

Advisory Neighborhood Commission 6A
Minutes
Miner Elementary School
December 13, 2012

Present: Commissioners Healy, Holmes, Hysell, Mack, Ronneberg, Veenendaal-Selck
Absent: Commissioners Alberti, Lawler

The meeting was convened at 7:00 PM

1. Minutes

The minutes for November 2012 were approved by unanimous consent.

2. Agenda

The agenda was approved as presented by unanimous consent.

3. Community Presentation

Benning Remedial Investigation/Feasibility Study

Mr. Holmes introduced Jared Piaggione, Assistant Attorney General, District Department of the Environment (DDOE), to report on the status of the Benning Remedial Investigation/Feasibility Study. This is a federally-mandated remediation being studied and prepared for the Benning Road Power Plant and its surrounding area. The boundaries extend to include 19th Street and east. While most of the study, Holmes said, is focused on the Anacostia and underground water movement, airborne pollution certainly affected all of the 6A, 7D, and 5B areas.

Mr. Piaggione reported that in 2011 the DDOE entered a consent decree with Pepco to analyze and plan the study of the release of PCBs from the Benning Road Power Plant, but progress has been slow because there had been disagreements with Pepco along the way. There are now documents from Pepco and DDOE, he said, that have been released and can be found on line at libraries, including Rosedale. What is there now is a completed statement of work, dealing with such questions as at what point is sampling done, and how much is sampled.

The final report will be issued from mid-December to early January discussing the remediation options, that generally will be in the middle range of the proposed ideas. Then, DDOE will issue its plan, which is the “public” option. Then a record of the decision will be published by Pepco, after which a remedial design will be drawn up, and finally, a remedial action plan will be implemented. There is a five-year review included in the plan. The focus, Mr. Piaggione said, has been the PCBs in the river, which have also been a problem in the past. However, they determined to not follow that “legacy of pollution”, but there is no pollution in the immediate area. He said that inhalation has the most damaging potential.

Mr. Holmes asked whether the land will be able to be used again. Mr. Piaggione said that it will be, but Pepco wants to hold on to it. Ms. Phillips-Gilbert asked whether drinking water is affected, and was told that drinking water comes from a different source.

Mr. Holmes said that this is the first time DDOE, as opposed to the federal EPA, has supervised a truly large scale remediation. The Navy Yard is also a heavy industrial site that has pollutants.

4. Officers' Reports

Chair

Historic Designation for Spingarn High School

Mr. Holmes reported that Kingman Park was successful in seeking historic designation for Spingarn High School but they also received more—that the historic Langston Golf Course, the complex of schools to the north of Spingarn, and Kingman Park itself may also be eligible to receive historic district status, should they so decide. That would, he said, preserve the structures and recreational areas of this most important historic African American community. The schools, golf course, and the community itself arose from the exclusion of blacks from white areas. He said it is important history to be remembered and preserved.

901 D Street NE

Mr. Holmes reported that he sent a note to commissioners and committee chairs that the ANC position on density at 901 D St. NE was sustained. In addition, Valor Development went to the BZA to fight the continuing construction even after the permits were allowed to expire by the developer and the zoning law changed (at the instigation of the ANC). That hearing decision was postponed, and there is a related hearing in January.

Gibbs School

Mr. Holmes reported that School Chancellor Kaya Henderson told him that the Gibbs School will not be “excessed” and will be held on to, as he had asserted, because an increasing population of elementary school-aged children will need it within a few years.

Treasurer's Report

In Mr. Alberti's absence, Mr. Holmes presented the Treasurer's Report. He reported that the opening balance in the checking account was \$16,588.79 and the savings account balance was \$9044.67. There was an interest payment to the savings account of \$.19. There were disbursements of \$533 to the Band Shoppe (*Eastern HS PTSA (CHECK #1577); \$650 TO A.D.R. Bulbs (Grant, Capitol Hill Garden Club) (Check #1578); \$200 to Heather Schoell for the November 2012 agenda package (Check #1579); and \$180 to Roberta Weiner for October 2012 transcription of ANC minutes (Check #1580); leaving a balance of \$15,025.78 in the checking account, and \$9044.67 in the savings account.

Motion: Mr. Holmes moved/Ms. Veenendaal-Selck seconded a motion to approve the disbursements.

The Treasurer's Report was agreed to by unanimous consent.

5. Alcohol Beverage Licensing Committee

Cusbah - 1128 H Street NE

This is a request to extend the patio hours in its voluntary agreement of Cusbah, an Indian restaurant at 1128 H St. NE. The owner asserts that those hours put him at a competitive

disadvantage with Khan's, directly across the street, which has no restriction on its patio hours, which are the ABRA-licensed hours. The ABL Committee has recommended that the ANC send a letter to the ABC Board requesting that the restriction on the hours of operation for Cusbah's public space patio be removed.

Mr. Healy reported that the owner of Cusbah had approached the owners of Khan's about modifying its hours, and they declined. The original limitations on Cusbah were placed because of potential noise. After three months, Mr. Healy said, there have been no noise complaints from the neighbors. Mr. Mahmud asked whether the change was only to bring Cusbah in line with other establishments. Mr. Healy said the Cusbah has limited hours, Khan's does not, reiterated that there have no noise complaints, and that Cusbah is at a competitive disadvantage.

Mr. Holmes asked that, if they agree, how difficult will it be to reinstate the earlier hours if need be. Mr. Healy responded that the Board tends to agree with the community when such issues come before it. Margaret Holwill said there will be more patios on H Street that will make equalization more difficult. Ms. Mack asked about the hours at the Argonaut, and Mr. Healy responded that it has no limits. Sondra Phillips-Gilbert said that Cusbah had recently opened and wanted to know what the difference was. Mr. Healy responded that Khan's had applied for its license and VA prior to the restrictions the ANC added to VAs after he took over the committee, Ms. Phillips-Gilbert said that Cusbah should have the same opportunity as Khan's. Mr. Healy said that they used to have a three month trial period, but the ABC Board says no to that now. Ms. Phillips-Gilbert said she supports the trial period. Mr. Healy said that Cusbah has been open for three months so it's got a new license. Mr. Mahmud asked how often licenses are renewed and was told it's three years, so next fall the license will be up for renewal. Mr. Mahmud pointed out the difficulty of enforcing the hours if there's a difference, and there's the possibility of "creep" in the hours. Mr. Mahmud suggested that the Commission consider a resolution that this is a one-time exception to the rules.

Mr. Holmes pointed out that it will be Mr. Mahmud's responsibility as he will control most of H Street. He said that the hours vary from area to area. He said he is worried about it becoming a slippery slope with other establishments seeking extension of hours. **Motion:** The committee moved/Mr. Healy seconded a motion to accept the Committee's recommendation to send a letter to ABC Board requesting that the restriction on hours of operation for Cusbah's public space patio be eliminated. The motion passed 3-2-1, with Commissioners Healy, Hysell and Mack in favor, Commissioners Veenendaal-Selck and Holmes opposed, and Commissioner Ronneberg abstaining.

The report of the committee was accepted without objection.

6. Transportation Committee

Committee Chair Omar Mahmud announced that DDOT's Damon Harvey would be at the next Committee meeting to discuss performance parking.

The report of the committee was accepted without objection.

7. Unfinished Business

Bylaws Amendments

1. In Article 5, §7, add to the end of the paragraph

When a motion has been adopted by the ANC and the designated representative is unable to attend, the Chair and the Vice Chair of the Commission are designated to be the representatives of the ANC for the purposes delineated in the motion.

Motion: Mr. Holmes moved/Mr. Healy seconded a motion to adopt the bylaw change into the ANC 6A bylaws. Ms. Mack suggested that the change should be done by the new Commission. Mr. Holmes said that this was only a housekeeping modification. The motion passed 5-1, with Ms. Mack in opposition. Mr. Holmes said that bylaws changes required a 2/3 vote, and this vote passed that threshold.

2. In Article VIII, create new §2 (b)3:

If two candidates for any office are tied, then the term of office will be divided equally between the two. If one is an incumbent in the officer position then that candidate will continue in that office for the first six months of the calendar year. If neither is an incumbent in the office in question the candidate with recent continuous seniority as an ANC Commissioner will take the first six months of the calendar year. If the two have the same time in office, then a coin toss will determine who takes the office for the first six months of the calendar year. If more than two candidates for any office are tied, then the drawing of lots shall determine the victor; and

Renumber the old VIII, §2 (b) 3 as §2 (b) (4).

Mr. Holmes introduced the amendments with the requisite one month notification. He said that the candidates' succession amendment was suggested by Office of ANCs Director Gottlieb Simon. Ms. Phillips-Gilbert said that "it sounds like something is going on" because Mr. Simon never mentioned it at an orientation meeting she attended and it should be considered by the new Commissioners. Ms. Mack said there is no benefit to having a person for six months without any continuity. She said that the new Commissions are sworn in on January 2, and the meeting is on the 9th [*note: the meeting date is actually Jan. 10*] and it could wait until then. Mr. Holmes pointed out that the first order of business at the next meeting is the election. He further pointed out that this is not a problem in ANC 6A, but has affected other Commissions. **Motion:** Mr. Holmes moved/Mr. Healy seconded a motion to adopt the bylaw change into the ANC 6A bylaws. The motion passed 5-1, with Ms. Mack in opposition.

8. New Business

Mr. Holmes presented a Standing Rule for the ANC on debate, saying that it's exactly how the ANC has operated since 2003. He said that Mr. Simon suggested that setting up Standing Rules rather than bylaws for many administrative matters is better because they require only a simple majority to pass.

Standing Rule for ANC 6A

Each Commissioner may speak for up to two minutes on each motion eligible for debate, except that the presenter of an original motion (not an amendment) may speak for up to five minutes. No Commissioner may speak more than twice on any motion. Residents of the Commission area may speak for up to two minutes with additional recognition at the discretion of the Chair.

Ms. Phillips-Gilbert said that this is the first time the Commission has passed a Standing Rule and it should wait until the January meeting. Mr. Healy said that the next Commission can make up its own rules. Mr. Holmes agreed that any future actions will be up to the next Commission.

Motion: Mr. Holmes moved/Mr. Hysell seconded a motion to adopt the Standing Rule on debate for ANC 6A. The motion passed 5-1, with Ms. Mack in opposition.

Meeting Dates For 2013

Motion: Mr. Holmes moved/Mr. Ronneberg seconded a motion that the ANC shall hold its organizational meeting on January 10, 2013, and the Commission shall meet at 7:00 PM on the second Thursday of each month thereafter, except that when the District of Columbia closes its offices and schools, the meeting scheduled for that date shall be postponed to a day determined by the Chair in consultation with the Commission. The motion passed 5-1 with Ms. Mack voting in opposition.

ABC Board Changes In VAs With Maketto and Avery's Bar and Grill

Mr. Healy reported that the ABC Board had reviewed identical VAs signed by the ANC and two H Street establishments, Maketto and Avery's Bar and Grill, at the same ABC Board meeting, and, inconsistently, made two changes in the Maketto VA, but demanded four in the Avery's VA. He said he had dealt with a similar case in November and he felt that he was between a rock and a hard place because the modifications affected the establishments, but the VAs were important for the ANC. **Motion:** Mr. Healy moved/Dr. Ronneberg seconded a motion to send a letter to ABRA accepting the modifications, but questioning the reason why the changes were made and requesting an explanation. The motion passed 6-0, unanimously.

Modification of Voluntary Agreements

Motion: Mr. Healy moved/Dr. Ronneberg seconded a motion to modify the standard CR/CT voluntary agreement to meet the new requirements of the Alcoholic Beverage Control Board. The motion passed 6-0, unanimously.

9. Single Member District Reports

Mr. Healy thanked his constituents and said he had fun getting to know them. He said that he was surprised at what people complained about. He thanked his successor for taking over his constituency. He said he was frustrated by the behavior of city agencies and city services, although there are good people, too.

Dr. Ronneberg said there had been a recount of his race, and he lost the election his election by 12 votes. He said he's looking forward to turning over such troubling issues as XII, Father's Day at Sherwood, etc. He wished good luck to the new Economic Development Committee, on which he will serve, but not chair, and hopes it can work through all the problems with DCRA, DDOT and Public Space.

Mr. Holmes thanked all the Commissioners who are leaving. Individual Commissioners now bear the responsibility for a lot of problems in their Single Member Districts and they deserve credit for all their hard work.

Ms. Veenendaal-Selck said she was honored to serve. She said she had learned a lot about being involved in the community and will continue to be involved, but in a different way.

Mr. Hysell reported that he met with Jonathan Kass of Councilmember Wells' office about composting, and there will be a pilot program in ANC 6A. He thanked Dr. Ronneberg for all his "lawyering" on development issues, and Mr. Healy for his decorum, and adherence to doing things "by the book". He said they would be missed.

Ms. Mack said she had served on the ANC since 2003 when her son was 6. She said new Commissioners should learn to balance community and family. She said the biggest project she worked on was the Rosedale Library/Field, and would continue to fight for a name for the library. She also said that the ANC should invest in a microphone and tape recorder. She thanked several people and institutions in her SMD beginning with the Rosedale Grassroots Organization and its President, Sondra Phillips-Gilbert, who will be taking her place on the ANC. Others on her list included DC Acorn, Pilgrim AME Church, Rosedale Citizen Alliance, Peace Baptist Church, Kramer Street Association, Michael Berger, Kingman Park Association, and Former Mayor Adrian Fenty.

The meeting was adjourned at 8:55 PM.