

Alcoholic Beverage Licensing Committee
ANC 6A
November 15, 2011

Pursuant to notice duly given, a meeting of the Alcohol Beverage Licensing Committee ("Committee") of ANC6A was held commencing at 7pm EST on November 15, 2011 at the Sherwood Recreation Center, 640 10th Street, NE Washington, DC 20002.

Committee Members Present: Adam Healy, Michael Herman and Anne Marie Koshuta
Committee Members Absent: Katy Thomas
Commissioners Present: David Holmes, Drew Ronneberg, and Sharee Lawler
Community Members Present: Chris Steinke, Mark Busby, Kevin Yalkner, Michael McCarthy, Patrick Horrell, Kurt Souvey, Margaret Holwill, Chris King, Carol DeMarco, Jason Grant, and Napoleon Ibiezugbe.

I. Call to Order

Chairman Healy called the meeting to order at 7:05 pm EST. The meeting having been duly convened was ready to proceed with business.

II. Community Comment

A few community members expressed support for the ANC to include language in the standard voluntary agreement for Class A and B licensees to address the issue of marketers, distributors, and licensees getting around the Ward 6 singles ban by selling two packs. Another community member expressed concerns about a new licensee, Xclusive in the 700 block of H St. NE, located in 6C, and the need for 6A to work with 6C to address concerns.

III. Consideration of Draft Proposal - Response to Meetings on Possible Cap on Alcohol Licenses on H St. NE

Mr. Healy thanked the community for active participation in this and the other cap meeting. He was very pleased with the community involvement and interest in the discussion. Mr. Healy walked through his proposal in response to the alcohol cap meetings and opened the meeting for comment.

Some community members strongly opposed the committee taking any action because they believed the last meeting clearly demonstrated there was no community interest in doing anything to restrict alcohol licenses. Others expressed support for the proposal because it doesn't establish a hard cap or moratorium, but states a clear preference for more restaurants versus tavern licenses, and will help manage the growth on H Street. There was also debate about whether or not the 150 occupancy limit on the size of establishments was necessary and if there could be a better way to do it through a case-by-case zoning occupancy load examination.

Motion: Mr. Healy moved/seconded by Mr. Herman to adopt the proposal in response to the H St. NE alcohol cap meetings with a modification to the 150 capacity section of the proposal. In the second to last sentence of the second to last paragraph of the proposal substitute "recommend" for "limit" and add "subject to a case-by case determination" at the end of the sentence. Motion carried 3-1 (with Commissioner Ronneberg voting aye and Mr. Herman voting nay).

IV. New CR license for Pho Bar and Grill—1360 H St NE

The owner, Mr. Napoleon Ibiezugbe, and other representatives for the establishment appeared before the committee to talk about their application. They recently opened and have been serving only food. The establishment is a restaurant focusing on pho. The occupancy load is 46 and the number of seats is limited to 36. Hours of operation will be Sunday through Thursday from 10am until 10pm and Friday and Saturday from 10am until 2am. The hours of alcohol sales/consumption are the same. They are not applying for an entertainment endorsement and will not have any outdoor seating. Their only concern with the standard VA was the requirement for twice-daily trash collection as most of their kitchen waste is liquid and is disposed of through the sewer system.

Motion: Mr. Healy moved/seconded by Ms. Koshuta that the ANC approve the standard VA for Pho Bar and Grill with the modification requiring trash collection at least once daily. Motion carried 5-0 (with Commissioners Ronneberg and Lawler voting).

V. Mr. Healy indicated the representative for the new applicant at 1255 H St. NE had contacted him today saying they couldn't make the meeting due to an unexpected family emergency. Mr. Healy said he would invite them to come to the December meeting and that no action was needed at this time since they have not yet applied with ABRA.

VI. Adjourn

The Committee adjourned at 8:45 pm. The next meeting is Tuesday, December 20, 2011 at 7pm at Sherwood Recreation Center.

The proposal adopted by the committee follows:

PROPOSAL IN RESPONSE TO MEETINGS REGARDING POSSIBLE CAP ON ALCOHOL LICENSES

Background

In June 2011, it was determined that the time was right for ANC6A to hold public meetings on the subject of a possible cap or moratorium on the number of alcohol licenses on H St NE within the ANC's boundaries. It had been several years since the ABL Committee had considered the issue and several residents had raised the need for such a discussion. While some individuals criticized the ANC for even broaching the topic, Committee believes it is the ANC's responsibility to continuously engage our constituents about the direction of our community. The Committee did so in an open and transparent process that involved residents and business owners.

The ANC publicized these meetings widely through announcements on its website, email list serves, twitter and Facebook pages, local blogs and other local media outlets, and flyers.

The ABL Committee held public meetings on September 20, 2011 and October 18, 2011. The September meeting was informational where the director of the District Alcohol Beverage Regulatory Administration explained the mechanics of a cap or moratorium. We also had two ANC commissioners from other parts of the District to speak about pros and cons, as their neighborhoods either had a moratorium or had considered one. The October meeting was focused on community reaction to the informational meeting and whether or not the community thought a cap or moratorium was appropriate at this time for H Street, NE.

What We Learned

During the informational meeting, a lot of good information was shared with the community on how a cap or moratorium would work. Below are highlights of those points:

- There are five current moratorium zones in the District: Adams Morgan, Georgetown, Glover Park, Dupont East, and Dupont West.
- To have the most impact, a cap or moratorium should be enacted before over-saturation of establishments occurs. (As an example, even though Adams Morgan has had a moratorium for many years, it hasn't relieved the perceived problems because it was enacted after over-saturation occurred.)
- What's the difference between a cap and moratorium? A cap would be a ceiling on the number of a specific kind of license permitted in an area. If a licensee were canceled, then someone else could apply for the new license that would become available. Under a moratorium, the ceiling on the number of licenses would fall each time a license were canceled (the licenses would be lost).
- It can take up to one year for any cap or moratorium to be enacted. Once an ANC votes to support a cap or moratorium, the Alcohol Beverage Control (ABC) Board would hold a fact finding hearing to allow for community input. The burden would fall on the ANC to prove to the Board that a cap or moratorium is necessary. If the Board votes to support a cap or moratorium (they could also alter the proposal), the proposal would then move to the Council of the District for consideration. The Council could change, enact, or reject the cap or moratorium.
- A cap would need to be in place for a minimum of three years up to a maximum of five years. If the community decided that they had made a mistake by enacting a cap, there is not an opportunity to prematurely end it.
- A cap or moratorium can be limited to a specific license class (CT, CR, CN, A, B, etc.) or classes.
- A cap or moratorium area can be drawn 600, 1200, or 1800 feet from a specific location.
- The community could not pick and choose which individuals could apply for the available licenses. It's a first-come, first-served application process.

Conclusion

After listening to community comments at the ABL public meeting, conversations with many in the business community, fellow commissioners and committee members, and community members, it appears there is no clear consensus that a cap or moratorium should be pursued at this time for H St., NE. There does appear to be more agreement that the community wants to be carefully engaged in the continued redevelopment of H St. An overwhelming number of community members would like to see more retail opportunities, enhanced parking protections for residents, and a reduction in the amount of noise from patrons.

In order to address these valid concerns, the ABL Committee recommends the ANC adopt the following proposal.

Proposal

Parking

The ANC should remain actively engaged with the District Department of Transportation (DDOT) on efforts to implement the H Street performance parking program. This program is aimed at ensuring residents have better access to residential parking spaces near H Street. The program is designed to have zone 6 parking on one side of the residential blocks during

certain hours (the hours, days of the week, and which blocks will be included will be determined by DDOT after working with the community) and will charge different rates for parking on H St. depending on the time of day. DDOT is hopeful the program can be implemented next spring. While this program won't solve all the parking problems, it should go a long way in reserving one-side of residential streets for zone 6 vehicles most of the time.

The ANC needs to continue working with the District Department of Public Works' Parking Enforcement Administration to ensure that the enhanced resident parking protections under the H Street Performance Parking Program are adequately enforced.

Noise

The ABL Committee will work with the business community to ask for continued assistance in trying to keep patron noise to a low level as they leave the commercial district and enter residential areas. One idea is for the Committee to work with the business community to come up with a design for signage that could be placed at the exits of establishments and on street signs in residential blocks to remind individuals to please keep their voices low in the residential neighborhood. We also encourage the business community to consider working with the ANC's Community Outreach Committee on possible grant funds for the creation of the signs.

The ANC should also carefully consider public space permits for alcohol and non-alcohol establishments to ensure noise and trash from such public space use is mitigated.

Restrictions on Alcohol Licenses

Currently, there are a disproportionate number of tavern licenses (CT) versus restaurant licenses (CR). Without seeking to implement a cap on the total number of licenses on H Street, the ANC should strongly encourage new establishments to seek CR licenses and that the ANC should protest any new CT license, except in rare cases when a case-by-case determination is made that a CT versus a CR license will not adversely impact neighbors in the immediate area of the proposed establishment. Additionally, the ANC should update the standard voluntary agreement (VA) to require new CR licenses to have their kitchens open and operational for the service of food up until one hour prior to closing (current DC regulations require a CR to have their kitchen open up until two hours prior to closing). This will help ensure a CR doesn't become solely a bar or nightclub late at night. Further, the ANC should, through the VA and protest process, recommend the maximum number of patrons allowed in an establishment to 150 people, subject to a case-by-case determination. This will ensure the capacity at establishments is reasonable and doesn't become too large and unmanageable.

It's recommended that the ANC, through the ABL Committee, periodically hold a meeting to consider whether or not a cap or moratorium is warranted for H Street, NE.