DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD
MEETING

IN THE MATTER OF: : 
LEGAL AGENDA : 
LICENSING AGENDA : 
TEMPORARY AND ONE DAY : 
SUBSTANTIAL CHANGE : 
LICENSE DOCKET :

Tuesday
November 24, 2020

The Alcoholic Beverage Control Board
met via WebEx, Chairperson Donovan W. Anderson
presiding.

PRESENT:
DONOVAN W. ANDERSON, Chairperson
BOBBY CATO, JR., Member
JENI HANSEN, Member
JAMES SHORT, JR., Member
REMA WAHABZADAH, Member
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P-R-O-C-E-E-D-I-N-G-S

10:35 a.m.

CHAIRPERSON ANDERSON: Good morning, everyone. As Chairperson of the Alcoholic Beverage Control Board for the District of Columbia, and in accordance with DC Official Code Section 2-576(4) of the Open Meeting Act, I am welcoming you to an emergency meeting of the Alcoholic Beverage Control Board.

This meeting is being conducted pursuant to guidance made available by the District of Columbia's Office of Open Government regarding an electronic meeting held by public bodies due to a public health emergency. Pursuant to this guidance, notice of today's meeting was provided 48 hours in advance of the meeting on ABRA's website and on the District's electronic meeting calendar. The notice included the time, date, agenda, and call in or log in information for public participation.

This electronic meeting is being hosted by a Webex account provided by the District of Columbia Government. Please address any questions or complaints to the OOG at opengovoffice@dc.gov.
My name is Donovan Anderson. I'm Chairman of the Board. I would like to introduce other members of the Board who are also participating electronically pursuant to Mayor's Order 2020-054. Please respond when I announce your name. Mr. James Short.

MEMBER SHORT: Mr. James Short present.

CHAIRPERSON ANDERSON: Mr. Bobby Cato.

MEMBER CATO: Mr. Bobby Cato present.

CHAIRPERSON ANDERSON: Ms. Rema Wahabzadah.

MEMBER WAHABZADAH: Rema Wahabzadah.

CHAIRPERSON ANDERSON: Ms. Jeni Hansen.

MEMBER HANSEN: Jeni Hansen present.

CHAIRPERSON ANDERSON: The Board has seven members -- I'm sorry -- five members in attendance for the conduct of business today, and that constitutes a quorum. We have three agenda items today, and so we will start with our first agenda. The first agenda, we're going to do our legal agenda, and the first agenda is -- the first agenda item is the suspension of on-premises alcohol sales and consumption notice of
eighth emergency rulemaking. And so I'm going to
read some portions of the rule that we'll be
voting on today. After adopting the sixth
emergency rulemaking, the ABC Board adopted the
suspension of on-premises alcohol sales and
consumption notice of seventh emergency
rulemaking September 30, 2020 by a vote of 7 to
0. See, 67 BCR 12747 -- 12724 October 30, 2020.
The Board adopted these emergency rules in
response to the counsel's adoption of the fiscal
year 2021 Budget Support Emergency Act of 2020,
DC Act 23-44 67 BCR 10098.

Since the adoption of the seventh
emergency rulemaking, Mayor Bowser issued Mayor's
other things, Mayor's Order 2020-119 sets new
restrictions on restaurants and on the license
for establishments where alcoholic beverages can
be purchased and sold for on-premise consumption.
Specifically, the Mayor's order, one, reduces the
indoor capacity for restaurants from 50 percent
to 25 percent effective at 12:01 a.m. on Monday,
December 14, 2020 and two, requires restaurants
and other licensed food establishments to cease
indoor and outdoor on-premise alcohol sales,
service and consumption at 10:00 p.m.,
specifically excluding carry-out and delivery
daily, and to cease operations for patrons at
midnight effective 12:01 a.m. on Wednesday,

As part of its emergency rulemaking,
the Board is also reducing the permitted hours of
alcohol carry-out and delivery from 6:00 a.m. to
1:00 a.m. to now 6:00 a.m. to midnight. This
one-hour reduction is consistent with Mayor's
Order 2020-119, which requires restaurants and
other licensed food establishments to cease
operations at midnight. The one-hour reduction
will also help to reduce the likelihood of late-
night social gatherings of more than 10 persons,
which is prohibited by Mayor's Order 2020-119,
from moving from restaurants and licensed food
establishments to the private homes of District
residents as a result of the additional COVID-19
restrictions.

In response to Mayor's Order 2020-119,
the Board finds immediate emergency action is
necessary in order to ensure that the Board's
regulations are consistent with the new COVID-19
restrictions. Consistent with the Mayor's Order,
the Board finds emergency action is necessary for
the preservation of public health, welfare, and
safety. Specifically, amending the Board's
regulations on an emergency basis to be
consistent with Mayor's Order 2020-119 will serve
to further the Mayor's and the Board's objective
to curb the spread of the coronavirus.

The sections I just want to, of
course, go to Section 810.2, and the change in
the section is that section 810.2(a), it's (a),
it's to limit indoor capacity to no more than 25
percent of the lowest indoor occupancy load or
seating capacity on a certificate of occupancy
excluding employees and outdoor seating effective
12:01 a.m. on December 14, 2020. So that is
810.2(a).

And 810.2(k) is also to restrict
indoor and outdoor sales, service, and
consumption of alcoholic beverages excluding
carry-out and delivery to 10:00 p.m. seven days a
week, and cease operations at midnight seven days
a week effective 12:01 a.m. on November 23, 2020
unless further restricted by settlement,
agreement or Board order.

Now let me also go to section 810.6,
a registered licensed restaurant, tavern, hotel, night club, or Class CX and CX licensees included multipurpose facilities and private clubs may sell beer, wine, or spirits for carry-out and delivery only between the hours of 6:00 a.m. and midnight, Monday through Sunday.

All right. So thus on this Tuesday, November 24, 2020, the Board will be voting to adopt the suspension of on-premises alcohol sales and consumption notice of eighth emergency rulemaking. May I have a second?

MEMBER SHORT: Here.

CHAIRPERSON ANDERSON: Go ahead, Mr. Short. Turn your microphone on, please?

MEMBER SHORT: Mr. Short. I second.

CHAIRPERSON ANDERSON: Mr. Short has seconded the motion. I will now how have a roll call vote on the motion that has been properly seconded by Mr. Short. Mr. Short.

MEMBER SHORT: Mr. Short. I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Bobby Cato. I agree.

CHAIRPERSON ANDERSON: Ms. Wahabzadah.

MEMBER WAHABZADAH: Rema Wahabzadah.

I agree.
CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen. I disagree.

CHAIRPERSON ANDERSON: And Mr. Anderson. I agree. Thus, by this -- thus by November 24, 2020, the Board votes 4 to 1 to adopt the suspension of on-premises alcohol sales and consumption notice of eighth emergency rulemaking. These emergency rules will take effect on Wednesday, November 25, 2020. They supersede the Board's previously adopted emergency rulemaking and shall remain in effect for the duration of the extensions of public emergency and public health emergencies, but in no event longer than 120 days from the Board's adoption expiring on or after March 24, 2021 unless superseded.

The next agenda item on our legal agenda is the adoption -- we'll be voting on the addition of outdoor public or private space notice of fifth emergency rulemaking. This rulemaking is necessary today as since adopting the fourth emergency rulemaking, Mayor Bowser issued Mayor's Order 2020-119 dated November 23, 2020. Amongst other things, Mayor's Order 2020-
119 sets new restrictions on restaurants and other licensed food establishments where alcoholic beverages can be purchased and sold for on-premises consumption. Related to this rulemaking, Mayor's Order 2020-119 requires restaurants and other licensed food establishments to cease outdoor on-premises alcohol sales, service, and consumption at -- I'm sorry, this is wrong. The Mayor's Order 2020-119 requires restaurants and other licensed food establishments to cease indoor on-premises alcoholic sales, service, and consumption at 10:00 p.m. excluding carry-out and delivery daily, and to cease outdoor operations for patrons at midnight effective 12:01 a.m. on Wednesday, November 25, 2020. I'm sorry. I'm reading a statement but in reading the statement, I am thinking about the Mayor's Order and the Mayor's Order clearly states that consumption, it has to end at -- indoor sales, consumption, and service has to end at 10:00 and the operations can continue to operate till 12:01, that business has to be closed, all right. In response to Mayor's Order 2020-119, the Board finds immediate emergency action is necessary in order to ensure
that the Board's regulations are consistent with the new COVID-19 restrictions. Consistent with the Mayor's Order, the Board finds emergency action is necessary for the preservation of public health, welfare, and safety. Specifically, amending the Board's regulations on an emergency basis to be consistent with Mayor's Order 2020-119 would serve to further the Mayor's and Board's objections -- objectives to curb the spread of the coronavirus. Thus, on the -- all right, so we're going to vote on this emergency, and I am asking for a second.

MEMBER CATO: Bobby Cato seconds.

CHAIRPERSON ANDERSON: Mr. Cato has seconded the motion. We'll now have a roll call vote on the motion that's been properly seconded by Mr. Cato. Mr. Short?

MEMBER SHORT: Mr. Short. I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Bobby Cato. I agree.

CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Rema Wahabzadah. I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen. I
disagree.

CHAIRPERSON ANDERSON: And Mr. Anderson. I agree. Thus, on Tuesday, November 24, 2020, the Board adopts the addition of outdoor public and private space notice of fifth emergency rulemaking on a vote of 4 to 1. These emergency rules, which will take effect on Wednesday, November 25, 2020, supersedes the Board's previously adopted emergency rulemaking and shall remain in effect for the duration of the extension of public emergencies and public health emergencies but in no event longer than 120 days from the Board's adoption expiring on or before March 24, 2021 unless superseded.

All right. So let's now move to our licensing agenda. The first matter on our licensing agenda is to review a request for reinstatement of cancelled license. This is Best World Supermarket License No. 088966. I make a motion that we approve this request. Is there a second?

MEMBER SHORT: Mr. Short. I second.

CHAIRPERSON ANDERSON: Mr. Short has seconded the motion. We'll now have a roll vote on the motion that's been properly seconded by
Mr. Short. Mr. Short?

MEMBER SHORT: Mr. Short. I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Bobby Cato. I agree.

CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Rema Wahabzadah.

I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen. I agree.

CHAIRPERSON ANDERSON: And Mr. Anderson. I agree. The matter passes 5, 0, 0.

The next matter on our licensing agenda is a review request for reinstatement of cancelled license upon payment of overdue fees. This is for Cloud Restaurant & Lounge Sports Bar, License No. 093572. I make a motion that we approve this request. Is there a second?

MEMBER CATO: Second.

CHAIRPERSON ANDERSON: Mr. Cato seconded the motion. We’ll now have a roll call vote on the motion that has been properly seconded by Mr. Cato. Mr. Short?

MEMBER SHORT: Mr. Short. I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Bobby Cato. I agree.
CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Rema Wahabzadah.

I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen. I agree.

CHAIRPERSON ANDERSON: And Mr. Anderson. I agree. The matter passes 5, 0, 0.

We now move to our temporary one-day special change license docket. There is one licensee on this docket, and it's a request from Whole Foods Market, Inc. The request is that -- this is for the Whole Foods at 4530 40th Street. The License No. is 076139. The request from Whole Foods is to change -- it's a substantial change, a one-day substantial change to change its hours of operation from -- currently the establishment is closed between -- the hours of operation would be on -- from -- this is from November 25th through November 26th. The hours of operation will be now changed from 10:30 p.m. on the 25th to 7:00 a.m. on the 26th. The hours of sale of alcohol would be now on the 25th from 10:30 p.m. through 12:00 a.m., and the sale will resume of alcohol on the 26th from 6:00 a.m. to 7:00 a.m. I make a motion that we approve this request. Is there a
second?

MEMBER WAHABZADAH: Rema Wahabzadah.

Second.

CHAIRPERSON ANDERSON: Ms. Wahabzadah has seconded the motion. We'll now have a roll call vote on the motion that's been properly seconded by Ms. Wahabzadah. Mr. Short?

MEMBER SHORT: Mr. Short. I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Bobby Cato. I agree.

CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Rema Wahabzadah.

I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen. I agree.

CHAIRPERSON ANDERSON: And Mr. Anderson. I agree. The matter, therefore, passes 5, 0, 0. We're now at the end of our scheduled agenda for today and unless there are any other concerns, I will now formally close the meeting. As Chairperson of the Alcoholic Beverage Control Board for the District of Columbia, in accordance with Title 3, Chapter 405 Office of Open Government, I move that the ABC Board hold a closed meeting on December 3, 2020.
for the purpose of discussing and hearing
reports, concerns, ongoing or planned
investigations of alleged criminal or civil
misconduct or violations of law or regulations
and seeking legal advice from our legal counsel
on the Board's investigative agenda, legal
agenda, and licensing agenda for December 3, 2020
as published in the DC Register on November 20,
2020. Is there a second?

MEMBER CATO: Second.

CHAIRPERSON ANDERSON: Mr. Cato has
seconded the motion. We'll now have a roll call
vote on the motion that has been properly
seconded by Mr. Cato. Mr. Short?

MEMBER SHORT: Mr. Short. I agree.

CHAIRPERSON ANDERSON: Mr. Cato?

MEMBER CATO: Bobby Cato. I agree.

CHAIRPERSON ANDERSON: Ms. Wahabzadah?

MEMBER WAHABZADAH: Rema Wahabzadah.

I agree.

CHAIRPERSON ANDERSON: Ms. Hansen?

MEMBER HANSEN: Jeni Hansen. I agree.

CHAIRPERSON ANDERSON: Mr. Anderson.

I agree. As it appears that the motion has
passed 5, 0, 0, I hereby give notice that the ABC
Board will hold the aforementioned closed
meeting. Pursuant to the Open Meetings Act,
otice will also be posted on the ABC Board's
hearing room bulletin board, placed on electronic
calendar on ABRA's website, and published in DC
Register in as timely a manner as practical. We
are now formally adjourned from our public
meeting, and I thank the Board members for their
participation today, and Happy -- and wish them a
happy and safe Thanksgiving. The Board now will
return to its executive session. Thank you very
much. Have a great day.

(Whereupon, at 10:54 a.m., the above-
entitled matter was adjourned.)
CERTIFICATE

This is to certify that the foregoing transcript

In the matter of: Agenda Hearing

Before: DCABRA

Date: 11-24-20

Place: teleconference

was duly recorded and accurately transcribed under my direction; further, that said transcript is a true and accurate record of the proceedings.

[Signature]

Court Reporter