

Alcoholic Beverage Licensing Committee
ANC 6A
April 18, 2013

Pursuant to notice duly given, a meeting of the Alcoholic Beverage Licensing Committee (“Committee”) of ANC6A was held commencing at 7pm EST on April 18, 2013 at the Sherwood Recreation Center, 640 10th Street, NE Washington, DC 20002.

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

Committee Members Absent: None

Commissioners Present: David Holmes

Community Members Present: Anna-Marie Ashe and Phil Peters (Smith Commons), Matt LeBarron (Granville Moore’s), Jason Martin (Sticky Rice, Dangerously Delicious, and Rock and Roll Hotel), Kevin Falkner and Napoleon Ibiezugbe (Pho Bar and Grill), Scott Magnuson (Argonaut), Mark Busby

I. Call to Order

Jay Williams called the meeting to order at 7pm. The meeting having been duly convened was ready to proceed with business with a quorum. Mr. Williams reviewed the agenda and asked if there were any additions or edits. There were none.

II. Community Comment

None.

III. Old Business

None.

IV. New Business

A. Discussion of hours limitations for public space patios.

Prior to discussion of individual licensee renewals, Mr. Williams noted that there had been some questions raised regarding the Committee’s and ANC’s approach to limiting the hours of public space patios.

- Mr. Oberting stated that everyone who has a public space patio should be on the same hours, so the Committee should either adjust the current Settlement Agreement to comport with what current establishments such as Khan’s or Cusbah were currently doing, or work with existing establishments to get them under the current SA limitations (11pm on weeknights, 12am on weekends).
- Ms. Koshuta stated that she believed the current SA language wasn’t onerous, and was fair to both the community and businesses. Further, the license renewal process is the ANC’s opportunity to “start fresh” with licensees. This would be a way to get everyone on the same agreement.

- Ms. Thomas noted that Cusbah wanted to lift its patio hours restrictions because it was at a competitive disadvantage to Khan's across the street, and this is the Committee's one chance to get everyone on the same page.
- Mr. Healy provided a brief history of the Cusbah negotiations, and that if the will of the Committee was to scale back public space patio hours, Cusbah's ownership would not be surprised. He noted that their main concern was competitiveness with Khan's.
- Mr. Holmes stated there are neighbors next to the Khan's patio, and that in exchange for scaling back its hours, the ANC could work with Khan's to help minimize the impact of the upcoming DDOT streetcar power substation. Mr. Holmes also stated that Cusbah is looking for support from the ANC to remove a public space bench located near its patio.
- Mr. Caruth asked what the options were for the Committee. Mr. Williams stated that the Committee could recommend that the ANC protest the license renewals for Khan's and Cusbah unless a new signed SA was reached.
- Ms. Koshuta asked how public space patios operate within the District. Mr. Magnuson stated that Argonaut pays \$3,750 per year for the use of its public space patio.
- Mr. Oberting suggested the Committee consider allowing public space patios to stay open until 1:30am. Mr. Magnuson stated that this would be good for his business, but as a neighbor near H Street, he believed it would likely not be good for the neighborhood. Ms. Koshuta agreed that such a change would be onerous for the neighborhood.
- Mr. Martin stated that as a business owner he would make every effort to attempt to mitigate sounds coming from a public space patio. Mr. Williams agreed, but stated that there were limitations to how much mitigation could be done on a public space.
- Mr. Peters suggested that the Committee consider uniformity between public and private space patios. Mr. Williams stated that the lack of uniformity was due to the nature of the patios, and that private space patios could more successfully mitigate sounds, as has been typically the case on H Street.

Mr. Williams moved/seconded by Ms. Thomas that the Committee maintain the current public space patio hours in its standard Settlement Agreement (11pm weekdays, 12am weekends), and that the Committee require any existing licensee with a public space patio to come back under these hours. Motion carried 7-1-1, with Mr. Oberting in opposition and Mr. Caruth abstaining.

Mr. Williams began the discussion of individual licensee renewals by stating that every licensee up for renewal would be placed on the next ABL agenda to give the community an opportunity for input. He stated that the Committee did not need to take any action if it had no problems with an establishment; no action meant that the existing Settlement Agreement between the establishment and the ANC would remain in place.

B. Discussion of license renewal for The Argonaut at 1433 H St. NE (Class "C" Restaurant) (License Number ABRA-07267).

- Mr. Holmes noted that there had been no complaints regarding Argonaut's operations, and that they were good neighbors.
- **C. Discussion of license renewal for Granville Moore's Brickyard at 1238 H St. NE (Class "C" Restaurant) (License Number ABRA-072792).**
- No discussion.
- **D. Discussion of license renewal for Khan's at 1125 H St. NE (Class "C" Restaurant) (License Number ABRA-084082).**
- Mr. Holmes stated that he has heard noise complaints from neighbors regarding the public space patio maintained by Khan's.
- Mr. Williams stated that Khan's does not have any limitations on its public space patio currently, so the Committee should work with Khan's to obtain a new Settlement Agreement.

Mr. Williams moved/seconded by Ms. Koshuta that the Committee recommend the ANC formally protest the CR license renewal of Khan's unless a new signed settlement agreement (containing a limitation of public space patio hours to 11pm weeknights/12am weekends) is submitted to the ANC prior to the protest date. Motion carried 8-0-1, with Mr. Herman abstaining.

- **E. Discussion of license renewal for Smith Commons at 1245 H St. NE (Class "C" Restaurant) (License Number ABRA-084598).**
- Mr. Magnuson stated that Smith Commons has worked really hard with their neighbors to mitigate noise from its back patio. Mr. Healy echoed the sentiment, adding that as a former chair, they were willing to work with him and the community/ANC when issues arose.
- Mr. Caruth thanked Ms. Ashe and Mr. Peters for their work with local schools through H Street Main Street.
- **F. Discussion of license renewal for Langston Bar & Grille at 1831 Benning Rd. NE (Class "C" Restaurant) (License Number ABRA-076260).**
- No discussion.
- **G. Discussion of license renewal for Atlas Performing Arts Center at 1333 H St. NE (Class "C" Multipurpose) (License Number ABRA-085207).**
- Mr. Williams noted that Atlas had a substantially different Settlement Agreement than most other establishments, but that he did not believe any changes were necessary because the nature of Atlas's business was very different.
- **H. Discussion of license renewal for Pho Bar and Grill at 1360 H St. NE (Class "C" Restaurant) (License Number ABRA-087813).**
- No discussion.

I. Discussion of license renewal for Dangerously Delicious DC at 1339 H St. NE (Class “C” Restaurant) (License Number ABRA-087422).

- Mr. Martin raised two concerns he had with the current Settlement Agreement for Dangerously Delicious: a limitation on using a sandwich board outside, and a limitation on the capacity of his patio.
- Mr. Williams and others discussed the applicability of an SA signed by a separate group from the ANC, noting that the sandwich board limitation is not in the ANC 6A SA.
- Mr. Holmes stated that he was investigating whether a new SA reached with the ANC could “sweep away” any other previous SAs reached by a licensee.
- Mr. Williams stated that the patio limitation in the SA was for 20 people. Mr. Healy stated that this language mirrored what was in the establishment’s license. Mr. Williams suggested that Mr. Martin request a change in his license to allow more people on the patio, and if that request was considered and/or granted, he should then come back to the ANC to change the SA.

J. Discussion of license renewal for Sticky Rice at 1222 H St. NE (Class “C” Restaurant) (License Number ABRA-072783).

- Mr. Healy asked Mr. Martin about an investigatory incident that took place on New Year’s Eve. Mr. Martin stated that two men came into Sticky Rice that night, and that one had a false ID badge. These investigators were loud and belligerent, and he ultimately had security throw them out. Later, the actual person on the ID (the investigators’ boss) came back to complete the investigation. Mr. Martin stated that of the original two investigators, one had no ID, and the other had the ID of his boss, and not his own.
- Mr. Holmes noted that establishments can always call the chief investigator of ABRA, no matter the time, and if someone is showing false identification, the police should be called. Mr. Martin acknowledged that others had suggested he call the police.
- Mr. Healy asked if Sticky Rice was still under monitoring from the stabbing incident. Mr. Martin stated that they were not.

K. Request by Sticky Rice at 1222 H St. NE to modify its Settlement Agreement to allow for extended hours on certain dates, allow for the use of a sandwich board on the sidewalk, and to allow for music on the patio/summer garden during special events.

Mr. Martin requested several changes to the Sticky Rice SA, based on recent fines he had received from ABRA:

- Mr. Martin stated that he had been fined for using a sandwich board in front of his establishment, and for having a speaker set up out front during H Street Festival.
- Mr. Williams noted that, like with the DDP SA, the sandwich board restriction was part of a separate SA that the ANC had no control over. Mr. Martin stated he was working with Mr. Pittman, the author of the other SA, to amend the agreements for DDP and Sticky Rice.

- Mr. Healy stated that the speaker issue was likely not an issue with the Sticky Rice SA, but with the specific special endorsements Sticky Rice received (or did not receive) for H Street Festival.
- The Committee then discussed how it could be involved with giving special exceptions to establishments for H Street Festival. Mr. Peters stated this would be extremely helpful, but wanted to know what the timeline should be.
- Mr. Williams suggested that any requests for special provisions related to H Street Festival be placed on the ABL Committee's June agenda at the latest, to give the Committee time to make recommendations to the ANC, and for the ANC to provide proper communication to ABRA and the ABC Board.
- Mr. Peters stated that it is always a good idea to work with ABRA ahead of time to avoid any issues. Mr. Healy stated that ABRA sends out investigators to look for problems at special events such as H Street Festival.

L. Discussion of recent "bar crawl" fines levied against several H Street businesses.

As the discussion of licensee renewals concluded, Mr. Peters of Smith Commons raised an issue related to fines received by several H Street businesses related to a "Zombie Bar Crawl" hosted by Brightest Young Things:

- The organizers of the bar crawl understood that ABRA did not consider it technically a "bar crawl," but that several establishments ended up being fined due to a violation of their SAs.
- Mr. Healy stated that ABRA generally says that any organized group of 200 or more is considered a bar crawl.
- Mr. Healy stated that the ANC has generally opposed any kind of bar crawl; recently, Flats at Atlas had requested permission to organize one, but the ANC said no. He did note that ABRA, particularly general counsel Martha Jenkins, was willing to work with organizers to make sure any event they organize would be compliant.
- Mr. Holmes stated that the definition of bar crawl was any organized group offering discounts on drinks. He stated that in the 90s, there were some "really bad" bar crawls in this neighborhood, which led the ANC to decide to oppose these types of events across the board.
- Mr. Williams stated that he did not believe the ANC would apply a different definition to bar crawl than what ABRA applied. He said it sounded like the problem here may have been the drink discounts.

V. Adjourn

Mr. Williams thanked the representatives of the establishments in attendance for the meeting, and stated that the Committee truly appreciated them taking the time to attend, even if there was little or no discussion of their license renewal. The Committee adjourned at 7:55pm.