

**Advisory Neighborhood Commission 6A
Minutes
Miner Elementary School**

March 10, 2011

Present: Commissioners Alberti, Healy, Holmes, Lawler, Mack, Ronneberg, and Lia Veenendaal-Selck

The meeting was convened at 7:00 p.m. by Chair David Holmes

1. Agenda

Mr. Alberti requested that an item be added to the Treasurer's Report to allocate funds for the post office box. Two items were added to New Business: Neighborhood Investment Foundation (NIF) Grant for H St., and the question of construction permits for 138 12th Street NE (AppleTree). The agenda was accepted as presented by unanimous consent.

2. Minutes

The January and February minutes were approved without objection.

3. Community Comment

Phil Toomajian said there would be a tree planting on March 26 at 9 a.m. at Sherwood Rec Center and he would like volunteers. He said that he had undertaken Sherwood plantings and landscape as a project, and eventually would like to form a Department of Parks and Recreation Park Partners organization.

Commissioner Alberti announced the Maury at the Market fundraiser to be held at the North Hall of Eastern Market on March 26th at 7 p.m.

4. Officers Reports

Chair

Mr. Holmes asked Commissioners to e-mail their ideas on issues that need to be raised with Councilmember Wells at the ANC Chairs' meeting. He mentioned that already on the list were completion of the streetcar line to Union Station and Minnesota Avenue; the timely completion of the Rosedale Rec Center, which has been torn down, but the work is just beginning; four-way stop signs, lights or traffic control solutions at 10th St. and Maryland Ave., 10th Street and Massachusetts Ave., and the intersection of D St., 7th St. and Maryland Ave. (Northeast Library); completion of the C Street modification. Mr. Holmes said he told the Councilmember that he'd like bike racks in his SMD - and how about Lincoln Park? Is this still on the DDOT agenda? Working with National Park Service?

There will be an ABC hearing on Club XII on March 16th.

Mr. Holmes said that Councilmember Marion Barry wanted to hear what we want, some anecdotes. He says he wants to offer the ANCs a chance to sue agencies for non-performance.

He reported that Councilmember Cheh held a hearing about applying the Open Meeting Law to ANCs. Mr. Holmes said he had given personal testimony endorsing maximum openness, suggesting others follow complete disclosure as ANC 6A does. The bill's language would impose a three-day requirement for availability of meeting transcripts, and he said he spoke against that provision, as did the representative of ANC 6B.

He reminded Commissioners that he had sent them the new law about using Commissioners as part of the front line in case of disasters, and asked what their thoughts are on the issue. It requires the Mayor to "issue a plan on the inclusion of ANC Commissioners in emergency training services to assist in the mitigation of, preparedness for, response to and recovery from major disasters and other emergency situations in concert with District, federal and private sector emergency." He said we do some of this now—response to power outages, blocked street drains, downed trees. He said he was not interested in staying behind to coordinate responses in the event of radiation or biological agent release.

Treasurer

Mr. Alberti presented the Treasurer's Report. It shows that the opening checking account balance was \$21,343.06 and the savings account balance was \$4,203.91. There was an interest payment to the savings account of \$.36. There were disbursements of \$200 to Heather Schoell for the January 2011 Agenda package (Check #1497); \$100 to DC Access for a web ad (check #1498); \$190 to Roberta Weiner for taking and transcribing the January 2011 minutes (Check #1499); and \$237.15 to Vista Print for business cards (Check #1500), leaving a balance of \$20,615.91 in the checking account and \$4,204.27 in the savings account. **Motion:** Mr. Alberti moved/Dr. Ronneberg seconded a motion to approve the disbursements. It passed without objection. **Motion:** Mr. Alberti moved/Dr. Ronneberg seconded a motion to accept the Treasurer's Report. It passed without objection. **Motion:** Mr. Alberti moved/Ms. Lawler seconded a motion to allocate \$250 to for the annual rental of a post office box. The motion passed without objection.

5. Community Presentation

Mr. Holmes introduced ABRA Executive Director Fred Moosally and ABC Board Chair Charles Brodsky for a presentation, saying that the ANC wishes to encompass the maximum amount of community concerns in a voluntary agreement (VA) and ABRA seems to be restricting them far more tightly than in the past. He said it better serves the ANC 6A community to be encompassing.

Mr. Brodsky began with several specific items:

- Announcing that ABRA has moved to the Reeves Building at 14th and U Sts. NW, Suite 400 South.

- Saying that a stipulated license can be supported or not opposed, and if a protest goes into effect on that establishment, the stipulated license will be nullified.
- ABRA is instituting Ward Enforcement Months during which a special emphasis will be placed on individual wards. July will be Ward 6's turn. He said that last year they had 11,000 cases of regulatory infractions and underage drinking. He said that the enforcement investigators are on duty until 2:30 a.m. during the week and 3:30 a.m. on weekends. The ABRA hotline is (202) 329-6347.
- ABRA is thinking of licensing promoters and will hold a public hearing on Monday, April 18, at 2 p.m. to solicit comments and information to give the ABC board guidance.

Mr. Moosally then spoke and said:

- Licenses are up for renewal on a rotating schedule: Retail Bs in September; Retail As next March. They are on a three-year schedule, so it's important for ANCs to review VAs and comment on the renewal; otherwise they lose the opportunity.
- There will be a review of how the single sales moratorium is working, and letters will go out in May asking ANCs how it's working.

Sondra Gilbert said she is concerned about the single sales moratorium and the fact that on one side of the street people can't buy singles and they can walk across the street and buy one. Mr. Moosally responded that Wards 2, 4, 6 and 7 have bans on single sales, and the others do not. In 2 and 6, licensees can request an exemption to the ban.

Dr. Ronneberg asked about the loophole of packaging two cans together. Mr. Moosally said there is a provision that deals with singles that says a licensee can't break apart manufacturers' packages, but is allowed to sell two or more cans. Manufacturers are now creating two-packs and four-packs.

Mr. Healy said that 6A has used VAs as a tool for partnership with the community, and asked whether Councilmember Graham is considering revamping VAs? Mr. Moosally responded that he couldn't speculate on that.

Mr. Holmes asked Mr. Brodsky to discuss VAs and his feelings about them. Mr. Brodsky responded that he has spent a lot of time reading VAs and he has found a lot of stuff that ABRA can't enforce. Years ago, he said, agencies were not performing well at enforcement and neighbors used VAs as a way to control a licensee. He said that he had 1728 VAs on file and there are 1728 deviations from the law, which makes it difficult to have a consistent policy.

Mr. Toomajian asked who would be responsible for banning doubles. Mr. Moosally said it would have to be done legislatively.

Coralie Farlee asked about applications for substantial changes and the new process for putting on file what the ANC wants to say about it. Mr. Brodsky said that a substantial

change has to be placarded, and should contain the information about the change. Mr. Healy said that the Board has leeway in determining what a substantial change is, and a letter listing what is included would be helpful. Mr. Moosally said he would follow up on it.

Ms. Gilbert asked why there are restrictions in certain wards but not in others. For example, some establishments were allowed to open extra hours for the World Cup and the Inauguration and others were not. Margaret Holwill responded that people had to pay for the extra hours. Mr. Moosally said there was a cost for permits for the extra hours. Mr. Brodsky said that because VAs said 2 a.m. or 3 a.m. or 11 a.m., they couldn't legally open for extra hours without permits.

Mr. Alberti closed by saying that under Mr. Moosally, ABRA has become tops in public service and response to requests, and thanked him and Mr. Brodsky for coming.

6. SMD Reports

Ms. Mack reported that a BZA application for a variance to attach a garage at 617 16th St. to an existing one-family house has been withdrawn. She reported that Miner Elementary had had a Project about the Civil War and the Revolutionary War, "Through the Eyes of Young Souls", for early childhood through the 5th grade classes. She reported that there is a new construction permit on the front door of 737 15th St. She announced that Goodwill Industries has a grant for Green Pathways, a free 1-week pre-apprenticeship construction training program for DC residents of Wards 5, 7, and 8. Finally, she said there have been complaints about loud music on the patio of Langston Bar and Grill at 1831 Benning Rd., and its VA specifically says no loud music.

Ms. Lawler reported that she, Brittney Wheeler and Chris Fitzgerald, representatives of the Mayor's office, had done a walkthrough of her district and developed a list of things that needed to be done. She said that the Charter School Board, on February 28, had approved the satellite campus for the Options School. Finally, she announced that she would have a SMD meeting on March 21st at 7 p.m. at the Options School.

Dr. Ronneberg announced that there would be a hearing on XII on March 16th. He said that Khan's Barbeque would open in March. He reported that he wrote a letter of support for the Fashion Chamber of Commerce for a workshop program.

Mr. Healy reported that he had a very successful first SMD meeting, with about 50 people attending. The main issues of concern were, among others, parking and trash. He said he went to a training that ABRA had for ANC commissioners. He also said he provided written testimony on parking enforcement on H Street. Finally, he said he would be participating in an MPD ride-along.

Mr. Alberti said he was looking into a request for zoning relief for a building at 1329 N. Carolina Ave., which is for a program with 24 children and eight staff members in a residential area.

Ms. Veenendaal-Selck reported that she will be holding an SMD meeting the last week in March, and the information will be on her website. She also said she is working with the police on activity on 16th and 17th Streets.

7. Community Outreach

Elizabeth Nelson introduced Diane Douglas of the Maury Elementary School PTA and Ms. Albert-Garvey, Maury's principal, who presented a grant application on behalf of the PTA for three ELMO overhead projectors for use at Maury. She brought one of the machines with her and demonstrated how it works. The request is for \$1767 (three machines at \$589 each). **Motion:** Mr. Alberti moved/Mr. Holmes seconded a motion to approve a grant of \$1767 to the Maury PTA. Mr. Alberti thanked Ms. Douglas for the demonstration. The motion passed without objection. The report of the Community Outreach Committee was accepted without objection.

8. Economic Development and Zoning

Reasonable Accommodation

Dr. Ronneberg raised the issue of abuse of "reasonable accommodation" requests made to DCRA and the BZA, and the agencies' unwillingness to exercise jurisdiction in this area. This is a federal guideline that says that "reasonable accommodation" has to be made in the construction and renovation of property for disabled persons, and the guidelines are being abused by people who do not have disabilities. There is little recourse for appeal or transparency in the process. DCRA does not appear to have its own guidelines and has not made available the rationale for its decisions to grant these requests. There have been reports that these requests are being used by developers to circumvent the zoning process.

Mr. Holmes said that there had been a DCRA hearing on a property that is using the guideline and there was no discussion of the disability claimed by the Applicant. There is no public nexus between use of the guideline and the need for it. He said he was not looking to stop anyone who needs reasonable accommodation, but there is a need to have standards for invoking it. Ms. Mack said she had ADA concerns and was not going to vote on the resolution.

Motion: Dr. Ronneberg presented the Committee motion/seconded by Mr. Holmes that the ANC accept the Committee's recommendation that the ANC send a letting to Acting DCRA Director Majett requesting that the DCRA publish guidelines for assessing "reasonable accommodation" requests by homeowners, that the guidelines provide relief that is tailored to demonstrate a nexus with the need for the accommodation, that ANCs be provided notice of such request and a public comment period be held prior to granting and that any accommodation be allowed to persist only so long as the need exists (i.e. removed if sold to a new owner who does not demonstrate similar need, etc.). The motion passed 6-0-1, with Ms. Mack abstaining.

H Street NE Zoning Overlay Questionnaire

Dr. Ronneberg said that the H Street Zoning Overlay has detailed requirements, such as 14' ground floor ceiling heights, entrances fronting on H Street, translucent windows, and a number of other requirements that enhance the quality of retail space. These requirements can be difficult for DCRA to enforce, particularly because non-compliance of

some items (*e.g.* non-tinted windows) can be difficult to discern from building plans. DCRA currently uses a questionnaire for eating establishments to distinguish between fast food, prepared food and restaurant establishments, and a similar questionnaire would help DCRA enforce the Overlay's requirements before building permits are issued.

Motion: Dr. Ronneberg presented the Committee's resolution/seconded by Ms. Mack: The committee recommends that the ANC send a letter to Zoning Administrator Matt LeGrant requesting that a building permit application with the H Street Zoning Overlay be required to fill out a questionnaire to determine compliance with the Overlay's requirements. Mr. Alberti said he liked that it would be used to educate people to the Overlay. Mr. Holmes said that it will help businesses more easily comply with the Overlay. Chris Fitzgerald of the Mayor's Office asked whether it was the same as the questionnaire ANC 6C is working on, and was told that it was. The motion passed without objection (7-0-0).

The report of the Economic Development and Zoning Committee was accepted without objection.

9. Transportation

Motion: Mr. Mahmud moved/Mr. Alberti seconded a motion to accept the Committee's recommendation to send a letter of support to the Emergency Management Task Force supporting the 2011 Capitol Hill Classic race on Sunday, May 15th. Mr. Holmes said he is happy to support the race, in contrast to the National Marathon that he opposes. The motion passed without objection.

Motion: Mr. Mahmud offered the Committee's recommendation that the ANC approve the 2011 goals of the Transportation Committee. The motion passed without objection.

The report of the Transportation Committee was accepted without objection.

10. Alcoholic Beverage Licensing

Mr. Healy said he had no committee recommendations this month but there is one technical matter:

HR 57

Mr. Healy reported that ABRA, after reviewing the VA for HR 57, returned it to the ANC to make certain that ABRA can unilaterally approve changes to the VA. They pointed out a provision that exceeds the scope of the law. The modified provision is as follows:

- Section 5 (modification) The first sentence in Section 5 should be modified to read as follow so that it is consistent with law: "This agreement can be modified only by mutual agreement of all the parties with the approval of the ABC Board or by the ABC Board consistent with DC Code §25-446."

He said that, with ANC approval, the change can be made without submitting a new VA.

Motion: Mr. Healy, as committee chair, moved to accept the change to the VA for HR-57 as suggested by ABRA. The motion passed 5-0-2, with Ms. Mack and Mr. Alberti not voting.

The report of the Alcoholic Beverage Licensing Committee was accepted without objection.

11. New Business

Neighborhood Investment Foundation Grant

Mr. Holmes asked for support for a Neighborhood Investment Foundation (NIF) Grant to a partnership between H Street Main Street and CHAMPS. The grant comes from funds from the Office of the Deputy Mayor for Economic Development, and is supported by Councilmember Wells.

Elizabeth Nelson pointed out that the funds are earmarked and won't be used for any other purpose. Chuck Burger of CHAMPS pointed out that it's the best use for the funds because they can't be used for any other purpose like police work. Mr. Alberti added that if they're not going to H Street, they will go somewhere else for some other community.

Motion: Mr. Holmes moved/Mr. Alberti seconded a motion that ANC 6A support the application for Neighborhood Investment Fund funds to the H Street Main Street and Capitol Hill Association of Merchants and Professionals. There are two elements to the grant sought, the first to create a small business seminar series with how-to clinics led by professionals targeting issues applicable to the businesses on H Street NE. Expected to be included are topics about DCRA permitting and licensing, zoning updates, small business accounting, and establishing social media work flow with Facebook, Twitter, LinkedIn, blogs, etc. It should facilitate best practices among the small businesses in need of this business development. The second part of the grant will create an interactive outdoor art experience; building on the success of the emerging H Street NE arts scene. The Chalk Walk will consist of local artists sponsored by H Street businesses, the art to be drawn on designated storefront areas of the sidewalk, along the length of H Street NE. The Chair is authorized to convey the ANC's support to the Mayor and Councilmember Wells. The vote was 6-0-1, with Mack abstaining.

Trees for Sherwood Recreation Center

Motion: Dr. Ronneberg moved/ Mr. Healy seconded a motion to support the tree planting project at Sherwood Recreation Center. The motion passed without objection.

138 12th Street NE (AppleTree Learning Center)

Mr. Alberti said that the current zoning laws are still being violated in the construction of 138 12th St., the AppleTree Learning Center. The owners of the property require new permits to undertake construction of their building, as the previous permits were issued prior to two years ago, which is how long the permits are effective. New permits are required after expiration when the regulations have changed. The permits were withdrawn and then re-instated. This is an issue that the ANC has discussed often and something has to be done. **Motion:** Mr. Alberti moved/Dr. Ronneberg seconded a motion that the ANC appeal the DCRA decision to re-instate the permits for construction for 138 12th Street NE.

Ms. Lawler said that while this is clearly a questionable action on the part of DCRA, this issue has been brought to the Commission three times in the last five months without being on the agenda prior to the meeting. Also, four new members have joined the Commission since it was last discussed and we are not up to speed on the intricacies of the issue, so it would be useful for the discussion to be reviewed.

Dr. Ronneberg reiterated that DCRA had withdrawn the permits and then re-issued them, and said that it's hard to see, because the law is so clear, what's going on. Mr. Healy said he agreed with Commissioner Lawler that the new Commissioners should go through the normal process to learn about the issue. Mr. Alberti withdrew his motion. **Motion:** Mr. Alberti moved/Dr. Ronneberg seconded a motion to refer the issue to the Economic Development and Zoning Committee. The motion passed without objection.

12. Community Comment

Greater DC Cares

Andrea Sledd, of Greater DC Cares, announced two events that Greater DC Cares is undertaking with its partners in the Rosedale community. On March 28th, there will be community Scholarship fundraiser at Langston Bar and Grille, 1831 Benning Rd.; and on Sunday, April 3rd, from 2-5 p.m., there will be "Make a Pie Meet a Neighborhood" at the Atlas Performing Arts Center. She also announced the DC Cares Servathon on Saturday, April 16th, from 9 a.m. to 1:30 p.m.

Chris Fitzgerald

Chris Fitzgerald of the Mayor's Office introduced himself as a liaison with the community. He said he has lived in 6A for eight years, and is delighted to be dealing with local constituents. He is planning to organize walk-throughs of every area to see what has to be taken care of. He said he can be reached at christopher.fitzgerald@dc.gov and welcomes calls.

The meeting was adjourned at 8:35 p.m.