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

(5:19 p.m.)

CHAIRPERSON MILLER: All right,
we're going to start again. Calling Case
Number 13-PRO-00037, Eatonville, located 2121
14th Street, N.W., License Number 78882, in
ANC 1B.

I think you should identify
yourself for the record, and then I need to
say something. So would you identify yourself
for the record?

MR. O'BRIEN: Stephen O'Brien for
the Applicant. I'm accompanied by Andy
Shallal who is the applicant's president.

MR. GIRARDO: And William Girardo,
protestant.

CHAIRPERSON MILLER: Okay, so what
I need to say is, I'm very sorry, but we're
going to be losing a quorum and we have to
reschedule you.

And I know you've waited here at
least an hour. And I know how much, or

1 probably more, with the calendar. So we
2 didn't know that was going to happen until we
3 finished this last hearing. So we have a date
4 available February 12, 2014.

5 (Off the record comments)

6 CHAIRPERSON MILLER: 4:30 p.m.

7 (Off the record comments)

8 CHAIRPERSON MILLER: All right.

9 MR. O'BRIEN: As far as I know,
10 that's okay with me because I don't usually
11 book that far up in advance.

12 CHAIRPERSON MILLER: Okay.

13 MR. O'BRIEN: Now I know that Mr.
14 Girardo has a travel schedule, and I don't
15 know if he is able to comment on that date as
16 we sit here right now.

17 MR. GIRARDO: No, but if I may
18 ask, we are zero for two with 4:30 p.m. times,
19 could we possibly schedule it earlier, which
20 might ensure a quorum, because we're delayed
21 twice now.

22 CHAIRPERSON MILLER: Really?

1 MR. O'BRIEN: Yes, we were here --

2 MR. GIRARDO: September 11.

3 MR. O'BRIEN: September 11 and --

4 CHAIRPERSON MILLER: I'm sorry.

5 Did you hear that request?

6 FEMALE PARTICIPANT: Yes.

7 (Off the record comments)

8 MEMBER ALBERTI: Do you want to
9 have them consult with you? Well, one of the
10 individuals has a travel schedule, so maybe he
11 can consult with you.

12 FEMALE PARTICIPANT: They do, we
13 consulted after the 11th.

14 MEMBER ALBERTI: Okay.

15 FEMALE PARTICIPANT: We can do
16 that. We can get back to you guys.

17 MR. O'BRIEN: Okay.

18 CHAIRPERSON MILLER: Their
19 preference would be an earlier than 4:30 p.m.

20 (Off the record comments)

21 MR. O'BRIEN: I'm here with
22 counsel, Mr. Girardo and I rescheduled it the

1 last time. So rather than lock the date and
2 time in, but I understand Mr. Girardo's issue,
3 which is a 4:30 p.m. gets the short end of the
4 stick.

5 (Off the record comments)

6 CHAIRPERSON MILLER: Sometimes.

7 MR. O'BRIEN: And that's happened
8 twice.

9 CHAIRPERSON MILLER: Yes, twice is
10 pretty bad.

11 MR. O'BRIEN: So perhaps --

12 CHAIRPERSON MILLER: All right.

13 MR. O'BRIEN: -- if the Board's
14 counsel can look for a date, then maybe we can
15 do it at 1:30 p.m., or something like that.

16 MEMBER ALBERTI: Sure.

17 MR. O'BRIEN: And then if counsel
18 will call, we'll work out a new date among us.

19 CHAIRPERSON MILLER: So that would
20 be your preference, even if it's later, like
21 March, or something?

22 MR. GIRARDO: Okay, honestly, I do

1 not know even if February 12 is going to be
2 accommodating.

3 CHAIRPERSON MILLER: All right,
4 you have to check anyway. Okay.

5 MR. GIRARDO: I probably won't
6 know until the new year.

7 CHAIRPERSON MILLER: All right,
8 I'll leave it up to you all to reschedule
9 then.

10 MR. GIRARDO: I've got something
11 on February 12, anyway.

12 CHAIRPERSON MILLER: Oh, you do?

13 MR. O'BRIEN: No, we're not doing
14 February.

15 MR. GIRARDO: Okay.

16 MR. O'BRIEN: We're not locking
17 February 12 in today.

18 MR. GIRARDO: Okay.

19 CHAIRPERSON MILLER: We'll take
20 that off the calendar, we won't even consider
21 February 12 then.

22 MR. GIRARDO: Is there a

1 possibility of something that may come up that
2 you don't know about in the next few weeks,
3 or, I mean, do you normally have
4 cancellations, or things like that?

5 (Off the record comments)

6 CHAIRPERSON MILLER: If we get one
7 we'll call you.

8 MR. GIRARDO: If that's possible,
9 I mean, that would be easier.

10 CHAIRPERSON MILLER: Yes.

11 MR. O'BRIEN: This has been going
12 on for a long time, we want to resolve this.

13 CHAIRPERSON MILLER: Yes. I'm
14 really sorry about this. This was a special
15 day that was set aside for cases like yours,
16 and so it's just --

17 MR. O'BRIEN: A Thursday, yes.

18 CHAIRPERSON MILLER: Yes, it's
19 just unusual that we've lost our quorum, or
20 we're losing our quorum. He's staying with us
21 until, you know, to do this.

22 MEMBER ALBERTI: I really

1 apologize for this. And I will tell you that
2 the people present were taken by surprise that
3 we don't have a quorum.

4 MR. O'BRIEN: Will you establish
5 yourself as the defector?

6 MEMBER ALBERTI: No, I never made
7 the commitment to be here.

8 MR. GIRARDO: If I may ask?

9 CHAIRPERSON MILLER: Yes.

10 MR. GIRARDO: So if we're not
11 going to get February 12, but if we can't make
12 a decision until possibly the new year, the
13 dates are going to fill up.

14 I mean, I don't know if like, is
15 there a date that we can set in pencil now
16 that's not February 12, that at least we can
17 have to have it because if we leave nothing
18 unscheduled you're going to get booked up and
19 we're going to get some time in June.

20 CHAIRPERSON MILLER: Got one. Got
21 one. Okay, how about February 19, at 1:30
22 p.m.?

1 MR. GIRARDO: Tentatively, sure.

2 CHAIRPERSON MILLER: That is a
3 good time, that's the first one in the
4 afternoon.

5 MR. GIRARDO: Are the morning
6 times better? I mean, like, if it's first
7 thing in the morning?

8 CHAIRPERSON MILLER: We don't
9 usually do protest in the morning. So this is
10 really the earliest protest date.

11 MR. GIRARDO: The earliest for a
12 protest?

13 CHAIRPERSON MILLER: Yes.
14 Usually, I think.

15 MEMBER ALBERTI: Mr. O'Brien
16 understands it, he'll explain why. We don't
17 know how long the protest will take, so it's
18 hard to schedule the rest of the day if we do
19 it first thing in the morning.

20 MR. O'BRIEN: Yes, the mornings
21 are filled up with status hearings and show
22 cause hearings, and things like that.

1 MEMBER ALBERTI: You got it.

2 CHAIRPERSON MILLER: So this is
3 good.

4 MR. O'BRIEN: All right, so we
5 have set February 19 at 1:30 p.m.

6 CHAIRPERSON MILLER: Okay.

7 MR. GIRARDO: As a penciled option
8 at this point.

9 MR. O'BRIEN: Well, let's put it
10 down, and then we'll have to defer to see if
11 that presents a problem. But is that okay
12 with you, February 19?

13 MR. GIRARDO: Yes.

14 MR. O'BRIEN: Okay.

15 MR. GIRARDO: Yes.

16 MR. O'BRIEN: Okay, February 19 at
17 1:30 p.m., absent rescheduling for --

18 CHAIRPERSON MILLER: Whatever
19 reasons.

20 MR. O'BRIEN: -- Mr. Girardo has
21 travel.

22 CHAIRPERSON MILLER: Right. And

1 if --

2 MR. GIRARDO: And with saying
3 that, the confirmation may not happen until
4 2014 at some point. Just, sorry ***5:25:35.

5 CHAIRPERSON MILLER: So and also,
6 if something opens up earlier, we'll call you
7 too, since you've been delayed so much. Okay.
8 Any other questions?

9 MR. GIRARDO: Actually, if I may?

10 CHAIRPERSON MILLER: Yes.

11 MR. GIRARDO: They can leave, this
12 is just kind of, in the emails, it was stated
13 that there was a 45, or an hour, 45-minute
14 limit per talk or hour-and-a-half per person
15 slot.

16 CHAIRPERSON MILLER: An hour-and-
17 a-half per party.

18 MR. GIRARDO: So if there were
19 strict limits how do often these go awry and
20 over time?

21 CHAIRPERSON MILLER: Okay, so --

22 MR. GIRARDO: This is demographics

1 so please, you can -- if you need to leave.

2 MEMBER ALBERTI: It's a good
3 question.

4 CHAIRPERSON MILLER: What happens
5 is, first of all, it's an hour-and-a-half per
6 side, protestant and applicant, then there are
7 Board questions.

8 That's not factored in so then
9 you're getting into four hours, possibly. And
10 then if the show cause hearings don't have
11 those limitations either. And they're
12 scheduled.

13 And they may not always be
14 realistically scheduled, thinking that a case
15 is going to drop off and then it doesn't, and
16 so an hour may be allocated for a hearing and
17 that case takes two hours, and then you're,
18 you know, everything is delayed.

19 MR. GIRARDO: Sure.

20 CHAIRPERSON MILLER: That's what
21 happens, it's a cumulative thing sometimes.

22 MR. GIRARDO: Okay. Thank you.

1 CHAIRPERSON MILLER: Okay. You're
2 welcome. Anything else? All right. Thanks.

3 (Off the record comments)

4 CHAIRPERSON MILLER: So you live
5 in Union Row?

6 MR. GIRARDO: Yes.

7 CHAIRPERSON MILLER: Nice place.

8 MR. O'BRIEN: All right, thank you.

9 MR. GIRARDO: Well, sort of.

10 (Off the record comments)

11 CHAIRPERSON MILLER: TruOrleans.

12 Okay.

13 (Off the record comments)

14 CHAIRPERSON MILLER: I just want
15 to put on the record one more thing, that case
16 number 13-PRO-00051, TruOrleans hearing for
17 today has been cancelled as the parties
18 entered into a settlement agreement.

19 Okay. And that completes our
20 business for October 24, and we're adjourned.

21 (Whereupon, the hearing was
22 concluded at 5:27 p.m.)

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