

DISTRICT OF COLUMBIA

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ALCOHOLIC BEVERAGE CONTROL BOARD

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MEETING

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IN THE MATTER OF: :

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SUPPLEMENTAL AGENDA :

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December 12, 2012

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street, N.W., Washington, D.C., Interim Chair Alberti, presiding.

PRESENT

RUTHANNE MILLER, CHAIRPERSON

DONALD BROOKS, Member

HERMAN JONES, Member

NICK ALBERTI, Member

MIKE SILVERSTEIN Member

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

4:22 p.m.

CHAIRPERSON MILLER: Okay. No. 1 on the Supplemental Agenda is a review of a Manager's application for David Gehring.

I move that we approve this application.

MEMBER ALBERTI: Second.

CHAIRPERSON MILLER: Mr. Alberti has seconded the motion.

All those in favor say aye.

(Ayes.)

CHAIRPERSON MILLER: All those opposed?

All those abstaining?

The vote is 5:0:0 to approve.

No. 2 is a Review of Letter dated December 10, 2012, from Andrew Klein, requesting that the Board reconsider its decision to delay the issuance of It's Called INCEPTION'S license until after a Fact Finding hearing. It's Called INCEPTION, located at

1 645 Florida Avenue NW, License No. 87890.

2 Okay. I'm going to let somebody  
3 else make this motion.

4 MEMBER SILVERSTEIN: I will move  
5 that we deny Mr. Klein's request, and that we  
6 move forward with the scheduling a Fact  
7 Finding hearing on this application.

8 CHAIRPERSON MILLER: Okay. Is  
9 there a second?

10 MEMBER BROOKS: Second.

11 CHAIRPERSON MILLER: Discussion?

12 I would just say, I didn't make  
13 the motion because I'm really not sure whether  
14 or not a Fact Finding hearing is necessary,  
15 but I do respect my colleagues' if some  
16 information is, in fact, needed by others.  
17 So, I just wanted to express that reservation,  
18 and hope that this isn't delayed too long.

19 So, okay.

20 We have a motion, it's been  
21 seconded by whom?

22 MEMBER ALBERTI: Mr. Brooks.

1 CHAIRPERSON MILLER: Mr. Brooks.

2 Okay.

3 All those in favor say aye.

4 (Ayes.)

5 CHAIRPERSON MILLER: All those

6 opposed?

7 All those abstaining?

8 Then the vote is 5:0:0 for a Fact

9 Finding.

10 No. 3 is a request for a  
11 continuance, dated December 11, 2012, from  
12 Bernard Dietz for Three Way Liquors, Inc.,  
13 protest hearing scheduled for December 12,  
14 2012 at 3:00 p.m. The Protestants contested  
15 to the request. This is for Three Way  
16 Liquors, Inc., located at 4823 Georgia Avenue,  
17 NW.

18 I move that we grant this request  
19 for continuance, that it be continued to  
20 January 9, 2013, at 3:30 p.m.

21 Do I have a second?

22 MEMBER BROOKS: Second.

1 CHAIRPERSON MILLER: Mr. Brooks  
2 has seconded the motion.

3 Any comments?

4 All those in favor say aye.

5 (Ayes.)

6 CHAIRPERSON MILLER: All those  
7 opposed?

8 All those abstaining?

9 Then the vote is 5:0:0 to grant  
10 the request.

11 CHAIRPERSON MILLER: No. 4 is  
12 Petitioner's Request for Waiver of Fine, dated  
13 November 7, 2012, from Phyllis Outlaw, along  
14 with a profit and loss statement. The  
15 establishment is Gee's Market. It's located  
16 at 3583 Water Street NW, License No. 83125.

17 I move to deny the request.

18 Is there a second?

19 MEMBER SILVERSTEIN: Second.

20 CHAIRPERSON MILLER: Discussion?

21 I would say that we did rule on  
22 this last week, even though the profit and

1 loss provides more information, the policy of  
2 the Agency is not to grant refunds.

3 So, I would continue to move to  
4 deny.

5 Any other comments?

6 All those in favor of the motion  
7 to deny then say aye.

8 (Ayes.)

9 CHAIRPERSON MILLER: All those  
10 opposed?

11 All those abstaining?

12 The vote is 5:0:0.

13 No. 5 is a Motion in Limine and to  
14 Dismiss for Lack of Standing, dated December  
15 7, 2012, from Richard Bianco. Mr. Bianco  
16 moved in limine to exclude certain testimony  
17 and evidence and moved to dismiss the Reed-  
18 Cooke Neighborhood Association. The  
19 establishment is Madam's Organ, 2461 18th  
20 Street NW, License No. 25273.

21 I move that we consider -- that we  
22 set this motion for oral argument prior to the

1 protest hearing tomorrow. Yes, we hear that  
2 tomorrow.

3 Do I have a second?

4 MEMBER SILVERSTEIN: Second.

5 CHAIRPERSON MILLER: Okay. All  
6 those in favor -- the motion was seconded by  
7 Mr. Silverstein.

8 All those in favor of setting this  
9 oral argument tomorrow before the protest  
10 hearing say aye.

11 (Ayes.)

12 CHAIRPERSON MILLER: All those  
13 opposed?

14 All those abstaining?

15 The vote is 5:0:0. The motion  
16 passes.

17 No. 6, Licensee's Opposition to  
18 Motion -- okay, this is the Costco Pleadings.  
19 The first was a Motion for Reconsideration.  
20 That was No. 11 on our Meeting Agenda. It's  
21 dated November 30, 2012, from John Ray, Costco  
22 Wholesale No 1120 is the establishment,

1 located at 2441 Market Street NE, License No.  
2 89498. No. 6 on the Supplemental Agenda is  
3 Licensee's Opposition to the Motion for  
4 Reconsideration, dated December 7, 2012.

5 And. No. 7 is the Reply of  
6 Protestants to Licensee's Opposition to the  
7 Motion for Reconsideration, dated December 10,  
8 2012, from John Ray.

9 Okay, those are the pleadings for  
10 the Motion for Reconsideration.

11 I would move to grant the  
12 reconsideration, the reconsideration based on  
13 the arguments I made previously that the Board  
14 should hold a Fact Finding hearing on the  
15 issues that were raised by Mr. Ray.

16 Do I have a second?

17 Okay. The motion dies for lack of  
18 a second. Does someone have a different  
19 motion to put forward?

20 MEMBER ALBERTI: I move that we  
21 deny the Motion for Reconsideration for two  
22 reasons. One, I don't think there's anything

1 in this current motion that adds to the  
2 information we had when we made our original  
3 decision, which was not to have a Fact  
4 Finding.

5 So, I think I stand by our  
6 original decision.

7 And also, I question the standing  
8 of the parties who are making this motion.  
9 They have, by their own accord, severed  
10 themselves from the original party who made  
11 the request that was denied by the Board, and  
12 now we have -- so now we have a third party,  
13 by their own account, a third party  
14 intervening on a decision by the Board. And,  
15 I don't -- I question whether they have  
16 standing.

17 So, for those two reasons I deny  
18 this Motion for Reconsideration.

19 CHAIRPERSON MILLER: Is there a  
20 second on that?

21 MEMBER BROOKS: Second.

22 CHAIRPERSON MILLER: Okay. All

1 those in favor of the motion to deny the  
2 Motion for Reconsideration say aye.

3 (Ayes.)

4 CHAIRPERSON MILLER: All those  
5 opposed?

6 (Aye.)

7 CHAIRPERSON MILLER: All those  
8 abstaining?

9 Then the vote is 4:1:0 to deny the  
10 Motion for Reconsideration.

11 No. 8 on the Supplemental Agenda  
12 is a Review of Consent Line Concerning  
13 Postponement of Status Hearing, dated November  
14 26, 2012, from Raj Singh, requesting a  
15 postponement of Central Liquors' Status  
16 Hearing scheduled for December 12, 2012, at  
17 9:30 a.m. Central Liquors is located at 625  
18 E Street NW, License No. 86268.

19 I move that we deny the request  
20 for postponement of Status hearing. We don't  
21 do that, generally, and put on the record that  
22 the Show Cause hearing is scheduled for

1 January 23, 2013, at 10:00 a.m.

2 Do I have a second for denying the  
3 motion to postpone the Status hearing?

4 MEMBER ALBERTI: I second that.

5 CHAIRPERSON MILLER: Okay. All  
6 those in favor of motion to deny say aye.

7 (Ayes.)

8 CHAIRPERSON MILLER: All those  
9 opposed?

10 All those abstaining?

11 Then the vote is 5:0:0 to deny.

12 No. 9 on our Supplemental Agenda  
13 is correspondence dated December 5, 2012, from  
14 Commissioner Raymond requesting clarification  
15 of the Board's requested modifications to the  
16 CherCher Voluntary Agreement, dated November  
17 19, 2012. CherCher Ethiopian Restaurant &  
18 Mart, 1334 9th Street NW, License No. 90311.

19 I move that we leave in No. 2, as  
20 it was in the original voluntary agreement.

21 Is there a second?

22 MEMBER ALBERTI: Second.

1 CHAIRPERSON MILLER: Okay. Any  
2 comments?

3 All those in favor of leaving No.  
4 2 in as is say aye.

5 (Ayes.)

6 CHAIRPERSON MILLER: All those  
7 opposed?

8 All those abstaining?

9 The vote is 5:0:0 to leave it as  
10 is.

11 Okay. No. 10 is a Voluntary  
12 Agreement dated July 12, 2012, between Fever  
13 Bar & Lounge and ANC 6A. Fever Bar & Lounge  
14 is located at 816 H Street NE, License No.  
15 89716.

16 I move that we approve, with  
17 modification to 2I and 7B, is that right?  
18 Let's check to make sure.

19 MEMBER BROOKS: Give me just one  
20 moment and I'll check.

21 CHAIRPERSON MILLER: Okay.

22 MEMBER BROOKS: Can we skip over

1 this one and just go to another one, while I  
2 check this.

3 CHAIRPERSON MILLER: I can't tell  
4 if my writing is 2I or J, so we need to check  
5 that.

6 MEMBER BROOKS: It would be I, but  
7 I'm not sure that that's what we decided.

8 CHAIRPERSON MILLER: All right.  
9 We'll come back then.

10 11 is a Voluntary Agreement dated  
11 December 5, 2012, between Bar Bari and ANC 2F.  
12 Bar Bari is located at 1401 R Street NW,  
13 License No. 90488.

14 I move that we approve this  
15 Voluntary Agreement as is.

16 MEMBER ALBERTI: Second.

17 CHAIRPERSON MILLER: Mr. Alberti  
18 has seconded it.

19 All those in favor say aye.

20 (Ayes.)

21 CHAIRPERSON MILLER: All those  
22 opposed?

1 All those abstaining?

2 The vote is 5:0:0.

3 No. 12 is a Voluntary Agreement  
4 dated December 3, 2012, between Gypsy Sally's,  
5 the citizens Association of Georgetown, and  
6 William Maroney. Gypsy Sally's is located at  
7 3401 K Street NW, License No. 90582.

8 I move that we approve the  
9 modification to No. 10, with respect to  
10 requiring appearance, and No. 11, with respect  
11 to notice of transfer.

12 Any comments?

13 Okay, all those in favor say aye.

14 (Ayes.)

15 CHAIRPERSON MILLER: All those  
16 opposed?

17 All those abstaining?

18 Then the vote is 5:0:0 to approve  
19 with modifications to No. 10 and 11, as  
20 indicated.

21 No. 13 is a Review of Voluntary  
22 Agreement, dated December 6, 2012, between

1 Thally and ANC 2F, and a Group of Five or  
2 More. Thally is located at 1316 9th Street  
3 NW, License No. 90403.

4 I move that we approve this  
5 Voluntary Agreement as is.

6 MEMBER ALBERTI: I second.

7 CHAIRPERSON MILLER: Mr. Alberti  
8 has seconded it.

9 All those in favor say aye.

10 (Ayes.)

11 CHAIRPERSON MILLER: All those  
12 opposed?

13 And then, the vote is 5:0:0 to  
14 approve as is.

15 14 is a Voluntary Agreement, dated  
16 December 5, 2012, between Duchess and The  
17 Queen, ANC 1C, the Kalorama Citizens  
18 Association, and a Group of Five or More.  
19 Duchess and The Queen is located at 2102 18th  
20 Street NW, License No. 89545.

21 I move that we approve this  
22 Voluntary Agreement as is.

1 MEMBER ALBERTI: Second.

2 CHAIRPERSON MILLER: Mr. Alberti  
3 seconded it.

4 All those in favor say aye.

5 (Ayes.)

6 CHAIRPERSON MILLER: All those  
7 opposed?

8 All those abstaining?

9 The vote is 5:0:0.

10 Going back to No. 10.

11 MEMBER BROOKS: It's 2I and 7.

12 CHAIRPERSON MILLER: Not 7B?

13 MEMBER BROOKS: It may be 7B. Let  
14 me double check. Yes, 7B.

15 CHAIRPERSON MILLER: Okay.

16 MEMBER BROOKS: One is a Show  
17 Cause and one is --

18 CHAIRPERSON MILLER: All right. I  
19 want to come back to another one, but this  
20 one, okay, so the No. is 10, it's Fever Bar &  
21 Lounge, and the motion is to approve with  
22 modifications to paragraphs 2I and 7B.

1 All those in favor say aye.

2 (Ayes.)

3 CHAIRPERSON MILLER: All those  
4 opposed?

5 All those abstaining?

6 The vote is 5:0:0 to approve with  
7 modifications.

8 (Whereupon, at 4:40 p.m., a  
9 discussion off the record until 4:41 p.m.)

10 MEMBER ALBERTI: Yes, on No. 10,  
11 in Gypsy Salley's, it's modification to Item  
12 10 in the first sentence, and the last  
13 sentence is okay.

14 CHAIRPERSON MILLER: Right, okay.  
15 So, right, Gypsy Salley's is No. 12.

16 So, I just want to clarify, so  
17 that when the parties are going back to rework  
18 the provisions that, right, the first sentence  
19 in No. 10 is the issue, and not the last one.

20 Okay, it doesn't change our vote.

21 MEMBER ALBERTI: No, it doesn't  
22 change our vote.

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CHAIRPERSON MILLER: So, we don't  
need to revote on that.

All right. I think that completes  
our Supplemental Agenda, and all the matters -  
- oh, no, no, no, we have one more, related to  
CVS.

(Whereupon, the above-entitled  
matter was concluded at 4:42 p.m.)

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