

1 CHAIRPERSON:

2 RUTHANNE MILLER, Presiding

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4 BOARD MEMBERS:

5 DONALD BROOKS

6 NICK ALBERTI

7 HECTOR RODRIGUEZ

8 MICHAEL SILVERSTEIN

9 JAMES SHORT

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

2 [8:45 p.m.]

3 CHAIRPERSON MILLER: Okay. The Board is
4 back on the record to do its agendas for October
5 21st of 2015.

6 I'm going to start with the Legal
7 Agendas. The first item on the Legal Agenda is a
8 motion to vacate dated October 13, 2015,
9 submitted by Kathy Henderson, Chairperson of
10 ANC-5D, and it's with respect to Kovak's Liquors
11 located at 1237 Mount Olivet Road Northeast,
12 License No. 076573.

13 I move that we postpone consideration of
14 this motion for a week. Do I have a second?

15 MR. SHORT: Second.

16 CHAIRPERSON MILLER: Mr. Short seconded
17 the motion.

18 All those in favor say "aye."

19 [Chorus of ayes.]

20 CHAIRPERSON MILLER: All those opposed?

21 [No audible response.]

22 CHAIRPERSON MILLER: All those

1 abstaining?

2 [No audible response.]

3 CHAIRPERSON MILLER: Motion passes,
4 3-zero-zero.

5 No. 2 is a motion for continuance and
6 motion to confirm standing as abutting property
7 owners dated October 13, 2015, submitted by
8 abutting property owner Protestant Group, and the
9 establishment is Hotel Helix located at 1430
10 Rhode Island Avenue Northwest, License No.
11 079243.

12 And this is related -- I guess later --
13 but to another item on our Supplemental Legal
14 Agenda. In any event, I move that we postpone
15 because we are waiting for all the documents to
16 come in on this.

17 I believe an opposition came in today,
18 but we are then waiting for a reply to the
19 opposition. So I move to postpone a week.

20 MR. SHORT: Second.

21 CHAIRPERSON MILLER: Short has seconded
22 the motion.

1 All those in favor say "aye."

2 [Chorus of ayes.]

3 CHAIRPERSON MILLER: All those opposed?

4 [No audible response.]

5 CHAIRPERSON MILLER: All those
6 abstaining?

7 [No audible response.]

8 CHAIRPERSON MILLER: Motion passes,
9 4-zero-zero.

10 Okay. No. 3 is a request to --

11 MR. ALBERTI: For off-site storage.

12 CHAIRPERSON MILLER: For off-site storage
13 of records dated October 15th, 2015, submitted by
14 Penthouse Pool & Lounge. Penthouse Pool & Lounge
15 is located at 1612 U Street Northwest, License
16 No. 086789, and I move that we approve this
17 request.

18 Do I have a second?

19 MR. SHORT: Second.

20 CHAIRPERSON MILLER: Mr. Short has
21 seconded the motion.

22 All those in favor say "aye."

1 [Chorus of ayes.]

2 CHAIRPERSON MILLER: All those opposed?

3 [No audible response.]

4 CHAIRPERSON MILLER: All those

5 abstaining?

6 [No audible response.]

7 CHAIRPERSON MILLER: Motion passes,

8 4-zero-zero.

9 No. 4 is a request -- no -- yes -- a
10 request for off-site storage of invoices dated
11 September 24th, 2015, submitted by Café Berlin.
12 Café Berlin is located at 322 Massachusetts
13 Avenue Northeast, License No. 091400.

14 I move that we deny this request because
15 they did not indicate the storage location.

16 MR. ALBERTI: Second.

17 CHAIRPERSON MILLER: Mr. Alberti has
18 seconded the motion.

19 All those in favor say "aye."

20 [Chorus of ayes.]

21 CHAIRPERSON MILLER: All those opposed?

22 [No audible response.]

1 CHAIRPERSON MILLER: All those
2 abstaining?

3 [No audible response.]

4 CHAIRPERSON MILLER: Motion passes,
5 5-zero-zero. I would also say that this does not
6 preclude the requester from filing a new
7 submission in which he or she does identify the
8 storage location.

9 No. 5 is a request for reinstatement of
10 protest dated October 15th, 2015, submitted by
11 Karrye Braxton, Commissioner ANC-4A, and the
12 establishment is Desta Ethiopian Restaurant
13 located at 6128 Georgia Avenue Northwest, License
14 No. 098818.

15 Okay. This is the case where the
16 Commissioner said that she had to go to an
17 emergency financial meeting, and therefore,
18 that's why she didn't attend the roll call
19 hearing.

20 MR. ALBERTI: And we've confirmed from
21 staff that they received no call from her telling
22 them that she would not be in attendance. I

1 would have a different decision if she had called
2 the morning of the protest -- before the roll
3 call hearing to inform us that she would be
4 unavailable.

5 MR. SHORT: I agree.

6 MR. ALBERTI: Right.

7 MR. SHORT: I concur with that. That
8 wasn't reasonable that she did not call.

9 CHAIRPERSON MILLER: Right. Okay. So I
10 would move that we deny this request on that
11 basis.

12 MR. RODRIGUEZ: Second it.

13 CHAIRPERSON MILLER: And Mr. Rodriguez
14 has seconded the motion.

15 All those in favor say "aye."

16 [Chorus of ayes.]

17 CHAIRPERSON MILLER: All those opposed?

18 [No audible response.]

19 CHAIRPERSON MILLER: All those
20 abstaining?

21 [No audible response.]

22 CHAIRPERSON MILLER: Motion passes,

1 5-zero-zero.

2 No. 6 is a settlement agreement between
3 ANC-2F and El Sol Restaurant and Tequileria dated
4 October 7th, 2015. El Sol is located at 1227
5 11th Street Northwest, License No. 099065.

6 I move that we approve this settlement
7 agreement with modifications as follow. To
8 paragraph 2, which is entitled "Nature of the
9 Business," the problem was with the second
10 sentence. That should be deleted or replaced.
11 That says "Any change from the model shall
12 require prior approval by the ABC Board." That's
13 incorrect, not any change would require that. So
14 they should confer with our counsel to see
15 whether they want to say something like "would be
16 of concern to the community" or just leave it out
17 or whatever, but as is, that line should come
18 out.

19 And then 3(d), I think just -- Mr.
20 Alberti, I think that needed to be clarified to
21 make sure that they understand -- the parties
22 understand what they're saying by alcohol service

1 shall end 30 minutes prior to closing. It sounds
2 like this deals with the last call, the last time
3 that they announce that they'll actually serve
4 it. But sometimes service has a broader meaning.

5 MR. ALBERTI: Right. And we interpret
6 service as some -- if someone is consuming, we
7 consider that service, and I don't know if they
8 understand that.

9 CHAIRPERSON MILLER: Okay.

10 MR. ALBERTI: So if they're really
11 concerned about not having alcohol sold after --

12 MR. SHORT: Last call.

13 MR. ALBERTI: Half hour before, then they
14 should use the term "last call."

15 CHAIRPERSON MILLER: Okay. And our
16 counsel will work with them on that.

17 So those are the two modifications. I
18 don't have any others. Does anybody else have
19 any other modification?

20 [No audible response.]

21 CHAIRPERSON MILLER: All right. Then I
22 move to approve the settlement agreement with

1 those two modifications. Do I have a second?

2 MR. SILVERSTEIN: Second.

3 CHAIRPERSON MILLER: Mr. Silverstein
4 seconded the motion.

5 All those in favor say "aye."

6 [Chorus of ayes.]

7 CHAIRPERSON MILLER: All those opposed?

8 [No audible response.]

9 CHAIRPERSON MILLER: All those
10 abstaining?

11 [No audible response.]

12 CHAIRPERSON MILLER: Motion passes,
13 5-zero-zero.

14 Okay. No. 7 is a settlement agreement
15 between ANC-1A and Pho 14 dated October 14, 2015.
16 Pho 14 is located at 1436 Park Road Northwest,
17 License No. 098132.

18 I move that we approve this settlement
19 agreement with one modification to paragraph --

20 MR. ALBERTI: There was two.

21 CHAIRPERSON MILLER: Two? Okay. So I'll
22 start with one I guess that I know of, which is

1 No. 8, and that is that --

2 MR. ALBERTI: Is this the one about the
3 trash contract?

4 CHAIRPERSON MILLER: Yeah. But I don't
5 --

6 MR. ALBERTI: So, in there, if it is No.
7 8, they say --

8 CHAIRPERSON MILLER: I'm not seeing --
9 I'm not seeing --

10 MR. ALBERTI: They say that the trash
11 contract must be submitted upon request of the
12 ANC.

13 CHAIRPERSON MILLER: That's what I
14 thought, and I'm not sure I'm seeing that,
15 though, in here, if I'm looking at the right
16 agreement.

17 MR. ALBERTI: Let me see.

18 CHAIRPERSON MILLER: Here is 8, but maybe
19 it's the wrong agreement.

20 MR. ALBERTI: Maybe it's --

21 CHAIRPERSON MILLER: Oh, 9.

22 MR. ALBERTI: Nine.

1 CHAIRPERSON MILLER: There you go, okay.

2 So paragraph 9 talks about rat and vermin
3 control contract, that the Applicant shall
4 provide it, I assume, to the Protestant upon the
5 request of the ANC. Okay. In any event, the
6 request should be made by the Board and not the
7 ANC, so that should be changed.

8 And what is the other one?

9 MR. ALBERTI: It has to do --

10 CHAIRPERSON MILLER: Show cause language,
11 right?

12 MR. ALBERTI: Show-cause language
13 probably in that section on notice to --

14 CHAIRPERSON MILLER: Paragraph 11, notice
15 and opportunity to cure. It talks about that the
16 show cause could be requested. In any event, our
17 legal counsel has language that we have been
18 suggesting to parties to settlement agreements
19 that accurately reflects what the process would
20 be. So they should confer with our counsel on
21 that as well.

22 Okay. So then I move to approve this

1 settlement agreement with modifications to
2 paragraphs 9 and 11, as discussed right not.

3 MR. SHORT: Second.

4 CHAIRPERSON MILLER: Mr. Short has
5 seconded the motion.

6 All those in favor say "aye."

7 [Chorus of ayes.]

8 CHAIRPERSON MILLER: All those opposed?

9 [No audible response.]

10 CHAIRPERSON MILLER: All those
11 abstaining?

12 [No audible response.]

13 CHAIRPERSON MILLER: Motion passes,
14 3-zero-zero.

15 No. 8 is a letter from Chief Lanier
16 requesting a Fact-Finding Hearing for an assault
17 incident at The Scene dated October 14, 2015.
18 The Scene is located at 2221 Adams Place
19 Northeast, License No. 075342.

20 I move that we send this letter to our
21 Enforcement Division.

22 MR. ALBERTI: Yeah. I think in addition

1 to that, I think we decided to postpone decision
2 on this until we see the report and request an
3 expedited report from the investigative --
4 Enforcement Division.

5 CHAIRPERSON MILLER: Okay. So we're
6 going to send to Enforcement for an expedited
7 report and then determine what type of hearing?

8 MR. ALBERTI: What to do with this -- how
9 to proceed with this request.

10 CHAIRPERSON MILLER: Okay. Is everybody
11 okay with that? Do I have a second?

12 MR. ALBERTI: Second.

13 MR. SILVERSTEIN: Second.

14 MR. ALBERTI: Whatever.

15 CHAIRPERSON MILLER: Okay. Mr.
16 Silverstein has seconded the motion.

17 All those in favor say "aye."

18 [Chorus of ayes.]

19 CHAIRPERSON MILLER: All those opposed?

20 [No audible response.]

21 CHAIRPERSON MILLER: All those
22 abstaining?

1 [No audible response.]

2 CHAIRPERSON MILLER: Motion passes,
3 5-zero-zero.

4 We have some proposed rules for the
5 grocery store requirements. I move that we
6 approve these proposed rules. Do I have second?

7 MR. SILVERSTEIN: Second.

8 CHAIRPERSON MILLER: Mr. Silverstein
9 seconded the motion. Any comments?

10 [No audible response.]

11 CHAIRPERSON MILLER: Okay.

12 All those in favor say "aye."

13 [Chorus of ayes.]

14 CHAIRPERSON MILLER: All those opposed?

15 [No audible response.]

16 CHAIRPERSON MILLER: All those
17 abstaining?

18 [No audible response.]

19 CHAIRPERSON MILLER: Motion passes,
20 4-zero-zero.

21 Okay. We have a Supplemental Legal
22 Agenda, one item. It's a review of the response

1 which is in opposition to the motion to confirm
2 standing on Protestants as abutting property
3 owners dated October 20th, 2015. This is related
4 to Hotel Helix, which was on the Legal Agenda
5 that I mentioned. Hotel Helix is located at 1430
6 Rhode Island Avenue Northwest, License No.
7 079243.

8 The parties today indicated that there
9 would be a reply to this motion, so -- their
10 opposition, so I move that we postpone
11 consideration of the motion --

12 MR. RODRIGUEZ: Second.

13 CHAIRPERSON MILLER: -- opposition a
14 week.

15 Mr. Rodriguez has seconded the motion.

16 All those in favor say "aye."

17 [Chorus of ayes.]

18 CHAIRPERSON MILLER: All those opposed?

19 [No audible response.]

20 CHAIRPERSON MILLER: All those
21 abstaining?

22 [No audible response.]

1 CHAIRPERSON MILLER: Motion passes,
2 4-zero-zero.

3 Okay. That completes our Legal Agenda.
4 Now we have Licensing Agendas.

5 The first thing item on the Licensing
6 Agenda is an application for safekeeping of
7 license for Phase I of Dupont located at 1415
8 22nd Street Northwest, License No. 087629. I
9 move that we approve this extension of the
10 license in safekeeping until March 31st.

11 Do I have a second?

12 MR. ALBERTI: Second.

13 CHAIRPERSON MILLER: Mr. Alberti seconded
14 the motion.

15 All those in favor say "aye."

16 [Chorus of ayes.]

17 CHAIRPERSON MILLER: All those opposed?

18 [No audible response.]

19 CHAIRPERSON MILLER: All those
20 abstaining?

21 [No audible response.]

22 CHAIRPERSON MILLER: Motion passes,

1 5-zero-zero.

2 No. 2 is another application for
3 safekeeping of license as a first request and it
4 is for Pal the Mediterranean Spot located at 1501
5 U Street Northwest, License No. 092484.

6 I move that we grant this extension until
7 March 31st. Do I have a second?

8 MR. ALBERTI: Second.

9 CHAIRPERSON MILLER: Mr. Alberti seconded
10 the motion.

11 All those in favor say "aye."

12 [Chorus of ayes.]

13 CHAIRPERSON MILLER: All those opposed?

14 [No audible response.]

15 CHAIRPERSON MILLER: All those
16 abstaining?

17 [No audible response.]

18 CHAIRPERSON MILLER: Motion passes,
19 5-zero-zero.

20 No. 3 is an application for safekeeping
21 of license. It's an original request for
22 Ninnella located at 106 13th Street Southeast,

1 License No. 029448.

2 I move that we postpone consideration of
3 this request for 1 week. Do I have second?

4 MR. SHORT: Second.

5 CHAIRPERSON MILLER: Mr. Short has
6 seconded the motion.

7 All those in favor say "aye."

8 [Chorus of ayes.]

9 CHAIRPERSON MILLER: All those opposed?

10 [No audible response.]

11 CHAIRPERSON MILLER: All those
12 abstaining?

13 [No audible response.]

14 CHAIRPERSON MILLER: Motion passes,
15 5-zero-zero.

16 No. 4 is an application for class change
17 from Retailer CR to Retailer CT. It's for
18 Airedale located at 3605 14th Street Northwest,
19 License No. 100018.

20 I move that we placard this application.
21 Do I have a second?

22 MR. SILVERSTEIN: Second.

1 CHAIRPERSON MILLER: Mr. Silverstein
2 seconded the motion.

3 All those in favor say "aye."

4 [Chorus of ayes.]

5 CHAIRPERSON MILLER: All those opposed?

6 [No audible response.]

7 CHAIRPERSON MILLER: All those
8 abstaining?

9 [No audible response.]

10 CHAIRPERSON MILLER: Motion passes,
11 5-zero-zero.

12 No. 5 is a request to add a cover charge
13 to existing entertainment endorsement, and this
14 is for 1831 located at 1831 M Street Northwest,
15 License No. 099805.

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

18 MR. RODRIGUEZ: Second.

19 CHAIRPERSON MILLER: Mr. Rodriguez
20 seconded the motion.

21 All those in favor say "aye."

22 [Chorus of ayes.]

1 CHAIRPERSON MILLER: All those opposed?

2 [No audible response.]

3 CHAIRPERSON MILLER: All those
4 abstaining?

5 [No audible response.]

6 CHAIRPERSON MILLER: Motion passes,
7 5-zero -- 4-zero-zero.

8 Okay. Then the --

9 MR. SHORT: Yeah, supplement, second
10 supplemental.

11 MR. ALBERTI: Second supplemental. There
12 were two items on it. You have it right there.

13 CHAIRPERSON MILLER: What about the
14 supplemental?

15 MR. ALBERTI: The supplemental, we're
16 postponing completely.

17 MR. SHORT: For 1 week.

18 CHAIRPERSON MILLER: Do you have that in
19 front of you?

20 MR. SHORT: Here it is.

21 CHAIRPERSON MILLER: The Second
22 Supplemental Licensing Agenda is being continued;

1 is that right? This?

2 MR. ALBERTI: It was the Second
3 Supplemental that we were dealing with.

4 CHAIRPERSON MILLER: Oh, that's right.
5 Exactly.

6 MR. ALBERTI: We're postponing everything
7 on the Supplemental.

8 CHAIRPERSON MILLER: Exactly. Okay.

9 So we have a Supplemental Licensing
10 Agenda that listed five agenda items, and all
11 five agenda items will be continued 1 week.

12 I'll just do briefly -- one is to be
13 determined, Halifax 21 LLC, at 2032 P Street.
14 Two is Tipple Supply Company, 1369 New York
15 Avenue Northeast. Three is --involved Trader
16 Joe's at 750 Pennsylvania Avenue Southeast. Four
17 involves Glen's Garden Market, 1924 8th Street
18 Northwest, and 5 is Dunay Restaurant & Lounge,
19 801 Florida Avenue Northwest. All of these items
20 will be continued a week, the whole Supplemental
21 Licensing Agenda.

22 So we then only have the Second

1 Supplemental Licensing Agenda. The first item on
2 that is the request for stipulated license with
3 letter of ANC support. That is for the Veloce
4 Pizza located at 1828 L Street Northwest, License
5 No. 100498. I move that we approve this request
6 for stipulated license.

7 MR. ALBERTI: Second.

8 CHAIRPERSON MILLER: Mr. Alberti seconded
9 the motion.

10 All those in favor say "aye."

11 [Chorus of ayes.]

12 CHAIRPERSON MILLER: All those opposed?

13 [No audible response.]

14 CHAIRPERSON MILLER: All those
15 abstaining?

16 [No audible response.]

17 CHAIRPERSON MILLER: Motion passes,
18 5-zero-zero.

19 And No. 2 is request for stipulated
20 license with letter of ANC support, and this is
21 ANC-2B, as was the other one, and it's for
22 GreenBee Café located at 1129 20th Street

1 Northwest, License No. 100280.

2 I move that we approve this request for
3 stipulated license. Do I have second?

4 MR. SHORT: Second.

5 CHAIRPERSON MILLER: Mr. Short seconded
6 the motion.

7 All those in favor say "aye."

8 [Chorus of ayes.]

9 CHAIRPERSON MILLER: All those opposed?

10 [No audible response.]

11 CHAIRPERSON MILLER: All those
12 abstaining?

13 [No audible response.]

14 CHAIRPERSON MILLER: Motion passes,
15 5-zero-zero.

16 CHAIRPERSON MILLER: Okay. So I think
17 that that concludes our agenda, and what's left
18 is to take our votes to consider certain
19 decisions in closed session.

20 Okay. As Chairperson of the Alcoholic
21 Beverage Control Board for the District of
22 Columbia and in accordance with D.C. Official

1 Code Section 2-574(b) of the Open Meetings Act, I
2 move that the ABC Board hold a closed meeting on
3 October 28th, 2015, for the purpose of seeking
4 legal advice from our counsel on the matters
5 identified on the Board's agenda for October
6 28th, 2015, as published in the D.C. Register on
7 October 23rd, 2015.

8 Is there a second?

9 MR. ALBERTI: Second.

10 CHAIRPERSON MILLER: Mr. Alberti seconded
11 the motion.

12 I'll now take a roll call vote on the
13 motion before us now that it's been seconded.

14 Mr. Alberti?

15 MR. ALBERTI: I agree.

16 CHAIRPERSON MILLER: Mr. Rodriguez?

17 MR. RODRIGUEZ: I agree.

18 CHAIRPERSON MILLER: Ms. Miller agrees.

19 Mr. Silverstein?

20 MR. SILVERSTEIN: I agree.

21 CHAIRPERSON MILLER: Mr. Short?

22 MR. SHORT: I agree.

1 CHAIRPERSON MILLER: Okay. It appears
2 that the motion is passed by a 5-zero-zero vote.
3 I hereby give notice that the ABC Board will hold
4 this aforementioned closed meeting pursuant to
5 the Open Meetings Act. Notice will also be
6 posted on the ABC Board Hearing Room bulletin
7 board, placed on the electronic calendar and
8 ABRA's website, and published in the D.C.
9 Register in as timely a manner as practicable.

10 As Chairperson of the Alcoholic Beverage
11 Control Board for the District of Columbia and in
12 accordance with D.C. Official Code Section
13 2-574(b), Closed Meetings, and 2-574 Notice of
14 Meetings, of the Open Meetings Act, I move that
15 the ABC Board hold a closed meeting on October
16 28th, 2015, for the purpose of discussing and
17 hearing reports concerning ongoing or planned
18 investigations of alleged criminal or civil
19 misconduct or violations of law or regulations
20 and seeking legal advice from our counsel on the
21 Board's investigative agenda for October 28th,
22 2015, as published in the D.C. Register on

1 October 23rd, 2015.

2 Is there a second?

3 MR. SILVERSTEIN: Second.

4 CHAIRPERSON MILLER: Mr. Silverstein
5 seconded the motion.

6 I will now take a roll call vote on the
7 motion before us, now that it's been seconded.

8 Mr. Alberti?

9 MR. ALBERTI: I agree.

10 CHAIRPERSON MILLER: Mr. Rodriguez?

11 MR. RODRIGUEZ: I agree.

12 CHAIRPERSON MILLER: Ms. Miller agrees.

13 Mr. Silverstein?

14 MR. SILVERSTEIN: I agree.

15 CHAIRPERSON MILLER: Mr. Short?

16 MR. SHORT: I agree.

17 CHAIRPERSON MILLER: Okay. It appears
18 that the motion has passed by a 5-zero-zero vote.
19 I hereby give notice that the ABC Board will hold
20 this aforementioned close meeting pursuant to the
21 Open Meetings Act. Notice will also be posted on
22 the ABC Board Hearing Room bulletin board, placed

1 on the electronic calendar and ABRA's website,
2 and published in the D.C. Register in as timely a
3 manner as practicable.

4 And that concludes our business for
5 today, October 21st, 2015, and we are adjourned.

6 [Whereupon, at 9:06 p.m., the
7 above-entitled matter concluded.]

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