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Adjourned.17

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

2 10:35 a.m.

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

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

21 This electronic meeting is being
22 hosted by a Webex account provided by the
23 District of Columbia Government. Please address
24 any questions or complaints to the OOG at
25 opengovoffice@dc.gov.

1 My name is Donovan Anderson. I'm
2 Chairman of the Board. I would like to introduce
3 other members of the Board who are also
4 participating electronically pursuant to Mayor's
5 Order 2020-054. Please respond when I announce
6 your name. Mr. James Short.

7 MEMBER SHORT: Mr. James Short
8 present.

9 CHAIRPERSON ANDERSON: Mr. Bobby Cato.

10 MEMBER CATO: Mr. Bobby Cato present.

11 CHAIRPERSON ANDERSON: Ms. Rema
12 Wahabzadah.

13 MEMBER WAHABZADAH: Rema Wahabzadah.

14 CHAIRPERSON ANDERSON: Ms. Jeni
15 Hansen.

16 MEMBER HANSEN: Jeni Hansen present.

17 CHAIRPERSON ANDERSON: The Board has
18 seven members -- I'm sorry -- five members in
19 attendance for the conduct of business today, and
20 that constitutes a quorum. We have three agenda
21 items today, and so we will start with our first
22 agenda. The first agenda, we're going to do our
23 legal agenda, and the first agenda is -- the
24 first agenda item is the suspension of on-
25 premises alcohol sales and consumption notice of

1 eighth emergency rulemaking. And so I'm going to
2 read some portions of the rule that we'll be
3 voting on today. After adopting the sixth
4 emergency rulemaking, the ABC Board adopted the
5 suspension of on-premises alcohol sales and
6 consumption notice of seventh emergency
7 rulemaking September 30, 2020 by a vote of 7 to
8 0. See, 67 BCR 12747 -- 12724 October 30, 2020.
9 The Board adopted these emergency rules in
10 response to the counsel's adoption of the fiscal
11 year 2021 Budget Support Emergency Act of 2020,
12 DC Act 23-44 67 BCR 10098.

13 Since the adoption of the seventh
14 emergency rulemaking, Mayor Bowser issued Mayor's
15 Order 2020-119 dated November 23, 2020. Amongst
16 other things, Mayor's Order 2020-119 sets new
17 restrictions on restaurants and on the license
18 for establishments where alcoholic beverages can
19 be purchased and sold for on-premise consumption.
20 Specifically, the Mayor's order, one, reduces the
21 indoor capacity for restaurants from 50 percent
22 to 25 percent effective at 12:01 a.m. on Monday,
23 December 14, 2020 and two, requires restaurants
24 and other licensed food establishments to cease
25 indoor and outdoor on-premise alcohol sales,

1 service and consumption at 10:00 p.m.,
2 specifically excluding carry-out and delivery
3 daily, and to cease operations for patrons at
4 midnight effective 12:01 a.m. on Wednesday,
5 November 25, 2020.

6 As part of its emergency rulemaking,
7 the Board is also reducing the permitted hours of
8 alcohol carry-out and delivery from 6:00 a.m. to
9 1:00 a.m. to now 6:00 a.m. to midnight. This
10 one-hour reduction is consistent with Mayor's
11 Order 2020-119, which requires restaurants and
12 other licensed food establishments to cease
13 operations at midnight. The one-hour reduction
14 will also help to reduce the likelihood of late-
15 night social gatherings of more than 10 persons,
16 which is prohibited by Mayor's Order 2020-119,
17 from moving from restaurants and licensed food
18 establishments to the private homes of District
19 residents as a result of the additional COVID-19
20 restrictions.

21 In response to Mayor's Order 2020-119,
22 the Board finds immediate emergency action is
23 necessary in order to ensure that the Board's
24 regulations are consistent with the new COVID-19
25 restrictions. Consistent with the Mayor's Order,

1 the Board finds emergency action is necessary for
2 the preservation of public health, welfare, and
3 safety. Specifically, amending the Board's
4 regulations on an emergency basis to be
5 consistent with Mayor's Order 2020-119 will serve
6 to further the Mayor's and the Board's objective
7 to curb the spread of the coronavirus.

8 The sections I just want to, of
9 course, go to Section 810.2, and the change in
10 the section is that section 810.2(a), it's (a),
11 it's to limit indoor capacity to no more than 25
12 percent of the lowest indoor occupancy load or
13 seating capacity on a certificate of occupancy
14 excluding employees and outdoor seating effective
15 12:01 a.m. on December 14, 2020. So that is
16 810.2(a).

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

25 Now let me also go to section 810.6,

1 a registered licensed restaurant, tavern, hotel,
2 night club, or Class CX and CX licensees included
3 multipurpose facilities and private clubs may
4 sell beer, wine, or spirits for carry-out and
5 delivery only between the hours of 6:00 a.m. and
6 midnight, Monday through Sunday.

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

12 MEMBER SHORT: Here.

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

15 MEMBER SHORT: Mr. Short. I second.

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

20 MEMBER SHORT: Mr. Short. I agree.

21 CHAIRPERSON ANDERSON: Mr. Cato?

22 MEMBER CATO: Bobby Cato. I agree.

23 CHAIRPERSON ANDERSON: Ms. Wahabzadah.

24 MEMBER WAHABZADAH: Rema Wahabzadah.

25 I agree.

1 CHAIRPERSON ANDERSON: Ms. Hansen?

2 MEMBER HANSEN: Jeni Hansen. I
3 disagree.

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

18 The next agenda item on our legal
19 agenda is the adoption -- we'll be voting on the
20 addition of outdoor public or private space
21 notice of fifth emergency rulemaking. This
22 rulemaking is necessary today as since adopting
23 the fourth emergency rulemaking, Mayor Bowser
24 issued Mayor's Order 2020-119 dated November 23,
25 2020. Amongst other things, Mayor's Order 2020-

1 119 sets new restrictions on restaurants and
2 other licensed food establishments where
3 alcoholic beverages can be purchased and sold for
4 on-premises consumption. Related to this
5 rulemaking, Mayor's Order 2020-119 requires
6 restaurants and other licensed food
7 establishments to cease outdoor on-premises
8 alcohol sales, service, and consumption at -- I'm
9 sorry, this is wrong. The Mayor's Order 2020-119
10 requires restaurants and other licensed food
11 establishments to cease indoor on-premises
12 alcoholic sales, service, and consumption at
13 10:00 p.m. excluding carry-out and delivery
14 daily, and to cease outdoor operations for
15 patrons at midnight effective 12:01 a.m. on
16 Wednesday, November 25, 2020. I'm sorry. I'm
17 reading a statement but in reading the statement,
18 I am thinking about the Mayor's Order and the
19 Mayor's Order clearly states that consumption, it
20 has to end at -- indoor sales, consumption, and
21 service has to end at 10:00 and the operations
22 can continue to operate till 12:01, that business
23 has to be closed, all right. In response to
24 Mayor's Order 2020-119, the Board finds immediate
25 emergency action is necessary in order to ensure

1 that the Board's regulations are consistent with
2 the new COVID-19 restrictions. Consistent with
3 the Mayor's Order, the Board finds emergency
4 action is necessary for the preservation of
5 public health, welfare, and safety.

6 Specifically, amending the Board's regulations on
7 an emergency basis to be consistent with Mayor's
8 Order 2020-119 would serve to further the Mayor's
9 and Board's objections -- objectives to curb the
10 spread of the coronavirus. Thus, on the -- all
11 right, so we're going to vote on this emergency,
12 and I am asking for a second.

13 MEMBER CATO: Bobby Cato seconds.

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

18 MEMBER SHORT: Mr. Short. I agree.

19 CHAIRPERSON ANDERSON: Mr. Cato?

20 MEMBER CATO: Bobby Cato. I agree.

21 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

22 MEMBER WAHABZADAH: Rema Wahabzadah.

23 I agree.

24 CHAIRPERSON ANDERSON: Ms. Hansen?

25 MEMBER HANSEN: Jeni Hansen. I

1 disagree.

2 CHAIRPERSON ANDERSON: And Mr.
3 Anderson. I agree. Thus, on Tuesday, November
4 24, 2020, the Board adopts the addition of
5 outdoor public and private space notice of fifth
6 emergency rulemaking on a vote of 4 to 1. These
7 emergency rules, which will take effect on
8 Wednesday, November 25, 2020, supersedes the
9 Board's previously adopted emergency rulemaking
10 and shall remain in effect for the duration of
11 the extension of public emergencies and public
12 health emergencies but in no event longer than
13 120 days from the Board's adoption expiring on or
14 before March 24, 2021 unless superseded.

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

22 MEMBER SHORT: Mr. Short. I second.

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

1 Mr. Short. Mr. Short?

2 MEMBER SHORT: Mr. Short. I agree.

3 CHAIRPERSON ANDERSON: Mr. Cato?

4 MEMBER CATO: Bobby Cato. I agree.

5 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

6 MEMBER WAHABZADAH: Rema Wahabzadah.

7 I agree.

8 CHAIRPERSON ANDERSON: Ms. Hansen?

9 MEMBER HANSEN: Jeni Hansen. I agree.

10 CHAIRPERSON ANDERSON: And Mr.

11 Anderson. I agree. The matter passes 5, 0, 0.

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

18 MEMBER CATO: Second.

19 CHAIRPERSON ANDERSON: Mr. Cato

20 seconded the motion. We'll now have a roll call
21 vote on the motion that has been properly
22 seconded by Mr. Cato. Mr. Short?

23 MEMBER SHORT: Mr. Short. I agree.

24 CHAIRPERSON ANDERSON: Mr. Cato?

25 MEMBER CATO: Bobby Cato. I agree.

1 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

2 MEMBER WAHABZADAH: Rema Wahabzadah.

3 I agree.

4 CHAIRPERSON ANDERSON: Ms. Hansen?

5 MEMBER HANSEN: Jeni Hansen. I agree.

6 CHAIRPERSON ANDERSON: And Mr.

7 Anderson. I agree. The matter passes 5, 0, 0.

8 We now move to our temporary one-day special
9 change license docket. There is one licensee on
10 this docket, and it's a request from Whole Foods
11 Market, Inc. The request is that -- this is for
12 the Whole Foods at 4530 40th Street. The License
13 No. is 076139. The request from Whole Foods is
14 to change -- it's a substantial change, a one-day
15 substantial change to change its hours of
16 operation from -- currently the establishment is
17 closed between -- the hours of operation would be
18 on -- from -- this is from November 25th through
19 November 26th. The hours of operation will be
20 now changed from 10:30 p.m. on the 25th to 7:00
21 a.m. on the 26th. The hours of sale of alcohol
22 would be now on the 25th from 10:30 p.m. through
23 12:00 a.m., and the sale will resume of alcohol
24 on the 26th from 6:00 a.m. to 7:00 a.m. I make a
25 motion that we approve this request. Is there a

1 second?

2 MEMBER WAHABZADAH: Rema Wahabzadah.

3 Second.

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

8 MEMBER SHORT: Mr. Short. I agree.

9 CHAIRPERSON ANDERSON: Mr. Cato?

10 MEMBER CATO: Bobby Cato. I agree.

11 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

12 MEMBER WAHABZADAH: Rema Wahabzadah.

13 I agree.

14 CHAIRPERSON ANDERSON: Ms. Hansen?

15 MEMBER HANSEN: Jeni Hansen. I agree.

16 CHAIRPERSON ANDERSON: And Mr.

17 Anderson. I agree. The matter, therefore,
18 passes 5, 0, 0. We're now at the end of our
19 scheduled agenda for today and unless there are
20 any other concerns, I will now formally close the
21 meeting. As Chairperson of the Alcoholic
22 Beverage Control Board for the District of
23 Columbia, in accordance with Title 3, Chapter 405
24 Office of Open Government, I move that the ABC
25 Board hold a closed meeting on December 3, 2020

1 for the purpose of discussing and hearing
2 reports, concerns, ongoing or planned
3 investigations of alleged criminal or civil
4 misconduct or violations of law or regulations
5 and seeking legal advice from our legal counsel
6 on the Board's investigative agenda, legal
7 agenda, and licensing agenda for December 3, 2020
8 as published in the DC Register on November 20,
9 2020. Is there a second?

10 MEMBER CATO: Second.

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

15 MEMBER SHORT: Mr. Short. I agree.

16 CHAIRPERSON ANDERSON: Mr. Cato?

17 MEMBER CATO: Bobby Cato. I agree.

18 CHAIRPERSON ANDERSON: Ms. Wahabzadah?

19 MEMBER WAHABZADAH: Rema Wahabzadah.

20 I agree.

21 CHAIRPERSON ANDERSON: Ms. Hansen?

22 MEMBER HANSEN: Jeni Hansen. I agree.

23 CHAIRPERSON ANDERSON: Mr. Anderson.

24 I agree. As it appears that the motion has
25 passed 5, 0, 0, I hereby give notice that the ABC

1 Board will hold the aforementioned closed
2 meeting. Pursuant to the Open Meetings Act,
3 notice will also be posted on the ABC Board's
4 hearing room bulletin board, placed on electronic
5 calendar on ABRA's website, and published in DC
6 Register in as timely a manner as practical. We
7 are now formally adjourned from our public
8 meeting, and I thank the Board members for their
9 participation today, and Happy -- and wish them a
10 happy and safe Thanksgiving. The Board now will
11 return to its executive session. Thank you very
12 much. Have a great day.

13 (Whereupon, at 10:54 a.m., the above-
14 entitled matter was adjourned.)
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This is to certify that the foregoing transcript

In the matter of: Agenda Hearing

Before: DCABRA

Date: 11-24-20

Place: teleconference

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Court Reporter

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