

**Alcoholic Beverage Licensing Committee
ANC 6A
December 17, 2013**

Pursuant to notice duly given, a meeting of the Alcoholic Beverage Licensing Committee ("Committee") of ANC6A was held commencing at 7:00 pm EST on December 17, 2013 at Maury Elementary School, 1250 Constitution Avenue, NE Washington, DC 20002.

Committee Members Present: Jay Williams (Chair), Mary Cary Bradley, Christopher Seagle, Michael Herman, Roger Caruth, David Oberting, Katy Thomas, and Ann Marie Koshuta

Committee Members Absent: Adam Healy

Commissioners Present: David Holmes, Nicholas Alberti, and Omar Mahmud

Community Members Present: See below

I. Call to Order

Jay Williams called the meeting to order at 7:00 pm. The meeting having been duly convened, was ready to proceed with business with a quorum. Mr. Williams reviewed the agenda and proposed moving the discussion of Sin Bin to the end of the meeting. There were no objections to this proposal.

II. Community Comment

None

III. Old Business

A. Update on status of XII and Ben's Chili Bowl protest hearings.

- Mr. Williams reported that there was a recent status hearing for XII, but nobody from XII showed up. This means that the application for renewal is dismissed, and XII has ten days to request reinstatement. Mr. Alberti provided some clarification on what this meant, and what the process would be going forward.
- ANC 6A is in negotiations with Ben's Chili Bowl prior to a protest hearing scheduled for January 8th. Mr. Williams said their points of disagreement over the 6A settlement agreement were not clear, but they have said they will not sign the ANC's standard SA. Mr. Williams expressed hope that a resolution could be reached without going to a full protest hearing.

IV. New Business

A. Community discussion regarding public space patio and rooftop deck hours in ANC 6A.

- Mr. Williams introduced the issue and explained the background for this meeting.
- The ANC's current policy in its standard Settlement Agreement is for a public space patio or rooftop deck to close at 11pm on weeknights and 12am on weekends. This has been the policy for a few years, with a few minor tweaks.
- At one point, establishments were given a three-month "trial period" for all outdoor spaces, at which point they could extend their hours if there had not been any noise complaints, but the ANC decided that there should be a different policy for public space patios and rooftop decks, versus private patios.
- According to Mr. Holmes, the policy has been in place since at least 2007.
- A community member noted that XII does not have this restriction on its rooftop deck. Mr. Williams agreed, noting that XII has an older SA that did not include that restriction, but that the ANC is currently going through the protest process with XII over this and other issues.
- Mr. Williams noted that some establishments and individuals had raised concerns that the ANC's policy is outdated and doesn't reflect the community's interests any longer. Additionally, some establishments are going before the ABC Board to terminate their SAs altogether, ostensibly because of this issue.
- Given the feedback he had received and the fact that the issue has come up several times in protests and requests for SA termination, Mr. Williams decided to hold this meeting to get feedback from the community.
- Mr. Williams clarified that the ABC Board and ABRA are the entities ultimately responsible for setting alcohol licensing policy in the District and enforcing it. The ANC can negotiate Settlement Agreements, but they have to be approved by the Board, and ABRA is the entity responsible for enforcing them.
- The ANC's approach to SAs is to have one "standard" document that is put out in the public, so that establishments can know what the ANC will ask for when they apply for a new license in 6A.

Mr. Williams then turned the floor over to community members for comment:

- Brad Greenfield – in opposition to extending rooftop deck hours to 2am and terminating Settlement Agreements. This is a quality of life issue that will increase noise in the neighborhood, particularly for residents close to the bars and restaurants. Neighbors generally have good relationships with these establishments and can resolve issues amicably, but extending hours as requested is too far.
- Tony Green – there are already challenges related to parking, noise, and other issues for residents on blocks just off of H Street. Thus far, there has been a peaceful coexistence, but this request is a radical change that would dramatically affect quality of life for neighbors nearby. The neighborhood surrounding these

bars and restaurants contains families with young children and people who have lived in the neighborhood for a long time.

- Claude Labbe – none of the neighbors want these hours changed. There is a balance currently in place, and businesses are still clamoring to open up on H Street. Doesn't see a need to change hours to make H Street more desirable than it already is.
- Russell – parking is a touchy subject because there are issues on Sunday related to church parking that nobody wants to bring up. Roof decks and public space patios won't cause parking problems. These places generate revenue for the area, and property values are going up. Doesn't understand how this is debatable if ABRA and DC law allow later hours. The conversation about roof decks should focus on sound barriers and other mitigation options, not limiting hours.
- 13th Street Resident – representing residents of 13, 7, and 3 years. H Street is backed by a long-standing residential community. There are issues with young professionals leaving the bars drunk at night on weekends and vomiting in people's yards. Acknowledges that weeknights usually aren't an issue. Wants to see a bigger balance of business on H Street, including places that serve breakfast and lunch.
- 12th Street Resident – mainly concerned about noise, because it is already pretty noisy near H Street. Sound really carries from rooftop decks. Would consider rules barring music on rooftop decks, but believes hours ultimately should not be extended.
- G Street Resident – does not believe drinking after midnight is a safe practice, and that H Street has caused problems with noise and parking in the neighborhood.
- Sarah Lord – the core issue of the discussion is quality of life and the type of neighborhood people want Capitol Hill and H Street to be. There are restaurants in the area who have chosen not to open on H Street because it is seen as just a bar district. Hopes to see more family-friendly businesses soon. Although roof decks generate revenue, the residents nearby pay for it through limited parking, noise, waste, etc. Strongly opposed to extending rooftop deck hours and rescinding Settlement Agreements.
- 12th Street Resident – appreciates establishments that have patios and decks, but doesn't believe they should be open late night. This is a quality of life issue, and there is no buffer between some businesses and residents, making it difficult for residents to sleep at night because of noise.
- G Street Resident – the hourly cap as it currently stands is a great compromise, and residents know that the noise is supposed to stop at that time so they put up with some noise until then.

- Victoria Eckenwiler – in ANC 6C they had a chronic violator in Tru Orleans; decided to speak out against changes or termination of Settlement Agreements because of their ANC's issues with that establishment. There were many problems with rowdy patrons causing problems in the nearby neighborhood.
- G Street Resident – surprised to hear that there is a limit on when roof decks and public space patios should close, because has heard sound coming from some establishments much later at night. Has seen many problems with patrons of these establishments. Wants to see the neighborhood be maintained and for families to feel safe. No problems with people staying out late if they're staying inside the establishments.
- Mr. Williams clarified that this discussion is just about the hours related to rooftop decks and public space patios; this is not a discussion about how late businesses should stay open in general. Also, in terms of terminating Settlement Agreements, the Committee has already recommended, and the ANC has adopted the recommendation, that the ANC oppose any efforts to terminate its Settlement Agreements.
- Linden Place Resident – back of house faces Smith Commons. Has heard bars asking for later hours, but hasn't heard what residents nearby will get in return.
- ANC 6A Resident – lives and works in the neighborhood; the establishments here are not just run by outsiders, they're neighbors too.
- I Street Resident – Policies that are five years old should not be applied to all across the board.
- 12th Street Resident – enjoys restaurants and bars on H Street, but the main issue here is noise. Suggests that owners find a way to keep people inside after 11 or 12 to keep the revenue flow but cut down on noise affecting the neighborhood.
- Dr. Tillman (Ward 6 City Council Candidate) – current hours seem fine as they are, and patrons can simply go inside at the designated hour. This is a public safety issue – there is crime in the area, and business owners need to work together on these issues. Would like to see more quality businesses on H Street during the daytime. Doesn't think any establishments on H Street are family-friendly.
- A member of the audience asked how the 11pm and 12am hours were reached by ANC 6A. Mr. Williams deferred to Chairman Holmes, who said the hours preceded him, but they were set up in defense of the neighborhood because of the proximity of many businesses to homes. XII's SA was reached under a different regime before the standard ANC 6A SA.
- 11th Street Resident – owned in the neighborhood for about nine years. Has had a strong relationship with a restaurant nearby, but is concerned if roof deck hours are changed that would set a bad precedent for all outdoor spaces.

- 10th Street Resident – in favor of the status quo. It is sensible, and recalls being on the ABL Committee when the decision was made. These are perfectly reasonable times for adults, and nothing good happens after midnight. Also suggests businesses on H Street form a Business Improvement District, which could help with some of the nuisance issues.
- Joe Englert – owns six properties on H Street. Suggests that neighbors who want different types of businesses band together and fund their own establishment. Wishing for certain businesses won't bring them. As for the noise, is always willing to address noise concerns and take steps to prevent problems. Not all businesses are the same – has spent ten years and millions of dollars in investment. Tru Orleans in 6C was drummed out of because they were bad neighbors; let the system work. Problems with Settlement Agreement – recently held an event for men's cancer awareness but faced fines because the event was deemed to be a pub crawl, which the SA says they can't participate in. For rooftop decks and public space patios, these businesses need every possible minute to cover expenses and pay staff and be profitable.
- Phil Peters – as manager (previously) at Smith Commons, had conversations with neighbors. Bigger issue to look at is how each business runs, because a place like Smith Commons is a large restaurant with a lot of indoor space, whereas a place like Cusbah has a small interior space and needs as much use from the outside space as possible. Disagrees with the approach of one standard SA for all establishments, because each business is different.
- Ms. Koshuta noted that businesses coming into H Street should take the hours restrictions into account when making their business decisions.
- Mr. Peters said that some restrictions, such as the one on CT licenses, go beyond noise and other nuisance issues, and go to how businesses should operate. Public space and roof decks are part of the draw to H Street, and has even heard of members of the ABL Committee asking why they can't have a drink outside after certain hours at Smith Commons.
- Dr. Tillman – argued that she only heard from Mr. Englert what he wanted, not about the concerns of neighbors. Owners need to think more about who lives in the area.
- Wylie Street Resident – Mr. Englert made an effort to make sound deadening efforts in home, and was very willing to communicate. Willing to tolerate noise from roof decks until midnight, but after that it becomes more outrageous. Right now there is a compromise in place that seems to be working.
- ANC 6A Resident – wants to know what the businesses are willing to trade off in exchange for longer hours.
- Wylie Street Resident – business owners question why people buy in this neighborhood and then complain about the noise, but questions why owners are

complaining about these restrictions when they were in place at the time the decks and patios were being built. Concerned about the saturation of certain types of businesses on H Street, and that crime will follow where the money is.

- Phil Peters – bars aren't creating crime in the neighborhood. Businesses are operating in a responsible manner year-round. Businesses aren't open during the day because there isn't enough traffic to justify it.
- Maryland Avenue Resident – current restrictions accommodate residents and balance needs of businesses. Not the neighborhood's fault that businesses are dependent on use of public space.
- Mr. Brown – wants to see more family-focused businesses on H Street. Worried H Street is becoming like Adams Morgan. Believes there's little traffic during the day because there aren't any good options.
- Maryland Avenue Resident – current hours restrictions seem reasonable, doesn't see community good in extending hours.
- 10th Street Resident – spent a lot of time in Englert-owned establishments, but has concerns about other establishments that will not be as responsive to the community.
- Commissioner Mahmud – thinks the ANC should shift its focus to review areas where the SA can be reviewed. If there are unintended consequences, those can be dealt with and focus on the core areas of agreement and disagreement. There has been a healthy relationship between businesses and residents, and wants to end issues of potential strife before they begin. Has not heard any residents in support of extending hours on public space, so this seems like a non-starter, but there are other areas for discussion.
- Russell – there should be an honest debate on fixing the issues, and the underlying issue here is noise. Concerned about comments on controlling what kind of restaurants should operate in 6A.

Mr. Williams thanked everyone for the discussion, and then turned the floor over to the Committee for further discussion.

- Ms. Thomas stated that she is not personally affected by the noise because of where she lives, but she believes it's up to businesses to generate support for their positions.
- Mr. Oberting stated he wasn't ready to vote on the issue yet; he would like to gather more information.
- Mr. Caruth stated that he agreed with Commissioner Mahmud that there are elements within the SAs that should be addressed. Everyone has their own perspective, but there needs to be a balance, and the starting place here seems to be with noise issues. Would like to see individuals get together to discuss these issues outside the Committee and ANC meetings.

- Mr. Williams stated that the current SA requires a significant amount of sound mitigation. However, the nature of these spaces means that there's only so much that can be done in that area. This is why the ANC restricted hours for these spaces to 11pm and midnight, because even the businesses putting forth their best effort will still generate noise. Mr. Williams stated he doesn't agree with the opinion of some that there are too many bars or that general hours should be restricted; instead, he's pretty happy with the state of development on H Street. However, he thinks that there does need to be a balance struck on quality of life, and based on feedback he's heard tonight, the current restrictions may best strike that balance.
- Ms. Koshuta stated that she believes that the feeling that these hours should not be extended is felt in a broad area around H Street. This is a broader issue than just a certain street or corner. It appears that residents overwhelmingly oppose any sort of hours extension for these spaces.
- Mr. Williams stated that he was interested in collecting more information on the issue, but the ANC is dealing with this issue in a few formal proceedings before the ABC Board in January. With that in mind, he suggested that the Committee vote on the issue now, but be open to further discussion later.
- Mr. Herman stated that he has been on the Committee a long time, and that in contrast with past meetings, this one seemed to have an overwhelming turnout on the side of one issue.

Mr. Williams moved/Mr. Seagle seconded that it is the sense of the ABL Committee that the current hours restrictions for public space patios and rooftop decks in ANC 6A (11pm on weeknights and 12am on weekends) are appropriate and strike the proper balance between the interests of the establishments and the neighbors affected by this policy. Therefore, the ABL Committee recommends that the ANC not change its current policy regarding the closing times for public space patios and rooftop decks. Motion carried 6-0-2 (Mr. Caruth and Mr. Oberting abstaining).

B. Discussion of new license application for Sin Bin Sports Bar & Restaurant at 1336 H Street NE (License Number ABRA-076649).

- Mr. Williams noted that he had not heard from anyone from Sin Bin, and nobody had been able to attend the meeting.

Mr. Williams moved/Mr. Herman seconded that the ANC formally protest the CR license application for Sin Bin Sports Bar & Restaurant at 1336 H Street NE (License Number ABRA-076649) unless a signed Settlement Agreement is submitted to the ANC prior to the protest date. Motion carried 8-0.

V. Adjourn

The Committee adjourned at 8:45 pm.