premises. This is for Little
6 Red Fox located at 5035 Connecticut Avenue,
7 N.W., License No. 92834.

8 I move that we placard the
9 application. I believe that they have updated
10 information that shows us that they meet the--
11 shows us how they meet the criteria for a
12 full-service grocery store. Do I have a
13 second?

14 MEMBER BROOKS: Second.

15 CHAIRPERSON MILLER: Mr. Brooks
16 has seconded the motion. Any other comments?

17 MEMBER JONES: A comment.

18 CHAIRPERSON MILLER: Uh-huh, Mr.
19 Jones?

20 MEMBER JONES: Just for the
21 record.

22 CHAIRPERSON MILLER: Okay.

1 MEMBER JONES: I just want to
2 clarify that the application for the Little
3 Red Fox, based on documentation that was
4 submitted, they met Test 1 by achieving 86.4
5 percent. And they met Test 2 by having all
6 seven food categories at 5 percent or greater
7 for the areas denoted on the diagrams
8 submitted with their application.

9 CHAIRPERSON MILLER: Great. Thank
10 you. Okay. Then there has been a motion that
11 has been seconded.

12 All those in favor say aye.

13 ALL: Aye.

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

17 We have already done No. 3, which
18 was related to the waiver issue for JP's.

19 So we can move to No. 4, which we
20 already did, and 5 because they were related
21 to the request for reinstatement in the George
22 case. They are oppositions and responses to

1 oppositions to the request to reconsider. So
2 no further action on any of those.

3 No. 6 is a consent motion for
4 continuance of a show cause hearing for Queen
5 Makeda, License No. 60510. This consent
6 motion was granted earlier today and Queen
7 Makeda Case No. 13-CMP-00249 and Case No. 13-
8 CMP-00220 have been continued for hearing on
9 November 20, 2013 at 1:30 p.m. and 2:30 p.m.

10 Okay. So that completes our
11 supplemental agenda. And we have one more.
12 We have a second supplemental agenda which
13 involves hearings related to the Watergate
14 Hotel case and they are Items 1 through 11 on
15 the second supplemental agenda.

16 No. 1 is a petition for
17 reconsideration. And, let's see, I believe
18 that there are petitions related, right,
19 responses in opposition to the reconsideration
20 are No. 9 and 10.

21 And then we have requests for
22 reinstatement by various petitioners, 2

1 through 8 and also No. 11.

2 In any event, I move that we deny
3 the petition for reconsideration and the
4 petition for reinstatement and ask for a
5 second.

6 MEMBER BROOKS: Second.

7 MEMBER JONES: Second.

8 CHAIRPERSON MILLER: Mr. Brooks
9 has seconded the motion. I just want to say
10 that we have signed an order today which will
11 be issued tomorrow which addresses in great
12 detail the reasons for our denial.

13 So that being said, if anybody
14 wants to say anything else, otherwise I would
15 move that we deny the petition for
16 reconsideration and the petitions for
17 reinstatement as reflected in our order that
18 we signed.

19 Do I have a second? I don't
20 remember. Do I have a second? Mr. Brooks,
21 did you second this motion?

22 MEMBER BROOKS: Yes.

1 CHAIRPERSON MILLER: Yes, okay.

2 Mr. Brooks has seconded the motion.

3 Then all those in favor say aye.

4 ALL: Aye.

5 CHAIRPERSON MILLER: All those
6 opposed? All those abstaining? Okay. Then
7 the motion to deny both the petition for
8 reconsideration and reinstatement passes by a
9 vote of 5-0-0.

10 Okay. So that completes all our
11 agenda items.

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 on October 9, 2013 for the purpose of
18 seeking legal advice from our counsel on the
19 matters identified on the Board's Agenda for
20 October 9, 2013 as published in the DC
21 Register on October 4, 2013.

22 Is there a second?

1 MEMBER BROOKS: Second.

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

6 Mr. Brooks?

7 MEMBER BROOKS: I agree.

8 CHAIRPERSON MILLER: Mr. Alberti?

9 MEMBER ALBERTI: I agree.

10 CHAIRPERSON MILLER: Ms. Miller
11 agrees.

12 Mr. Silverstein?

13 MEMBER SILVERSTEIN: I agree.

14 CHAIRPERSON MILLER: Mr. Jones?

15 MEMBER JONES: I agree.

16 CHAIRPERSON MILLER: As it appears
17 that the motion has passed on a 5-0-0 vote, I
18 hereby give notice that the ABC Board will
19 hold this aforementioned closed meeting
20 pursuant to the Open Meetings Act. Notice
21 will also be posted on the ABC Board hearing
22 room bulletin board, placed on the electronic

1 calendar on ABRA's website and published in
2 the DC Register in as timely manner as
3 practicable.

4 As Chairperson of the Alcoholic
5 Beverage Control Board for the District of
6 Columbia and in accordance with DC Official
7 Code Section 2-574(b) and Section 2-574 of the
8 Open Meetings Act, I move that the ABC Board
9 hold a closed meeting on October 9, 2013 for
10 the purpose of discussing and hearing reports
11 concerning ongoing or planned investigations
12 of alleged criminal or civil misconduct or
13 violations of law or regulations and seeking
14 legal advice from our counsel on the Board's
15 investigative agenda for October 9, 2013 as
16 published in the DC Register on October 4,
17 2013.

18 Is there a second?

19 MEMBER BROOKS: Second.

20 CHAIRPERSON MILLER: I'll take a
21 roll call vote on the motion now that it has
22 been seconded.

1 Mr. Brooks?

2 MEMBER BROOKS: I agree.

3 CHAIRPERSON MILLER: Mr. Alberti?

4 MEMBER ALBERTI: I agree.

5 CHAIRPERSON MILLER: Ms. Miller
6 agrees.

7 Mr. Silverstein?

8 MEMBER SILVERSTEIN: I agree.

9 CHAIRPERSON MILLER: Mr. Jones?

10 MEMBER JONES: I agree.

11 CHAIRPERSON MILLER: As it appears
12 that the motion has passed by a 5-0-0 vote, I
13 hereby give notice that the ABC Board will
14 hold this aforementioned closed meeting
15 pursuant to the Open Meetings Act. Notice
16 will also be posted on the ABC Board hearing
17 room bulletin board, placed on the electronic
18 calendar on ABRA's website and published in
19 the DC Register in as timely a manner as
20 practicable.

21 And that completes our matters for
22 October 2, 2013. And the Board is adjourned.

1 Thank you.

2 (Whereupon, the A.B.R.A. Agenda in
3 the above entitled-matter was concluded at
4 8:56 p.m.)

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