

DISTRICT OF COLUMBIA
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ALCOHOLIC BEVERAGE CONTROL BOARD
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MEETING

IN THE MATTER OF:

BOARD HEARING

October 29, 2014

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
HECTOR RODRIGUEZ, Member
JAMES SHORT, Member
HERMAN JONES, Member

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

(11:45 p.m.)

CHAIR MILLER: All right, we have three. I'm going to start. All right, I'm going to start with legal agenda. The first item on the legal agenda is a settlement agreement among ANC 1B and protestant Group of 13, Meridian Hill Neighborhood Association, and MOVA, dated September 29, 2014.

MOVA's located at 2204 14th Street NW, license number 087030. So I am going to move that we approve with modifications to paragraph 7.2. Even though I don't necessarily see a problem with it, I believe that most of the Board has a problem with this paragraph.

So I will make that motion to approve with modification, and that modification will be deletion of paragraph 7.2 regarding the parties meeting.

Do I have a second?

MEMBER RODRIGUEZ: Second.

1 CHAIR MILLER: Okay, Mr. Rodriguez
2 has seconded the motion. All those in favor
3 say aye.

4 (Chorus of ayes)

5 CHAIR MILLER: All those opposed?
6 All those abstaining? Okay, motion passes 3-
7 0-0 to approve the settlement agreement with
8 that modification.

9 Okay, number two is also a
10 settlement agreement, and that's between ANC
11 3E and Rodman's Discount Drugs. It's dated
12 October 8th, 2014.

13 Rodman's Discount Drugs. It's not
14 located at the address that was on our agenda.
15 It's actually located at 6100 Wisconsin Avenue
16 NW. Its license number is 000394.

17 And I'm going to move that we
18 approve with one deletion, and that is --

19 MEMBER ALBERTI: One modification.

20 CHAIR MILLER: Yes, one
21 modification which would be deletion of that
22 provision that deals with binding on

1 survivors. Okay, here, on the last page.
2 Page 2, the first paragraph regarding binding
3 on survivors. So --

4 MEMBER ALBERTI: Second.

5 CHAIR MILLER: Second, okay. All
6 those in favor say aye.

7 (Chorus of ayes)

8 CHAIR MILLER: All those opposed?
9 All those abstaining? Motion passes 4-0-0.

10 All right, number three is a
11 settlement agreement between ANC 3E and the
12 Capital Wine School dated October 15, 2014.
13 The Capital Wine School is located at 5207
14 Wisconsin Avenue NW, Suite Number 7, license
15 number 086613.

16 And I move that we approve this
17 settlement agreement.

18 MEMBER RODRIGUEZ: Second.

19 CHAIR MILLER: And Mr. Rodriguez
20 has seconded the motion. All those in favor
21 say aye.

22 (Chorus of ayes)

1 CHAIR MILLER: All those opposed?
2 All those abstaining? Motion passes 4-0-0,
3 and this will be memorialized in Board Order
4 Number 2014-414.

5 Number four is a settlement
6 agreement between ANC 6E and Convival, dated
7 October 14th, 2014. Convival is located at
8 801 O Street NW, license number 095815.

9 I move that we approve this
10 settlement agreement. Do I have a second?

11 MEMBER ALBERTI: Second.

12 CHAIR MILLER: Mr. Alberti
13 seconded the motion. All those in favor say
14 aye.

15 (Chorus of ayes)

16 CHAIR MILLER: All those opposed?
17 All those abstaining? Motion passes 4-0-0,
18 and this will be memorialized in Board Order
19 2014-407.

20 Number five is a letter of concern
21 dated October 19th, 2014, submitted by
22 Jennifer Gerholdt, resident of SMD 5C02. It's

1 in reference to Stadium, located at 2127
2 Queens Chapel Road NE, license number 082005.

3 And there is a protest, I guess,
4 against Stadium renewal, and this is just a
5 letter that was sent to us, so this is an FYI
6 and no action's required.

7 Okay, we have a supplemental legal
8 agenda. The first item on that is a request
9 to grandfather the Shaw Dupont Citizens
10 Alliance into Art Soiree House protest. Art
11 Soiree House is located at 1832 14th Street
12 NW, license number 096150.

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

15 MEMBER ALBERTI: Second.

16 CHAIR MILLER: Mr. Alberti
17 seconded the motion. All those in favor say
18 aye.

19 (Chorus of ayes)

20 CHAIR MILLER: All those opposed?
21 All those abstaining? Motion passes 4-0-0.

22 Number two is a request to

1 grandfather the ANC 2B into Art Soiree House
2 protest. I move that we approve this request.
3 Do I have a second?

4 MEMBER RODRIGUEZ: Second.

5 CHAIR MILLER: Mr. Rodriguez has
6 seconded the motion. All those in favor say
7 aye.

8 (Chorus of ayes)

9 CHAIR MILLER: All those opposed?
10 All those abstaining? Motion passes 4-0-0.

11 Okay, that completes the legal
12 agenda. We can move now to the licensing
13 agenda. First item on the licensing agenda is
14 a request for class change from DR to CR by
15 Menu, located at 405 8th Street NW, license
16 number 091036.

17 I move that we placard this
18 request.

19 MEMBER ALBERTI: Second.

20 CHAIR MILLER: Mr. Alberti
21 seconded the motion. All those in favor say
22 aye.

1 (Chorus of ayes)

2 CHAIR MILLER: All those opposed?
3 All those abstaining? Motion passes 4-0-0.

4 Number two is a change of hours
5 for DC Mini Supermarket located at 1828 1st
6 Street NW, license number 094430. I move we
7 approve this request. Do I have a second?

8 MEMBER ALBERTI: Second.

9 CHAIR MILLER: Mr. Alberti
10 seconded the motion. All those in favor say
11 aye.

12 (Chorus of ayes)

13 CHAIR MILLER: All those opposed?
14 All those abstaining? Motion passes 4-0-0.

15 We have an update regarding a
16 stock transfer from Nomad Hookah Bar located
17 at 1200 H Street NE, License Number 087558.
18 This is an FYI, no action's required.

19 Number four is a letter from
20 Jennifer Hemmingway, president of the Junior
21 League of Washington, a nonprofit, requesting
22 a nonprofit corporation auction permit to

1 auction off items containing alcoholic
2 beverages such as gift baskets containing
3 bottles of wine, at a fundraiser to be held on
4 November 22nd, 2014, at 1315 K Street NW.

5 I move that we approve this
6 request.

7 MEMBER ALBERTI: Second.

8 CHAIR MILLER: Mr. Alberti
9 seconded the motion. All those in favor say
10 aye.

11 (Chorus of ayes)

12 CHAIR MILLER: All those opposed?
13 All those abstaining? Motion passes 4-0-0.

14 Number five is an application for
15 manager's license for Shay N. Evans, ABRA
16 Number 096998. I move that we deny this
17 application. Do I have a second?

18 MEMBER RODRIGUEZ: Second.

19 CHAIR MILLER: Mr. Rodriguez has
20 seconded the motion. All those in favor say
21 aye?

22 (Off the record comments)

1 CHAIR MILLER: All right, so we're
2 on number five, which is an application for
3 manager's license for Mr. Evans. And I'm
4 going to move that we deny the application.

5 Do we I have a second?

6 MEMBER SHORT: Second.

7 CHAIR MILLER: Okay, Mr. Short has
8 seconded the motion. All those in favor say
9 aye.

10 (Chorus of ayes)

11 CHAIR MILLER: All those opposed?

12 MEMBER ALBERTI: Opposed.

13 MEMBER JONES: Opposed. And
14 you're welcome.

15 CHAIR MILLER: The motion passes
16 to deny by a vote of 3-2-0, and Jones, Mr.
17 Jones and Mr. Alberti are dissenting.

18 Okay, number six is an application
19 for manager's license for Sarah I. Rosner,
20 ABRA Number 09713. I move that we approve
21 this application. Do I have a second?

22 MEMBER ALBERTI: Second.

1 CHAIR MILLER: Mr. Alberti
2 seconded the motion. All those in favor say
3 aye.

4 (Chorus of ayes)

5 CHAIR MILLER: All those opposed?
6 All those abstaining?

7 MEMBER ALBERTI: I'm five.

8 CHAIR MILLER: Okay, so that looks
9 like 5-0-0 to approve.

10 MALE PARTICIPANT: Approve, yes.

11 (Off the record comments)

12 CHAIR MILLER: Okay, supplemental
13 licensing agenda. Okay, this is a request for
14 change of hours by Harris Teeter located at
15 1631 Kalorama Road NW, license number 073993.

16 I move that we placard this change
17 of hours. Do I have a second?

18 MEMBER RODRIGUEZ: Second.

19 CHAIR MILLER: Okay, Mr. Rodriguez
20 seconded the motion. All those in favor say
21 aye.

22 (Chorus of ayes)

1 CHAIR MILLER: All those opposed?

2 All those abstaining? Motion passes 5-0-0.

3 Number two is a request for change
4 of hours by Lee's Liquor located at 2339
5 Pennsylvania Avenue SE, license number 095751.
6 I move that we placard this request.

7 MEMBER ALBERTI: Second.

8 CHAIR MILLER: Mr. Alberti
9 seconded the motion. All those in favor say
10 aye.

11 (Chorus of ayes)

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

14 Number three are resubmitted floor
15 plans for new retailer full service grocery
16 application. And that's for Mom's Organic
17 Market located at 1401 New York Avenue NE,
18 license number 094996.

19 Were there any comments on this?
20 Okay, I'm going to move that we placard. Is
21 there a second?

22 MEMBER SHORT: Second. This is

1 Mom's.

2 CHAIR MILLER: Mr. Short has
3 seconded the motion. All those in favor say
4 aye.

5 (Chorus of ayes)

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

8 Number four is a request to
9 increase sidewalk cafe seating from six to
10 twelve, and six seats have been approved on
11 October 1, 2014.

12 This is Chinatown Express located
13 at 746 6th Street NW, license number 011479.
14 I move that we approve this application.

15 MEMBER RODRIGUEZ: Second.

16 CHAIR MILLER: Mr. Rodriguez
17 seconded the motion. All those in favor say
18 aye.

19 (Chorus of ayes)

20 CHAIR MILLER: All those opposed?
21 All those abstaining? Motion passes 5-0-0.

22 Number five is a request for

1 refund of third-year payment due to denial of
2 CT license application, by the V.I.P. Room
3 located at 6201 3rd Street NW, license number
4 094561.

5 I move that we refer this to
6 Licensing.

7 MEMBER SHORT: Second.

8 CHAIR MILLER: Mr. Short has
9 seconded the motion.

10 MEMBER ALBERTI: I guess I wasn't
11 there for the discussion. Denial of the CT
12 license?

13 CHAIR MILLER: No.

14 MEMBER SHORT: Trying to get a
15 refund.

16 MEMBER ALBERTI: I know, but you
17 said, refund because of the denial?

18 CHAIR MILLER: Right.

19 MEMBER ALBERTI: That doesn't make
20 sense.

21 CHAIR MILLER: That's why we're --

22 MEMBER ALBERTI: Makes as much

1 sense as that security plan --

2 (Simultaneous speaking)

3 CHAIR MILLER: That's why we want
4 to refer it to Licensing. Because it seems a
5 little odd. We didn't really --

6 MEMBER ALBERTI: It doesn't make
7 sense. Okay, all right.

8 MEMBER SHORT: They would have
9 paid for their license before they got the
10 license.

11 MEMBER ALBERTI: No, it doesn't
12 happen that way.

13 (Simultaneous speaking)

14 CHAIR MILLER: And number six is,
15 oh okay, is a letter from Jamel Evans, ABRA
16 Number 095998, requesting reconsideration of
17 application for manager's license.

18 (Simultaneous speaking)

19 CHAIR MILLER: Postpone one week,
20 what? Postpone a week while we --

21 MEMBER ALBERTI: Yes.

22 CHAIR MILLER: Yes, okay, get some

1 more input from Licensing. All right, so
2 those in favor of a motion to postpone a week
3 say aye.

4 (Chorus of ayes)

5 CHAIR MILLER: All those opposed?

6 MEMBER JONES: Opposed.

7 CHAIR MILLER: All those
8 abstaining? Okay, the motion passes 4 to 1 to
9 0 with Mr. Jones --

10 MEMBER ALBERTI: Well, actually
11 I'm going to abstain, only because I actually
12 voted to grant this license in the first
13 place. So I have nothing to reconsider.

14 CHAIR MILLER: Oh okay. So 3 to 1
15 to 0.

16 MEMBER ALBERTI: I'm abstaining
17 because I have nothing to reconsider.

18 CHAIR MILLER: Do you have a
19 question or a comment, Mr. Jones?

20 MEMBER JONES: I do, but not for
21 this particular matter.

22 CHAIR MILLER: All right, so then

1 the vote is 3 to 1 to 0. With Jones
2 dissenting?

3 MEMBER JONES: No. 3-1 to 1.

4 MEMBER ALBERTI: 3-1-1. Abstain.

5 MEMBER JONES: 3-1-1.

6 CHAIR MILLER: Oh, it's not
7 refused, right. You're not refused you're
8 abstaining.

9 MEMBER ALBERTI: No, I'm not
10 refusing, I'm abstaining.

11 CHAIR MILLER: 3 to 1 to 1 with
12 Jones dissenting and Alberti abstaining.

13 MEMBER ALBERTI: Right.

14 CHAIR MILLER: Okay. So that
15 concludes our agenda.

16 Mr. Jones?

17 MEMBER JONES: For the record, I
18 want to revisit the Mom's full service grocery
19 store application.

20 CHAIR MILLER: Okay.

21 MEMBER JONES: Just as for the
22 record, I just want to confirm that they

1 submitted their drawings, and upon review it
2 was confirmed that their selling area was
3 measured at 7,999.917 square feet and their
4 non-food selling area was determined to be
5 1,040.083 square feet for a total food selling
6 area of 6,959.833 square feet. Given that
7 they passed the Test 1 by having a square
8 footage dedicated to the selling of food over
9 6,000 square feet.

10 They also passed Test 2 by having
11 six of the seven food categories in excess of
12 five percent. The one food category that was
13 below the five percent was the fresh and
14 uncooked meat food category at 1.93 percent.

15 But all other food categories were
16 at 5.97 percent or above and therefore we
17 properly voted and moved for them to be
18 placarded.

19 MEMBER ALBERTI: So Mr. Jones, did
20 you round up or down to the nearest hundred?

21 MEMBER JONES: Actually I rounded
22 up to the nearest thousand.

1 MEMBER ALBERTI: Okay.

2 CHAIR MILLER: You didn't hear
3 when I asked for comments, or did you?
4 Because I want you to know I did ask.

5 MEMBER JONES: Oh no. To be
6 perfectly candid and honest I had a cracker in
7 my mouth that I was chewing, and I didn't feel
8 it was appropriate to spit cracker crumbs as
9 I tried to address that.

10 CHAIR MILLER: Oh, all right.
11 Okay, good. All right, that's what happens at
12 12:04 a.m. Okay, now we're just going to take
13 our votes on the closed meetings for next
14 week. And then we'll be done.

15 As chairperson of the Alcoholic
16 Beverage Control Board for the District of
17 Columbia and in accordance with Section 405 of
18 the Open Meetings Amendment Act of 2010, I
19 move that the ABC Board hold a closed meeting
20 on November 5, 2014 for the purpose of seeking
21 legal advice from our counsel on the matters
22 identified on the Board's agenda for November

1 5, 2014 as published in the D.C. Register on
2 October 31, 2014. Is there a second?

3 MEMBER SHORT: Second.

4 CHAIR MILLER: Mr. Short has
5 seconded the motion. I'll now take a roll
6 call vote on the motion before us now that
7 it's been seconded.

8 Mr. Alberti?

9 MEMBER ALBERTI: I agree.

10 CHAIR MILLER: Mr. Rodriguez?

11 MEMBER RODRIGUEZ: I agree.

12 CHAIR MILLER: Ms. Miller agrees.

13 Mr. Short?

14 MEMBER SHORT: I agree.

15 CHAIR MILLER: And Mr. Jones?

16 MEMBER JONES: I agree.

17 CHAIR MILLER: It appears that the
18 motion has passed by a 5-0-0 vote. I hereby
19 give notice that the ABC Board will hold this
20 aforementioned closed meeting pursuant to the
21 Open Meetings Act of 2010.

22 Notice will be also be posted on

1 the ABC Board Hearing Room bulletin board,
2 placed on the electronic calendar on ABRA's
3 website and published in the D.C. Register in
4 as timely a manner as practicable.

5 As chairperson of the Alcoholic
6 Beverage Control Board for the District of
7 Columbia and in accordance with Section 405 of
8 the Open Meetings Amendment Act of 2010, I
9 move that the ABC Board hold a closed meeting
10 on November 5, 2014, for the purpose of
11 discussing and hearing reports concerning
12 ongoing or planned investigations of alleged
13 criminal or civil misconduct or violations of
14 law or regulations, of seeking legal advice
15 from our counsel on the Board's investigative
16 agenda for November 5th, 2014, as published in
17 the D.C. Register on October 31, 2014.

18 Is there a second?

19 MEMBER RODRIGUEZ: Second.

20 CHAIR MILLER: Mr. Rodriguez has
21 seconded the motion. I'll now take a roll
22 call vote on the motion before us now that

1 it's been seconded.

2 Mr. Alberti?

3 MEMBER ALBERTI: I agree.

4 CHAIR MILLER: Mr. Rodriguez?

5 MEMBER RODRIGUEZ: I agree.

6 CHAIR MILLER: Ms. Miller agrees.

7 Mr. Short?

8 MEMBER SHORT: I agree.

9 CHAIR MILLER: Mr. Jones?

10 MEMBER JONES: I agree.

11 CHAIR MILLER: It appears that the
12 motion has passed by a 5-0-0 vote. I hereby
13 give notice that the ABC Board will hold this
14 aforementioned closed meeting pursuant to the
15 Open Meetings Amendment Act of 2010.

16 Notice will also be posted on the
17 ABC Board Hearing Room bulletin board, placed
18 on the electronic calendar on ABRA's website
19 and published in the D.C. Register in as
20 timely a manner as practicable. And that
21 concludes our business for October 29th, 2014.

22 MEMBER JONES: Amen.

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CHAIR MILLER: Amen. I guess
October 30th. Okay. Thank you. We are
adjourned.

(Whereupon, the above-entitled
matter went off the record at 12:06 a.m.)

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