

**Advisory Neighborhood Commission 6A**  
**Minutes**  
**Miner Elementary School**  
**September 12, 2013**

**Present:** Commissioners Alberti, Holmes, Hysell, Mahmud, Phillips-Gilbert, Ward  
**Absent:** Commissioners Nauden, Williams

The meeting was convened at 7pm.

**1. Minutes**

The minutes for July 2013 were approved by unanimous consent.

**2. Agenda**

Mr. Holmes said that Joe Englert would like to remove the request by H Street Country Club, Vendetta and the Rock & Roll Hotel to extend their rooftop deck hours. This was dealt with somewhat briefly at the last ABL meeting, and the Committee chose to take no action because a/ the ANC has been imposing strict hour restrictions on rooftop decks, just the same as public space patios, and b/ there is going to be a larger discussion of this in the future, covering all of 6A, and the committee didn't want to deal with this on a case by case basis at the moment. He asked whether any Commissioner wished to add this to tonight's agenda? If not, consideration of this issue will be had soon in the ABL Committee. He said there is a need for coherence and consistency in an approach to the roof deck and patio hours, and about the sound mitigation measures the Commission may wish to require. No one spoke to add it. Two other issues were, however added: the Rock & Roll Hotel was added to the establishments looking for limited exemptions for the H Street Festival; and the Argonaut is seeking support for the construction of a cover for its outdoor patio. The items were added by unanimous consent.

**3. Community Presentations**

National Guard Annual Run - Saturday, September 12

The commanding officer of the local National Guard came before the ANC to seek support for the annual National Guard run on Saturday, September 12 at 8am. This is the same run they do every year, down East Capitol Street from the Armory to Lincoln Park and back again. There will be no trash, and no debris, and the only noise will be from their call cadence. The officer was apologetic for coming so late to the Commission, but she is new and didn't realize that she needed the Commission's approval. **Motion:** Mr. Mahmud moved/Mr. Alberti seconded a motion to send a letter to the Emergency Management Task Force approving the September 12 race. The motion passed unanimously, 6-0.

Ben's Chili Bowl - 1001 H Street NE

Nisan Ali, Tony Marshall, and Frank White of the new Ben's Chili Bowl at 1001 H Street, gave a construction update to the ANC, saying they wanted to open lines of communication to the community. Frank White, the head of communication, said that a traffic plan for the construction was approved, with trucks confined to their staging area, so they won't interfere with traffic. They are working within noise limits, with a noise meter. They also reported this is a solidly One City project, and they will be hiring for at least 15 construction jobs. They said if there are any concerns to be in touch with them, and they will come back again to the Commission because they want to be great neighbors.

### Options School

Simon Earle, the new principal of Options School introduced himself. He said he is new to the DC area and getting to know the community. He said that if there are any questions, he can be reached at 547-1028, ext. 250. He said there will be a community open house planned at the school on September 19 to meet the teachers and showcase their students, and on October 5 they are having an Octoberfest.

Mr. Alberti asked Dr. Earle about the fence recently installed around a public basketball court that is heavily used by the community. Dr. Earle said there had been a July 25 meeting at which it had been discussed. He said they had been in touch with DPR and they had signed off on it. He said he is trying to be sensitive to the community.

Mr. Alberti asked if he could back in touch with the ANC and let them know with whom at DPR they had spoken. He said that Dr. Vincent had been dealing with DPR. Mr. Alberti said that he wanted to know the status of the gate, and what Options is going to do going forward, but that no one has contacted the ANC to be included in discussions. Mr. Hysell said he was at a second meeting of the Community Task Force the school has established, but not at the meeting in May where the subject of the gate was broached. Mr. Alberti said that it is always best to engage the ANC—they are elected officials and when something as drastic as a fence is happening, the Commission should be aware and involved. He said his concern is that during the day there's lots of stuff going on as well as after school. He asked whether Options School could be invited to the next Public Space and Transportation Committee. Ms. Nelson added that people need to have access to the basketball court area even during the day. Chair Holmes assigned the matter to the COC.

#### **4. Community Comment**

Gladys Mack announced a health fair on October 15 at Pilgrim Church.

A resident said she was frustrated at not getting any assistance with crime and traffic problems on 16<sup>th</sup> and 17<sup>th</sup> Streets at C Street NE in the alley. She said she was recently attacked, and the garbage on 17<sup>th</sup> Street doesn't get much attention. Mr. Ward pointed out that they had been in contact via email, and he will get together with her soon.

Denise Harrison said there is a house at the corner of Gales and 15<sup>th</sup> Street that has problems with noise and drugs. Mrs. Phillips-Gilbert suggested taking the issue to the US Attorney's Office, but do it with neighbors, not alone because it could get dangerous if you become visible.

Dana Wyckoff of the Friends of the Rosedale Library announced that Sunday, October 6 is the first Sunday the library will be open. She announced that the late hours on certain days will also be changed.

#### **5. Officers' Reports**

##### Chair

Mr. Holmes gave a report from the Benning Road Power Plant demolition and waterside research project. He warned the ANC not to ever eat out of the river, no matter how big the fish, turtle or frog legs, because of the trash, and PCBs that might have flowed from the Navy Yard, Kenilworth, and the Benning facility.

He also reported the schedule for waterline flushing. October: Running northbound and southbound from F Street NE to SE Freeway and from 8<sup>th</sup> Street to 13<sup>th</sup> Street. November: Running northbound and southbound from F Street NE to Southeast Freeway and from 13<sup>th</sup> Street to 19<sup>th</sup> Street.

He said that he's getting training in TOPS, a new on-line program that enables Commissioners by simply registering a password to access the schedule and disposition of Public Space applications and activities.

He reported that Councilmember David Catania, Chairman of the DC Council Committee on Education, is interested in having an opportunity to dialogue with the community within the ANC footprint about education in the District, and he asked if commissioners could let him know if that's feasible. He would come during a regular meeting or for a special meeting if that would work better. He asked for the will of the Commission and a special meeting for the community was decided on.

He reported that there was no opportunity for ANC comment on the new DDOT proposal for visitor parking before the comment period closed. Four 6A commissioners joined four 6C commissioners in opposing the new pass distribution plan.

Finally, the FRESHFARM Market permit to stay at their 13th and H location was valid during the H Street Festival unless they wished to move.

#### Treasurer's Report

Mr. Alberti presented the Treasurer's Report. He reported that the opening balance in the checking account was \$15,653.35, and the savings account balance was \$13,716.21. There were two interest payments of \$.23 and \$.23 to the savings account, a payment from the District of Columbia of \$4,607.82, and a refund from Kinko's of \$241.02 leaving an opening total of \$20,503.09. There were disbursements of \$200 to Heather Schoell for the June '13 agenda package (Check #1606); \$342.56 to FedEx Office for the July '13 statement (Check #1607); and \$180 to Roberta Weiner for transcription of the June '13 ANC minutes (Check #1608), leaving a balance of \$19,780.83 in the checking account, and \$13,716.21 in the savings account.

**Motion:** Mr. Alberti moved/Mr. Mahmud seconded a motion to accept the disbursements. The motion passed without objection.

**Motion:** Mr. Alberti moved/Mr. Mahmud seconded a motion to approve the Treasurer's Report. The motion passed without objection.

## **6. Single Member District Reports**

**Mr. Hysell** reported there had been some complaints about Valor Construction on their Maryland Avenue projects.

**Mr. Ward** said that crime was an issue in his area, and it's ignored when it comes to law enforcement. He also pointed out a special problem on 19<sup>th</sup> Street, where his elderly constituents would like to have speed bumps. He said too that he was working with Respect DC on the City Council Living Wage legislation.

**Mr. Alberti** pointed out that new communication antennas on top of the Lincoln Park UM Church are proposed.

**Mrs. Phillips-Gilbert** read the following statement:

*The ANC needs new guidelines and procedures for the application process to distribute grants from the 6A Commission in addition to Statutory Guidelines from the Auditor for the Community Outreach Committee (COC) to implement. We need to provide transparency by doing more community outreach by advertising through various media, newspaper, website and posting throughout the various 6A communities, and public buildings. This way we can draw in more community members for consideration of these grants. The COC should not have the authority to make motions to submit to the ANC, to review and provide us with each applicants request so that we can make the final decision after our inquiries have been satisfied to approve and grant. We need to ensure that there are ethical standards and transparency when we make a determination on a grant request. There should be no*

*endorsement or advertisement on behalf of any applicant while their request is pending for approval from ANC Commissioners (i.e. email sent on 8/18/13 titled FUN EVENT BRING THE KIDS) to all ANC Commissioners from a member of the COC committee supporting the event being given by a pending applicant, who is also member of the COC. I have serious concern when it gives the appearance of preferential treatment, while the other applicants were not given the same treatment? Why was this not done for the other pending applicants. We need to ensure that procedures are put in place for the COC committee members, who are requesting grants, as well as COC members who have close ties, or affiliation, with groups or individuals who are seeking funding from the Commission. We need to determine and stipulate how long funds can be held that was provided to an applicant. There are current funds in our budget that have been on hold for over five months. These funds could have been made available to applicants that have met all qualifications for their request. We need to bring the COC in compliance with the other Standing Committees of the 6A Commission which held their meetings at a public location such as Sherwood and Rosedale Community Centers. The current location for the COC, prohibits easy access to the community and due to the loud noise coming from multiple appliances in the faculty, it is extremely hard to hear what is being said. Another good reason for relocating the committee is to alleviate the COC from meeting on National Public Holidays. This past January 2013, the committee refused to reschedule their meeting during the Presidential inauguration and MLK holiday. In spite of numerous request to reschedule from the ANC, the committee conducted meeting without any consideration given to the Public, ANC Commissioners. This was extremely disrespectful and insensitive to disregard our request. We must ensure that all applicants who request funding from ANC 6A Commission properly notify the Commissioner of that Single Member District of the services they intend to provide to that community. This is common courtesy to give proper respect to the elected representative of that community. This should be done prior to the COC reviewing applicant's request, and would allow the Commissioner of that community the opportunity to address any concerns they have prior to the submission of the grant request, and to ensure that people in the community are informed as well.*

Mr. Holmes said that Ms. Phillips-Gilbert was out of order because it was not germane to the agenda item. He suggested that she speak with him about scheduling agenda time if she wanted it discussed at a meeting.

## 7. Community Outreach Committee

The report of the Committee was accepted without objection.

**Motion:** The Committee moved/Mr. Mahmud seconded a motion to send thank you notes to the same organizations that received them last year. Ms. Nelson pointed out that these were organizations like Gallaudet, who hosts the Commission's web site and Miner Elementary School, which hosts the ANC's meetings. The motion passed unanimously, 6-0.

### Grants

Ms. Nelson said there were three grants on the agenda: \$2,758 from Serve Your City, for a rowing and tennis program; \$950 from the Sherwood Neighborhood Volunteers (SNV) for a toddler program; and \$500 from Capitol Hill Village toward a seminar on healthy aging. She introduced Terry Washington, Phil Toomajian and Vira Sisolak representing the organizations, respectively. She noted that there were insufficient funds in the grants budget to fund all in full and that the recommended apportionment was a compromise worked out by the Community Outreach Committee (COC) members who had differing opinions as to which should have priority. She noted that COC members Maurice Cook and Jean Kohanek had recused themselves and did not participate in the discussion of the grant applications or vote on them.

**Motion:** The Committee moved/Mr. Mahmud seconded a motion to approve three ANC grants: \$2,720 to Serve Your City, for a rowing and tennis program; \$900 to the Sherwood Neighborhood

Volunteers (SNV) for a toddler program; and \$250 to Capitol Hill Village toward a seminar on healthy aging.

Ms. Nelson expressed her concern that Capitol Hill Village did not meet the criteria established for ANC grants: that it serve the residents of 6A. She said that while she was a big supporter of CHV, there was no evidence indicating that substantial membership or conference attendees live in 6A. Mr. Holmes offered an amendment to the motion, moving that the proposed grant to Capitol Hill Village be referred back to the committee until the benefit to 6A is clarified. What benefits, such as hosting meetings in 6A, membership located in 6A, attendance of 6A residents at the conference. It's a demographic we want to support, but CHV must meet the ANC's criteria. Mr. Alberti said he very much supported CHV, which is a wonderful organization, and he believes their goal of aging in place is an important one. But he also, he said, believes there are criteria that the ANC established and that have to be met.

Ms. Phillips-Gilbert said that the Committee didn't decide on the grants - Ms. Nelson made the decisions. Serve Your City never notified her [Phillips-Gilbert] that they had applied for a grant, despite their saying that most of their participants are from Rosedale. They couldn't show me that they're coming from 6A—there's bias in that decision. Serve Your City is getting full funding and they can't show her a membership roster. She complained about a lack of transparency. Denise Harrison also said there is not full public disclosure, and the process was manipulated. Mr. Alberti said that checks are written to the vendors, not the grantees, which further increases transparency in the process. Mr. Mahmud pointed out to Ms. Phillips-Gilbert that as a member of the committee she can offer an alternative motion—she's entitled by the bylaws. Mr. Hysell seconded Mr. Holmes amendment.

The vote on Mr. Holmes amendment, returning the CHV grant to the committee passed 3-2-1, and the final motion passed 5-1, with Mrs. Phillips-Gilbert in opposition.

Ms. Sisolak noted that if the grant is returned to the Committee, there won't be time before the date of the seminar to re-submit it.

## 8. Alcoholic Beverage Licensing Committee

The report of the Committee was accepted without objection.

Mr. Holmes introduced a series of special liquor license exemptions for the H Street Festival:

### H Street Festival License Exemptions

**Recommendation:** That the ANC grant a limited exemption to Section 1 (b) and (c) of the November 17, 2009 Addendum and Section 1 of the April 12, 2012 Addendum to the H street Country Club Settlement Agreement and that such exemption apply only from noon to 7pm on Saturday, September 21, 2013, provided that the H Street Country Club agrees to comply with the rules and regulations set by the H Street Festival. The recommendation passed 4-0-2, with Mr. Alberti and Mrs. Phillips-Gilbert not voting.

**Recommendation:** That the ANC grant a limited exemption to Section 2 of the May 28, 2007 Addendum to the Vendetta Settlement Agreement (previously known as the Red & the Black) and that such exemption apply only from noon to 7pm on Saturday, September 21, 2013, provided that Vendetta agrees to comply with the rules and regulations set by the H Street Festival. The recommendation passed 4-0-2, with Mr. Alberti and Mrs. Phillips-Gilbert not voting.

**Recommendation:** That the ANC grant a limited exemption to Section 3 (c)6) of the Dangerously Delicious Pies Settlement Agreement and that such exemption apply only from noon to 7pm on Saturday, September 21, 2013, provided that Dangerously Delicious Pies agrees to comply with the

rules and regulations set by the H Street Festival. The recommendation passed 4-0-2, with Mr. Alberti and Mrs. Phillips-Gilbert not voting.

**Recommendation:** That the ANC grant a limited exemption to the relevant sections of the Settlement Agreement for the Rock & Roll Hotel and that such exemption apply only from noon to 7pm on Saturday, September 21st, 2013, provided that the Rock & Roll Hotel agrees to comply with the rules and regulations set by the H Street Festival. The recommendation passed 4-0-1, with Mr. Alberti not voting and Mrs. Phillips-Gilbert not present.

#### Sahra - 1200 H Street NE.

**Motion:** The committee moved/Mr. Mahmud seconded a motion to recommend that the ANC protest the request by Sahra, 1200 H Street NE for an entertainment endorsement. Mr. Mahmud said there had been noise complaints, particularly on the patio. The motion passed 4-0-2, with Mr. Alberti and Mrs. Phillips-Gilbert not voting.

#### Chupacabra - 822 H Street NE

**Motion:** The Committee moved/Mr. Mahmud seconded a motion to recommend that the ANC formally protest the license application of Chupacabra, 822 H Street NE unless a signed Settlement Agreement is submitted to the ANC and the establishment change from a CT to a CR license prior to the protest date and that if these conditions are met, the ANC approve a stipulated license for the establishment.

Mr. Mahmud said he has serious concerns with the impact on the neighborhood, and they now have an opportunity to increase their food sales because they're open for lunch. Mr. Bombadier, the owner, said they've agreed to a lot of things that have been asked of them, 90% of their business, he said, is restricted to late nights, and he doesn't believe they can meet the required food ratio—45% is very hard to meet with the hours they have. He said they are already operating as a CR, they are operating as a limited CT—the only difference is they are not recording their food sales. Mrs. Phillips-Gilbert said it appears that the ANC is trying to run them out of business. They've bent over backwards to do what we've asked. Mr. Mahmud said that in fact they've come kicking and screaming and they've only agreed to things after they've realized they had no choice. The motion was approved 3-2-1, with Mrs. Phillips-Gilbert and Mr. Ward opposing and Mr. Alberti abstaining.

Mr. Holmes announced a Settlement Agreement had been signed with Queen Vic—it had never been submitted by a past commission chair and an ABRA representative caught the lapse. He said he had signed it and submitted it. He said that H Street Main Street had asked for 26 one-day licenses for the H Street Festival. He said he hopes that they will not take away business from H Street restaurants and taverns and that they are located well away from existing licenses. These one-day permits do not come to the ANC but go directly to the ABC Board.

## 9. Economic Development and Zoning Committee

The committee report was presented by Chair Dan Golden and was accepted without objection.

#### 620 9<sup>th</sup> Street NE

This is s request for support of a BZA application for a variance for a new wooden deck that will occupy more than 50% of the rear yard. **Motion:** The Committee moved/Mr. Healy seconded a motion to recommend that the full ANC support the committee's recommendation to support a BZA application for a variance for a rear deck at 620 9<sup>th</sup> Street NE. The motion passed unanimously, 6-0.

#### 1120 Park Street NE

This is a request for a special exception from the lot occupancy requirements and a variance from the minimum parking space size and the garage setback requirements to permit the construction of a garage with a roof deck at 1120 Park Street NE. **Motion:** The Committee moved/Mr. Holmes seconded a motion that the full ANC support the request for variances and a special exception and variances with the condition that prior to their presentation at the ANC they will have obtained letters of support from both adjoining property owners that expressly acknowledge that the applicants' proposal contemplates construction of a deck atop the proposed garage. Mr. Holmes asked whether the applicants had letters with them and was told no. Mr. Holmes moved that the ANC should oppose the motion because they had no assurance that there was support from the neighboring properties. The motion failed 0-6, unanimously.

#### 1325-1327 Constitution Avenue NE

This is a request for support of a concept design for two residential units at the site of the Evening Light Apostolic Church, 1325-1327 Constitution Avenue NE. Both will have three floors and individual entrances. The third floors will not be visible from the street. **Motion:** The Committee moved/Mr. Alberti seconded a motion to accept the Committee's recommendation to support the proposed design for 1325-1327 Constitution Avenue NE. The motion passed unanimously, 6-0.

### 10. New Business

#### Response to Missing DDOT Report

More than 60 days ago, Mr. Alberti sent a letter to Public Space with questions about public "parklets" being appropriated, with Public Space permission, for private use. According to Mr. Holmes, Matt Marcou, DC Zoning Administrator, said that DDOT would have responses to the questions the week after the meeting and could not speak on any topic covered by the questions until DDOT finished its response. He said he was subsequently told there would be an additional one or two week delay (that staff was absent, the questions complex, and the AIG not available). That was July 25. **Motion:** Mr. Alberti moved/Mr. Holmes seconded a motion to authorize the sending of a letter pointing out this strange delay and asking for a clarification on the questions and concerns asked by the ANC and its citizens.

Mr. Mahmud asked that Mr. Alberti be mindful of the tone of the letter because Mr. Marcou has been helpful to the ANC in the past. Mr. Alberti added that the letter should be sent to DPR and Charles Allen in Councilmember Wells' office. The motion passed 5-0-1, with Mrs. Phillips-Gilbert not voting.

#### Awning for Argonaut - 1433 H Street NE

**Motion:** Mr. Holmes moved/Mr. Alberti seconded a motion to support a public space permit for the construction of a patio-sized enclosed awning for the Argonaut, 1433 H Street NE. The owner says he has been working with DDOT to create a "greenhouse" over his outdoor space. It's the first use in DC in public space for the system in which he will not only have plans, but will be able to grow vegetables. He said he has already made his corner greener and would like to keep it going. Mr. Alberti asked how far out it will extend and was told it will be to the fence, which will remain. The motion was approved 4-1-1, with Mrs. Phillips-Gilbert opposed, and Mr. Mahmud not voting.

#### Change in Zoning Order for 901 D Street NE

Mr. Holmes read from an ANC letter to the Zoning Commission: Because of the careful and sympathetic presentations of CAS Reigler and Ditto Residential, the ANC and the neighborhood authorized a proposal for two, and only two, additional residential units in exchange for the purchase of a small Capital Bikeshare station to be installed in the immediate vicinity, and the payment of the public space fee for a period of five years for a Zip Car to be located next to 901. **Motion:** Mr. Holmes moved/Mr. Alberti seconded a motion to support the requested changes in the Zoning Order for 901 D Street NE. The motion passed unanimously, 6-0.

### Clarification of motion on 1102 H Street NE

A motion passed at the last ANC meeting of 1102 H Street NE read: “This is a request for support of the installation in the front of the building of A Bank of America ATM machine. . . **Motion:** The committee moved/Mr. Holmes seconded a motion to accept the Committee’s recommendation to not support the application of the Bank of America to construct two ATMs in a building at 1102 H Street NE. The committee felt that the use of the building was not in keeping with the H Street Overlay. The motion passed 6-0-2 with Mr. Williams and Mr. Hysell abstaining.” I would like a vote to clarify that this motion applies to any subsequent BZA case on this issue. The motion passed unanimously, 6-0.

## **11. Community Comment**

### Motion in Support of Living Wage Legislation

**Motion:** Mr. Ward moved/Mrs. Phillips-Gilbert seconded a motion to send a letter urging Councilmember Wells to change his vote and vote in favor of the big box store living wage legislation that has been vetoed by the Mayor and will come before the City Council for a veto override vote.

Mr. Alberti said that this issue was too “global” for ANC consideration; that the Commission’s purview is local, and he doesn’t know the position of his constituents on the issue. Mrs. Phillips-Gilbert said that the Commission has to take a stand. Mr. Mahmud said that he doesn’t know anything about the legislation and finds himself conflicted about it. Mr. Holmes said he’s not happy about having to vote on the issue, saying it has already been ruled illegal in Maryland.

**Amendment:** Mr. Mahmud suggested that a letter be sent to the Council urging that a way be found to support a living wage for all DC residents. Mr. Ward said it’s something that affects everyone and their needs. Mrs. Phillips-Gilbert said the amended motion was good. The motion passed 5-0-1, with Mr. Alberti not voting.

The meeting was adjourned at 9:05 pm.