

Advisory Neighborhood Commission 6A
Minutes
Miner Elementary School
October 8, 2010

Present: Commissioners Alberti, Beatty, Holmes, Mack, Robinson, and Ronneberg, Schultheiss
Absent: Commissioner Marshall

The meeting was convened at 7:03 p.m.

1. Agenda

The agenda was accepted as presented without objection.

2. Minutes

The minutes of the September meeting were adopted without objection.

3. Community Comment

The Argonaut - 15th and H Streets NE

Scott Magnuson, who runs the Argonaut at 15th and H Streets NE, came to the ANC for support for a substantial change to his license. In the course of post-fire renovations at the restaurant, he plans to increase the size of his patio, adding six seats to the existing patio, adding a partial covering of fire and water resistant fabric (similar to that of the Chesapeake Room on Barracks Row). He plans on adding a garden-like area to the left of the door with lots of plants, which will be done in partnership with Frager's. The existing fence will remain, along with an existing PEPCO vault. There would also be 14 bench seats. He is going to submit a letter to ABRA, and also apply for the necessary public space permit. Ms. Beatty asked why there was a rush, and he was coming to the full ANC prior to the Committee. He responded that the Public Space Committee meets on October 21st. Dr. Ronneberg said he hadn't seen it on the schedule. Ms. Beatty asked whether he was planning to come to the ABL Committee to discuss the substantial change, and he said he was planning to submit the letter to ABRA the following week. Ms. Beatty reminded him that he had to come before the ABL Committee after filing his substantial change with ABRA.

H Street CDC

Keith Brewer, the new director of the H Street Community Development Corporation (CDC), came to introduce himself to the ANC. He said he is looking to work cooperatively with the Commission. He said his resources are limited, and has no money from the City, but he is applying for grant funds. Mr. Alberti asked him for a rundown of the properties currently in the CDC's portfolio, and he listed the following: an empty lot in the 300 block of H Street NE, 501 H Street NE, the building on the SW corner of 8th and H, and the lot where the AutoZone is on the 1200 block of H Street NE. In the 1200 block of H Street they own the AutoZone site and are negotiating with Western Development. He said that the H Street CDC formerly owned the Atlas Theatre site and the Northeast Medical Center.

Mr. Holmes asked how the CDC saw its role, and was told that he sees himself as a facilitator who seeks ideas from the community. A member of the audience asked what the CDC was going to do to provide jobs for the community. Mr. Brewer responded that he would encourage his developers to use First Source employment programs and encourage contractors to use local businesses.

1113-1117 H Street NE

Jared Kahn and Stan Wall of Wall Development, the firm that has been approved by the City to develop the site at 1113-1117 H Street NE, designated surplus property by the City, came before the ANC to discuss the project. They were scheduled to go to the EDZ Committee the following week to present plans for the development of that site and the library site. They are working with Norman Smith, Architects. The project will have ground floor retail and 16 residential units. Before they can move forward, the City Council will hold a hearing on the property on November 10, after which it will vote on officially declaring it surplus.

Mr. Kahn said they have spoken with all the relevant agencies and they appear to be on board with the project. Mr. Robinson said that the determination of public use should not be solely up to the agencies and that the community should have a say regarding whether a project meets the public use. Mr. Holmes asked why the project is being pushed so fast now, since it has been in the works for three years. Mr. Kahn said they had found a way to move it forward and had identified financing.

Victoria Rosenthal, who owns a property at the end of the alley behind the property said that at a previous meeting, the developers had not been willing to address the subject of the deteriorated alley. Mr. Wall said that there will be eight parking spaces behind the building, but he hasn't spoken with DDOT about the alley. She responded that she hoped that will be point of discussion at the next meeting. Mr. Robinson said the EDZ committee will take it up. In clarifying the dates set for community meeting on this project, Mr. Robinson indicated that the public should be clear that although a public meeting had been set for comment, the city has already determined the property's use and selected a contractor. He further noted that the meeting was being held to create a public record to comply with the law. Mr. Robinson said that he has continuing concerns regarding the city's process that he believes provide a false opportunity for real community input.

Margaret Holwell said that there is virtually no public space, like Eastern Market, for example, on H Street, and they have to beg to use the AutoZone spot for events. In order to have a viable neighborhood, she said, public space is needed, and it shouldn't fall into a crack. The library site could provide such space. Mr. Robinson replied that it was a point well taken and should have further discussion.

Greater DC Cares

Andrea Sledd, representing Greater DC Cares, gave a brief description of the organization's programs of working with non-profit, community organizations, churches, schools and individual residents in Northeast to provide tutoring, mentoring and program activities, and made a request for volunteers. She can be reached at (202) 777-4463 or sledd@greaterdccaes.org.

4. Officer Reports

Chair

Mr. Robinson reported that PEPCO would be holding an Open House on October 11, 7:30 pm, at 701 9th Street NE. He said that BikeShare would be installing a station at 740 11th Street NE, and that Casey Trees would be planting at New York Avenue and O Street NE, in partnership with the NOMA BID, on October 20. Finally, he reported that there would be a meeting on the next National Marathon with Councilmember Wells. He also said he had copies of the ANC's audit if anyone wished to see it.

Treasurer

Mr. Alberti presented the Treasurer's Report. It shows that the opening checking account balance was \$24,083.38 and the savings account balance was \$4,202.13. There was an interest payment to the savings account of \$.36. There were disbursements of \$180 to Roberta Weiner for taking and transcribing the September 2010 minutes (Check #1478); \$200 to Heather Schoell for the September Agenda package (Check #1479); \$908.54 to John Cotton for the Rosedale Youth Institute grant (Check #1480); and \$46.70 to FedEx Office (Aug '10) (Check #1481), leaving a balance of \$22,751.05 in the checking account and \$4,202.49 in the savings account. **Motion:** Mr. Alberti moved/Ms. Beatty seconded a motion to approve the disbursements. It passed without objection. **Motion:** Mr. Alberti moved/Ms. Beatty seconded a motion to accept the Treasurer's Report. It passed without objection.

Motion: Mr. Alberti moved/Mr. Holmes seconded a motion that \$600 be approved for copying for ANC materials, and that up to \$60 be approved for copying for each Committee's materials and each SMD's materials for the next month. The motion was accepted without objection. **Motion:** Mr. Alberti moved/Mr. Holmes seconded a motion to allocate up to \$200 per month for assembling the Agenda Package and for taking and transcribing the ANC's minutes to up to \$200 per month. The motion passed without objection.

5. SMD Reports

Dr. Ronneberg reported that the Zoning Commission hearing on the H Street Connection had taken place, and that negotiations with the 7-11 had been re-opened. He also said that residents of the 600 block of 10th Street NE had gotten their residential parking designation.

Mr. Alberti reported that a BikeShare station had been located at the traffic triangle at the northeast corner of Lincoln Park (11th Street) and it was a bad location. It will be on the agenda of the Transportation Committee meeting scheduled for the week after the meeting.

Mr. Holmes reported that since the stop signs on 10th and 12th Streets have been installed, tickets have already been written, so they seem to be working. He also reported that there have been a number of robberies at knifepoint at night in his SMD.

Mr. Schultheiss said that it could be the same person, a young man in his 20s, who had held up a woman at 12th and F Streets NE in his SMD during the day.

Ms. Mack reported that a vacant building at 16th and Gales Streets NE was now being renovated, and has all the right permits. She also said that she got a house on the 700 block of 19th Street boarded up.

6. Committees

ABL Committee

Letter to Councilmember Graham

Ms. Beatty introduced a letter to Councilmember Graham, presenting our views on an issue that was recently discussed before his Committee. She said the recent history of ABRA, since they have had a new ABC Board Chair, has been to return signed Voluntary Agreements (VAs) to the ANC, asking that they modify them by removing all references to DC law and to things that are not enforceable by ABRA. She said that Councilmember Graham seems to be sympathetic to the ABC's Board's position. She felt that he hasn't heard from the ANCs about this disruption, as there was not a problem until Charles Brodsky became Chair. She proposed the following letter: *(The letter has been included because it was not included in the agenda package.)*

Dear Councilmember Graham:

I understand that an oversight hearing of ABRA was held on September 20, at which the ANC Voluntary Agreement process was discussed at length. As Chair of the ANC 5A Alcohol Beverage Licensing Committee for several years, I would like to offer a few thoughts on the process on behalf of ANC 6A.

First, I should provide context for our comments. ANC 6A has had a "standard" Voluntary Agreement for over six years. This means that we use a template *with the same language* for every new applicant. While we have modified language for special circumstances, and have been responsive to ABRA's requests for clarification of the language in our agreements, we believe that a "standard agreement levels the playing field. This is important for ANC 5A because our area contains the booming entertainment corridor on H Street NE. We have had 10-12 new licenses each year for the last three years, so it is important that we deal with these licenses consistently.

Whenever we modify the language in our VA, whether it is to provide for a special circumstance or whether it is to respond to ABRA concerns, we have a regular process. We hold a Committee hearing, discuss the proposed change to the standard VA, and then have them voted on by the full Commission. We do not modify our VA "on the fly"—rather it is a very deliberative process. The process has served us well for over six years as we have maintained a very collaborative process with ABRA on these matters, and signed VA's with all but one new applicant in our ANC.

But since Charles Brodsky was named chair of the ABC Board, ANCs' Voluntary Agreements have routinely rejected by the Board. The agreements, which have been signed by the licensee and the ANC, are sent back to the ANC with directions to rewrite the agreement in accordance with specific language dictated by ABRA legal staff. Mr. Brodsky is rejecting standard language in VAs that had been accepted by ABRA for over 5-6 years.

When ANCs began complaining, the ABC Board promised that there would be a rulemaking to clarify the new standards. Though promised last spring, no such public hearing or rulemaking has occurred, yet the rejections of VAs continue. In fact, there is still no clear policy about what ABRA will “accept” in VAs. Responses from AHRA are very inconsistent.

The whole purpose of voluntary agreements is to identify neighborhood/ANC needs with the liquor licensee. Mr. Brodsky’s approach of rejecting these agreements, asking that they be rewritten by an ABRA lawyer negates the entire purpose of the agreements. Further, since ANC recommendations are supposed to have “major weight” in Board decisions, this is obviously in direct conflict with the proper relationship between the two entities.

So, we have concerns about the disruptive nature of ABRA Board action toward ANCs. But as importantly, we do not agree with the changes that are being made to our VA. That is, we do not agree with the approach of stripping all language which references DC law, which restates DC law, or which ABRA deems to be unenforceable.

First, we feel strongly that since many applicants are unaware of DC law, there is benefit to stating it in the agreement, and further, that there is no harm in stating it.

Secondly, the ABC Board lawyers have asked us to strip any references to the DC law. As an example, the law regarding valet parking needs to be referenced in the VA because these laws (outside the liquor law code) would not necessarily be known or understood by a liquor licensee.

Finally, there are provisions of a VA that are enforced by the ANC itself. The enforcement is public pressure, rather than the ability to levy a fine. We can cite numerous instances in which public pressure or negative attention by the ANC has created tremendous leverage in satisfying neighborhood concerns.

So, we feel that if the ABC Board would like to make suggestions regarding our VA, particularly a VA that has been accepted for over six years, that it should be done in a process that does not disadvantage all of those who have signed this agreement and through a process that includes our entire ANC.

Respectfully,

Mary Beatty

Motion: Ms. Beatty moved/Dr. Ronneberg seconded a motion to approve the letter to be sent to Councilmember Graham about the process of approval for Voluntary Agreements.

Mr. Holmes thanked Ms. Beatty for her efforts in moving the issue forward. The motion passed 6-0-1, with Mr. Alberti not voting.

The report of the ABL Committee was accepted without objection.

Community Outreach Committee

The report of the Community Outreach Committee was accepted without objection.

Economic Development and Zoning Committee

312 9th Street NE

This is a request for support of a Historic Preservation application for an alley-facing garage in keeping with other garages already there. The garage is hardy plank siding, and there is not a problem exceeding the lot occupancy requirements. Zoning has already reviewed the plans and sent them to Historic Preservation. **Motion:** Dr. Ronneberg moved/Ms. Beatty seconded a motion to accept the Committee's recommendation to support the application for construction of a garage at 312 9th Street NE. The motion passed unanimously, 7-0.

815-817 A Street NE

This is a request for support of a BZA application for a variance for the lot area requirements to allow the conversion of a flat (two-family dwelling) to a three-unit apartment building in the R-4 district at 815-817 A Street NE.

The building, built as a grocery store in 1913, is currently one large room with no bath or kitchen. There is a basement with half bath and kitchen plumbing, approximately a total of 2,500 sq. ft. The owner had previously received a variance but did not finalize it, and it expired, as he did not have the funds to complete the construction. Currently, the building has an apartment on floors two and three and the owner would like to turn the first floor and basement into separate unit. If the lot had 2,700 square feet he could build a three unit building as a matter of right, but the lot is only 2,400 square feet, and so it requires a new variance.

A neighbor has requested that conditions be placed on the variance to prevent a rooftop deck on the garage closer than eight feet to his property. **Motion:** Dr. Ronneberg moved/Mr. Holmes seconded a motion to support the Committee's recommendation and support the request for a variance on the lot area requirements at 81-5-817 A Street NE. Mr. Holmes offered an amendment to include language agreed to by the neighbors that no roof deck is to be built on the roof of the garage closer than eight feet. The amendment passed unanimously, 7-0. The final motion passed 7-0, unanimously.

Comprehensive Zoning Regulations Review

As part of a comprehensive Zoning Code rewrite, a new framework for regulations on Planned Unit Developments has been promulgated, which would establish a point system for community amenities and standardize the density bonus granted in exchange for amenities offered based on that system into three categories. Dr. Ronneberg said that the Type 3 PUD, with an associated map amendment, is the most common used and should be restricted under the new regulations, not being allowed in Neighborhood Commercial Overlays and subject to a two-stage process in other zones. **Motion:** Dr. Ronneberg moved/Mr. Holmes seconded a motion to accept the Committee's recommendation that the ANC 1/ support regularization of density bonuses across zones; 2/ ask for more information about community benefits; 3/ object to type 3 PUDs in commercial overlays; and, 4/ consider type 3 PUDs in two phases—where the first phase would be a consideration of a map amendment. The motion passed 7-0, unanimously.

7. New Business

The Argonaut

Mr. Schultheiss, in whose SMD the establishment is located, suggested that because the issue of the Argonaut's request for a substantial change was going before the ABL Committee at its next meeting, the ANC take up the issue at its November meeting. There was a consensus reached to agree to that suggestion.

Protest of XII License Renewal

The license renewal for XII was scheduled to be heard by the ANC Board on October 16, and Ms. Beatty began the discussion by saying that Bernard Gibson had been invited to the ABL Committee meeting the previous month, but had not come. It was necessary to bring the protest recommendation to the full ANC meeting because the petition date would not allow for a Committee hearing. She said that it is always better to get community input, but there is no time to do that now, and there had been an extensive report from ABRA, with a history of ten complaints. She said that because of the number of complaints, Dr. Ronneberg, in whose SMD the club is located, wants to protest the license renewal. He said he has spent a lot of time talking with Mr. Gibson about the noise, and while he says he will remediate the situation, has not done so. **Motion:** Ms. Beatty moved/Dr. Ronneberg seconded a motion to protest the license renewal of XII, on the grounds that the club is violating its voluntary agreement's requirements for "peace, order and quiet of the neighborhood."

Mr. Schultheiss said that he supported the motion, having sat down three years ago with Mr. Gibson who said at that time that he would do noise mitigation, but he has disregarded the neighbors. He said that a neighbor had to leave because her child couldn't sleep. And, he said, Mr. Gibson didn't come to the Committee meeting and that was disrespectful of the community. Ms. Beatty said she had sent at least three e-mails. Mr. Gibson responded that they had been sent to his personal e-mail address, not his business, and he had not received them. He said he would not "diss" the Commission.

Ms. Mack inquired as to whether he had soundproofed the building and he responded that he has soundproofed the windows, the back hallway and triple-paned the windows. He said he has closed off some of the windows because of the neighborhood.

Ms. Beatty said that he has been fined by ABRA four times. She said that a fight has been broken up, that MPD has answered calls, and that a shot has been fired. Mr. Gibson said that the shot was by a patron leaving the establishment and someone tried to carjack his car, and the police chased the car. The latest incident was when two women got into a fight in the ladies room, and the fight was defused. One of the women went to the hospital at 6 a.m. and that's when MPD got involved. Last year there was a shooting after a Gallaudet homecoming event at the club, but it happened after the event.

Mr. Robinson expressed his concern that the ANC hasn't had as much conversation about this as it should. He said it is a serious issue, and because there have been continuing complaints, it gives him a little discomfort to recommend a protest without have little more on the record about the type of establishment it is, and what the proprietor is willing and able to do to improve things. Ms. Beatty responded that the Commission has only one chance to do this, and that's at the meeting, otherwise it will be three years. She said

there also a record of constituent complaints, and it's something that something can be done about. That is, he could turn the volume down.

Mr. Schultheiss said that Mr. Gibson's attitude was troubling to him that the issue is noise, and he had assured the Commission that if noise issues came up, they would be addressed. Mr. Gibson responded that he has tried to address the issues, that he had done the remediation and gotten sound meters. A neighboring resident complained about the noise. She said that all the neighbors would be there if they were able. She said it's hell with the noise and all the people drinking, and a major problem. Joel Kelty asked what percentage of police incidents on H Street can be attributed to XII? Ms. Beatty said she could get the MPD reports and do comparisons with other establishments. That, she said, is a good idea and would be done if there is a protest. Elizabeth Nelson said that data may not tell the whole story, and there is a lot of anecdotal information to be added. Mr. Robinson said it would be great to have the data, and he asked to have whatever paper there is be attached to the letter of protest. The motion to protest the license passed 5-1-0, with Ms. Mack in opposition. [Mr. Alberti, who was not present for the discussion, did not vote or abstain.]

Use of ANC Logo

Mr. Robinson said that during the campaign season the ANC logo had been used by candidates, and asked whether the ANC wanted to devise some ground rules for its use. Ms. Beatty asked whether there was an issue, and Dr. Ronneberg said that perhaps something should be done for subsequent elections. Mr. Robinson said that at the next meeting some language would be crafted.

2011 Budget

Mr. Alberti presented the ANC 6A budget for 2011. He pointed out that under A. Available Funds, Item 10, District allotments will be received on the basis of the DC Budget. Mr. Holmes asked about Other Contracted Services, and was told that that figure is for legal services, consultants, etc. Mr. Robinson pointed out that nothing had been spent on Interpretive Services, and they haven't been used. Mr. Alberti responded that he has been promised that the DC government is supposed to provide and pay for them, and suggested that half the allocation be left in the budget. Mr. Robinson said he would love that and would prefer that the money be used for grants. He offered an amendment to reduce sign language services 50% to \$600, and increase grants to \$15,000.

Mr. Robinson pointed out that there is an allocation for a project by the Economic Development Committee, and Ms. Beatty pointed out that there is a \$1,000 project in the ABL committee, but they may not need the money as they have potential volunteers to undertake the project at the Options School. Mr. Alberti reminded the Commission that there is a mid-year review of the budget at which things of that nature can be modified.

Motion: Mr. Alberti moved/Ms. Beatty seconded a motion to accept the 2011 ANC 6A budget as amended. The motion passed without objection.

8. Community Comment

New Pastor at Lincoln Park United Methodist Church

Rev. Diane Dixon-Cater, the new pastor at Lincoln Park United Methodist Church, introduced herself, and said she looked forward to working with the ANC.

Complaint Process

Rose Williams asked about following up on a complaint. Mr. Robinson said that a complaint can be brought before an ANC Committee. Or it can be brought to the ANC. Mr. Schultheiss said that in his four years on the ANC, the complaints regarding lack of follow-up from other agencies are the most troublesome because, for so many of them, there's nothing the ANC can do. Ms. Williams was urged to speak with her SMD representative.

Candidate Introductions

Several candidates for ANC Commissioner were introduced.

The meeting was adjourned at 8:45 p.m.