

**Advisory Neighborhood Commission 6A  
Miner Elementary School**

**Minutes**

May 14, 2009

The meeting was called to order at 7:02 p.m.

**Present:** Commissioners Alberti, Beatty, Fengler, Holmes, Mack, Marshall, Robinson and Schultheiss

**1. Approval of agenda**

Ms. Beatty asked to add a discussion of Capitol Liquors to the ABL Committee report. Mr. Holmes requested that a discussion of ANC representation at the HPRB hearing on Mead's Row (1305-1311 H Street NE) be added to New Business The agenda, as amended, was approved without objection.

**2. Minutes**

Mr. Holmes noted that Mr. Alberti's motion that the ANC give its support to the group to be a "park partner" did not receive a second, and that Mr. Alberti moved that the ANC give its support to RCA/RVI to be a "park partner". The minutes for the March meeting were approved, as amended, without objection.

**3. Community Comments**

Sondra Phillips Gilbert expressed concern about the process under which the Community Outreach Committee reached a decision about who the ANC is recommending to be a "park partner" for the Rosedale Recreation Center. She said that the public had been misled into thinking that DPR would only select one organization to serve in that role, and that wasn't true. She said that the Rosedale Youth Initiative (RYI) should be checked to see whether it is compliance with DPR regulations because its members may not be members of the community.

Nicothea Bower, president of the Rosedale Citizens Alliance (RCA) said they know they can't raise funds on the grounds of Rosedale, but they are just looking to be a support group.

**4. Community Presentation - Office of the People's Counsel**

Philip Harmon, of the Office of the People's Counsel, gave a presentation on the function of the office, which is the District's public advocate for utilities—natural gas, electricity, telecommunication. It has several functions: to present public programs to civic associations, ANCs, etc.; to handle consumer complaints with utilities; and to serve as District residents' legal representative when utilities seek changes in rates. The staff of the office is comprised of lawyers, economists and accountants. He presented folders with information on utilities and on the Office, which is an independent agency of DC government. He said the top three they deal with are billing, with hundreds of complaints, and the quality of service—with emphasis on "how do I reach a human being" questions. He mentioned, for example, that Washington Gas has sent a lot of its customer service operations overseas and it is difficult for people to get service.

## 5. Officer Reports

### Chair

The Chair did not have a report.

### Vice Chair

Mr. Holmes reported that the DC Federal Teachers Credit Union (DCTFCU) Certificate of Occupancy matter (17842) has been delayed until June 9, first at his request because he had been provided with no written material and, second, at the request of DCTFCU stating that they had had an extraordinary assessment of over \$300,000 for credit union stability.

Once again, this month, he received nothing to allow him to present the matter for a vote by the ANC. He said he will continue, as the authorized representative of the ANC in this matter, to insist on the goals set forth in a motion already adopted by the Commission.

### Secretary

The Secretary had no report.

### Treasurer

Commissioner Alberti presented the Treasurer's Report The report shows that the opening checking account balance was \$21,179.08 and that the savings account balance was \$4,192.39. There was an interest payment to the savings account of \$1.07, leaving an opening balance of \$4,193.46 in the savings account. There were disbursements of \$240 to the United States Postal Service for post office box rental (Check #1411); \$122.40 to FedEx Office for photocopying (Check #1412), and \$4000 to EHT/Traceries for a grant to the Capitol Hill Restoration Society (Check #1413) leaving a balance of \$22,525.85 in the checking account, and \$4,193.46 in the savings account. **Motion:** Mr. Alberti moved/Mr. Holmes seconded a motion to approve the expenditures. The motion passed without objection. **Motion:** Mr. Alberti moved /Mr. Holmes seconded a motion to approve the Treasurer's Report. It was approved without objection.

**Motion:** Mr. Alberti moved/Mr. Schultheiss seconded a motion to approve the Quarterly Report for the 2<sup>nd</sup> Quarter 09. The motion was approved without objection.

**Motion:** Mr. Alberti moved/Mr. Robinson 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.

## 6. SMD Reports

**Mr. Marshall** reported that he had a well-attended SMD meeting on May 6<sup>th</sup> There was a discussion of the proposed H Street mural that went really well, with comments by people who had lived on H Street for 50 years. The mural, he said, has come a long way since its original conception. He expressed his concern about the valet parking by Martini Lounge and the Atlas Theatre because cars are being parked on his side of the street. He said that people are putting up cones to reserve parking spaces, and he has talked with Councilmember Wells about it. He said that Damon Harvey is contacting people on H Street, and it should be resolved by the June meeting.

**Mr. Alberti** reported on a quarterly meeting at Eastern High School to discuss the way forward on the renovations at the school, and the nature of the program they'll have when the school re-opens. He said the 11<sup>th</sup> and 12<sup>th</sup> graders remaining at the school will be in modular units. The new 9<sup>th</sup> graders will begin in 2010.

He also reported that he has had comments from the community that the single sales corridor around C and 15<sup>th</sup> Street is noticeably quieter since the moratorium is in place.

**Mr. Schultheiss** reported that there was a sewer leak on Emerald Street and WASA responded very quickly.

**Ms. Mack** reported that she has been working on getting speed bumps in Rosedale for three years, and has had a frustrating time dealing with DDOT. She showed the long record of communications with the agency that have not been responded to.

**Mr. Robinson** reported that plans are being made at Rosedale and Sherwood Rec Centers for summer programs. He said that Turning the Page had made 100 boxes of age-appropriate books available to Rosedale. He said that there would be public safety drives at both centers for participants in their summer programs.

## 7. Committee Reports

### ABL

#### Valet Parking on H Street

Ms. Beatty reported that the Committee viewed regulations regarding valet parking, and said that the committee had recommended that a statement be added to the standard voluntary agreement that the licensee will comply with valet parking regulations. **Motion:** Ms. Beatty moved/Mr. Robinson seconded a motion that the ANC accept the committee's recommendation to add a statement to the standard Voluntary Agreement stating that the licensee will comply with DC valet parking regulations.

Mr. Alberti said that compliance is the responsibility of the licensee. ABRA had jurisdiction in the past, but the City Council removed responsibility for enforcement from ABRA and gave it to DCRA. Ms. Beatty added that valet parkers have to be licensed. The motion passed 6-0-2, with Mr. Alberti and Mr. Holmes abstaining.

### DC Express

DC Express, at 15<sup>th</sup> and East Capitol Streets is seeking an exemption from the single sales moratorium. Ms. Beatty reported that the committee recommended that the ANC not support the request. She said that people have seen a noticeable difference in the neighborhood since the moratorium has been in effect. **Motion:** Ms. Beatty moved/Mr. Holmes seconded a motion to accept the committee's recommendation to oppose the granting of an exemption to the Ward 6 single sales moratorium to DC Express.

The owner reported that more than 100 people have signed a petition in favor of the exemption. He said there is a store one block away that is taking business away from him. He said that people know he's very responsible, and he has no control over people who hang out at the Chinese carryout next door.

Mr. Holmes said that the Commission relies on its committees to tell it what to do, and its judgment has to be relied on. Mr. Robinson asked how the committee considered the request, and

he was told that it took testimony from residents, but the owner was not present. The motion passed 7-0-1, with Mr. Alberti not voting.

### Viggy's

**Motion:** Ms. Beatty moved/Mr. Robinson seconded a motion to accept the committee's recommendation to not protest the license renewal for Viggy's at 409 15<sup>th</sup> Street NE. Ms. Beatty said that the ANC had protested Viggy's license in the past, but the new owner signed a Voluntary Agreement when the license was transferred, and he doesn't sell singles and follows the provisions of the VA. The motion passed 7-0-1, with Mr. Alberti abstaining.

### Capital Liquors

Ms. Beatty said that Capital Liquors has applied for an exemption to the single sales moratorium. She said they have drawn up a voluntary agreement that has a one-year limit, to see how it works, includes a ban of sales of single beer, malt beverages and ales, has a price point of \$5.99 for half pints, which should eliminate people who drink on the street. The owner has agreed to all the stipulations. She said that it is a well-run store which did not sell singles of beer before the Ward 6 moratorium. Mr. Alberti stated that the voluntary agreement has to be approved before it is signed, otherwise it had no force. Ms. Beatty explained that the owner could not agree and sign the voluntary agreement until the ANC approves the exemption because the VA is conditioned upon ANC approval of the exemption.

Mr. Holmes said he is in opposition to the committee's recommendation because it is too soon and the moratorium has not had time to work. Mr. Robinson asked how the \$5.99 price point had been determined and was told it was part of the negotiation and discussion with the owner. Mr. Holmes reminded the commission that Councilmember Alexander had specifically asked that there be no exemptions on Benning Road, directly across from Ward 7. Ms. Mack said that the store is close to Ward 7, but it's also close to Ward 5, and that we should not let other ANC's tell ours what to do. Mr. Marshall said that he is totally against softening the ban, but he tries to support the Commissioner whose SMD it is, and the Committee's recommendation. **Motion:** Ms. Beatty moved/Ms. Mack seconded a motion to accept the committee's recommendation to support an exemption from the single sales moratorium for Capital Liquors, contingent on the Applicant's signing the voluntary agreement, approved by the ANC with its provisions on a one-year limit and a \$5.99 sales price point. The motion failed 2-5-1, with Ms. Beatty and Ms. Mack in favor, and Mr. Alberti not voting.

The Committee's report was accepted without objection.

### Economic Development and Zoning

#### 1400 Maryland Avenue NE

It was reported that the owners of the proposed gas station at 1400 Maryland Avenue, NE had appeared before the committee, along with the Transportation Committee, and presented modified plans for the gas station, which, while improved, still has problems. **Motion:** Mr. Fengler moved/Mr. Schultheiss seconded a motion that the ANC accept the committees' recommendation that it oppose the current plans for 1400 Maryland Avenue NE with respect to public space and traffic flow unless the applicant addresses the following concerns before the ANC 6A meeting scheduled for May 14<sup>th</sup>, 2009:

- Encroachment on public space and loss of parking needed for fuel truck exit on 14<sup>th</sup> Street NE.
- Insufficient space to accommodate flow of traffic past the pumps.
- Insufficient space for queuing while waiting will lead to queuing on public space.

- If built as planned, mitigation of our concerns will require annexing public space to the station to ameliorate the problems.
- Traffic exiting at Maryland Avenue will have to turn left across the median.
- If the applicant can address these concerns without incorporating public space, the Committee will ask the ANC to reconsider its recommendation. The motion passed without objection.

### Emergency Text Amendment to Zoning Regulations

Dr. Ronneberg said that currently the commercial properties at the east end of H Street are not included in the H Street Overlay, and the Office of Planning felt that the boundaries of the Overlay should not be extended while the Zoning Code Rewrite is in progress. But OP suggested it would support a map amendment that changed the current zoning to the land uses and densities shown in the Comprehensive Plan, which shows that all lots on Maryland Avenue, 14<sup>th</sup> Street, and Florida Avenue which do not front H Street should be zoned residential (R-4) and that properties which front on H Street should be zoned low to moderate density commercial (C-2-A). Such a rezoning would make current commercial uses on Maryland Avenue, 14<sup>th</sup> Street and Florida Avenue nonconforming in a residential zone. This means that owners could continue using the property for the current commercial use, but that if there were a change of use, the new use would have to be residential.

**Motion:** Mr. Fengler moved/Mr. Alberti seconded a motion to accept the committee’s recommendation that the ANC propose an emergency text amendment to the Zoning Commission to rezone properties between Florida and Maryland Avenues and 12<sup>th</sup> Street NE that don’t front on H Street as an R-4 zone, and properties that do front on H Street as a C-2-A zone. The motion passed without objection.

The Committee’s report was accepted without objection.

### Community Outreach

#### Rosedale Recreation Center “Park Partners” Program

Elizabeth Nelson reported that the Community Outreach Committee had considered the issue of the Rosedale Citizens’ Alliance (RCA) and the Rosedale Youth Initiative (RYI) serving as ‘Park Partners’ to the Rosedale Recreation Center for the second time, and heard from both citizens and Melissa McKnight of the Department of Parks and Recreation (DPR). Major concerns include the question of fundraising and whether just one group can be a park partner. It was made clear that the partner’s organization does not have any more input into decisions about the Rec Center than any other group. Ms. Beatty expressed her concern about the ANC’s role, and suggested that the ANC just stay out of it. Mr. Fengler also asked why the ANC was involved. Ms. Nelson responded that it is a new DPR procedure, and that park partners programs have to have ANC support.

Ms. Mack said that she did not get to see the proposal until seven days prior to the meeting. She also said that the ANC should not have oversight over the rebuilding of the Rec Center. Mr. Robinson said that activities listed in the application would put the ANC in the precarious position of supporting activities that are not legal, specifically fundraising on the grounds of the center. Mr. Fengler asked whether it was the question of fundraising at the Center. Mr. Robinson said it was the entire paragraph on fundraising. Ms. Nelson said that while things can’t be sold at the Center, they should be able to do fundraising for programs.

Sondra Phillips Gilbert reiterated her charges that the public had been misled as to the rules under which park partners were chosen. Mr. Marshall asked whether the members of the RCA and the RYI were certified volunteers, and was told they were. Mr. Schultheiss said that fundraising was very important, and removing the fundraising plan was not necessary. He said that clarification about

what can be done on the property and off the property would take care of it. He said that the RCA is an organization that has regularly scheduled monthly meetings, and also reiterated that the renovation of the Rec Center is within the purview of the ANC. Ms. Mack said that there can be multiple partners for the Center. She also said that she has been deeply involved in the remodeling of the Center and has served on several committees in Ward 5 and 7 as well as 6.

Mr. Marshall said he was the site manager at Sherwood Rec Center and the discussion had not focused on what's for the benefit of the kid. He said he often went into his own pocket to get things for the kids. He said that things have to change. Ms. Gilbert said there should be input from the community on what should be done, and Nicothea Bowens, the head of the RCA, said that everything was for the benefit of the children.

(Discussion was temporarily suspended to act on the H Street Mural—see below)

Mr. Robinson said that there have been a number of attempts to restart the process and bring all the groups together to see if there could be a consensus. Absent that, he said, it would be difficult to endorse one group.

Mr. Holmes said that DPR's language says that the ANC has to make a choice, and there is one applicant from a 501(c) (3) organization, the ANC has to make that choice. Mr. Alberti said that the ANC has received a lot of good information, such as that there can be more than one park partner. The Commission, he said, could have another application and consider all groups. He said he was predisposed to look favorably on any group that meets DPR requirements. Ms. Beatty said that the Pilgrim (alternative) group has applied directly to DPR as the program manager.

Michael Nelson said he is glad there are people in the community who are interested in working for the Rec Center. And a resident who lives right across the street from Rosedale said she sees the kids on the street, hanging out, waiting for the people at Rosedale to provide programs. Mr. Marshall responded that the staff is doing the best they can with the resources they have. **Motion:** Mr. Fengler moved/Mr. Alberti seconded a motion to accept the Committee's recommendation that the ANC send a letter of support to the Department of Parks and Recreation for the joint proposal of The Rosedale Youth Institute (RYI) and the Rosedale Citizens Alliance (RCA) to become "park partners" to the Rosedale Recreation Center. The motion passed 4-3-1, with Ms. Beatty, Ms. Mack and Mr. Robinson in opposition and Mr. Marshall abstaining.

#### H Street Mural

**Motion:** Mr. Holmes moved/Mr. Marshall seconded a motion that the ANC accept the committee's recommendation to send a letter of support for the City Arts H Street mural project.

Mr. Marshall said there had been community meetings on the mural and it was changed and more reflective of the community. Mr. Robinson said he wanted to commend the City Arts group for its responsiveness in incorporating the views of the community. Mr. Marshall thanked them for listening. They hope to begin work on the mural in June. The motion passed without objection.

#### New Committee Member

**Motion:** Mr. Fengler moved/Mr. Alberti seconded a motion to approve Jean Kohanek as a member of the Community Outreach Committee. The motion passed without objection.

The Committee's report was accepted without objection.

## Transportation

Mr. Mahmoud said that the Transportation Committee had met with the Zoning and Economic Development Committee, and had no individual report.

The Committee's report was accepted without objection.

## Public Safety

(Ms. Beatty left at 9:05 p.m.)

Committee co-chair Rebecca Sibia presented two recommendations:

**Motion:** Mr. Robinson moved/Ms. Mack seconded a motion that the ANC support the Committee's recommendation to send a letter to the Director of the Roving Leaders Program to request an explanation of how staff resource allocation decisions are made, as well as to request a re-examination of need for the ANC 6A neighborhood. The motion passed 6-0-1 with Mr. Marshall abstaining.

**Motion:** Mr. Fengler moved/Mr. Robinson seconded a motion to accept the committee's recommendation that the ANC send a letter to the Library Board in support of the construction of library space at the Rosedale Center site. The motion passed 6-0-1, with Mr. Marshall abstaining.

The Committee's report was accepted without objection.

## 8. New Business

### ANC Representation at HPRB on Mead's Row hearing

**Motion:** Mr. Holmes moved/Mr. Robinson seconded a motion that Mr. Holmes be authorized to represent the ANC at the HPRB hearing on the historic designation of Mead's Row (1305-1311 H Street NE). The motion passed without objection.

### Legal Representation for 1400 Maryland Avenue NE

Dr. Ronneberg said that Kirkpatrick Stockton had been assisting the ANC *pro bono* in the matter of 1400 Maryland Avenue NE. However, Rich Luna is no longer working for the firm.

**Motion:** Mr. Fengler moved/Mr. Robinson seconded a motion to authorize Omar Mahmud, Bill Schultheiss, Drew Ronneberg, and Rich Luna to represent the ANC in the matter of 1400 Maryland Avenue NE. The motion passed without objection.

The meeting was adjourned at 9:10 p.m.