

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

**Minutes**  
November 14, 2009

The meeting was called to order at 7:00 p.m.

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

**1. Approval of agenda**

The agenda was approved without objection.

**2. Minutes**

The minutes for the October meeting were approved without objection.

**3. Community Comment**

Alex Rotan, Office of the Mayor's Ward 6 Community Representative, announced the dedication of the H Street Mural on November 21<sup>st</sup> at 3 p.m. with a reception at Sova at 8:30 p.m.

**4. Officer Reports**

Chair

The Chair had no report.

Vice Chair

The Vice Chair had no report.

Secretary

The Secretary had no report.

Treasurer

Commissioner Alberti presented the Treasurer's Report. The report shows that the opening checking account balance was \$26,107.18 and that the savings account balance was \$4,197.39. There was a payment of a District allotment of \$6,019.50, and an interest payment to the savings account of \$.79, leaving an opening balance of \$34,126.68 in the checking account and \$4,198.08 in the savings account. There were disbursements of \$88.50 to Roberta Weiner for transcription of minutes (Check #1434), and \$200 to Heather Schoell for preparation of the agenda packet (Check #1435), leaving a balance of \$33,838.18 in the checking account. **Motion:** Mr. Alberti moved/Ms. Beatty 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/Ms. Beatty seconded a motion to approve the Quarterly Report for the 4<sup>th</sup> Quarter of FY09. The Report was approved without objection.

**Motion:** Mr. Alberti moved/Mr. Holmes seconded a motion that \$600 be approved for copying for ANC materials for each of July and August, 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.

### Budget

Mr. Alberti noted that along with the budget for FY 10, he had included a report of year-to-date expenses. He said there had been a change in District allotments, and there would be less money coming next year.

Mr. Fengler asked about the figure that only \$1,604.96 had been spent on grants for this year. He said he would like to propose increasing the grants budget. Elizabeth Nelson said she had a list of several organizations that were interested in grants for next year, including the Rosedale Youth Institute - \$3-5,000 for uniforms; Eastern High School - \$4-5,000; Capitol Hill Garden Club - \$600; and Trees for Capitol Hill.

Mr. Robinson questioned that there was an allotment of \$3,200 for interpreter expenses while only \$500 had been spent. Mr. Alberti said that he wanted to be prepared for when it's needed. Ms. Nelson added that because it's a legal requirement of the District, there should be money allotted for the potential expense. Mr. Robinson asked whether the allotment anticipates every committee meeting and every full Commission meeting. Mr. Alberti responded that sometime in the future the ANC will learn whether the District is going to come through and pay for the expense. Mr. Holmes said that it's wise to keep a reserve for interpretive services because, among other reasons, the ANC never knows when an issue will bring Gallaudet people to the meeting. Alex Rotan said that they used an interpreter for a meeting in his office and it was not inexpensive. Mr. Robinson responded that it never costs \$600 an hour. Mr. Fengler said that there are a large number of hearing-impaired people in the ANC's district. He also mentioned that Gallaudet has a good relationship with the ANC, including hosting its website, and because the Commission has a large surplus, he's comfortable with that intent of where we would like to spend the ANC's budget. Mr. Robinson said it's astounding that that there should be such a large appropriation for interpretation, and asked how that large number was arrived at. Ms. Beatty said that the ANC spent \$500 last year, and she hoped there was no link between the website and the interpretation expense.

**Motion:** Mr. Schultheiss moved/Ms. Beatty seconded a motion to adjust the budget for sign language interpretation to \$1,200. Ms. Beatty added that the total expenditures would have to be adjusted to \$29,375, and the projected surplus to \$31,171.36. The vote on the amendment to the FY10 budget was 5-2, with Mr. Fengler and Mr. Alberti in opposition.

**Motion:** Mr. Fengler moved/Mr. Alberti seconded a motion to approve the FY10 budget as amended. The motion was approved without objection.

## 5. SMD Reports

**Mr. Marshall** reported his concerns about the situation with violence at Martini Lounge on H St., NE and at Sticky Rice, and asked about how to achieve effective enforcement on H Street. He also mentioned the dedication of the H Street Mural on November 21<sup>st</sup> (see above).

**Mr. Robinson** reported that the Eastern High School construction is moving forward, and it is terrific, with such features as two atriums and the latest and greatest technology planned. He

also raised the issue of Councilmember Alexander’s ANC workshop which will take place on November 21<sup>st</sup>. Mr. Fengler suggested moving the discussion to New Business at the end of the meeting.

**Mr. Schultheiss** reported that 1400 Maryland Ave., NE has been listed as a vacant property and is before the Board of Condemnation. The owner has failed to follow the law and keep the property clear, but there has been no change. The owner is being fined, but there have been no other consequences. He expressed his frustration that there seems to be no seriousness in the area of enforcement on the part of the DC government.

**Mr. Fengler** reported that he had an SMD meeting, with Mr. Marshall, on the H Street Connection. He said 12 to 15 residents met with the developer and architects, and they seem happy with the proposal. On the issue of H Street enforcement, he said he shared Mr. Marshall’s concerns but has a different take on the issue. Mr. Fengler said he had a problem, and MPD went through the VA paragraph by paragraph to see where they weren’t in compliance. With VAs, a two-year record is built up, and it’s on paper when renewal time comes around. He also mentioned that there are problems on 10<sup>th</sup> and 12<sup>th</sup> Streets and he’s telling people to call PSA 102, and to go to meetings.

**Ms. Beatty** reported that there was illegal construction on a building on 12<sup>th</sup> Street and she called DCRA which came right away.

**Mr. Alberti** reported that there is a building in the 1500 block of Constitution Ave., NE that has been boarded up for three years. He said he has written to DCRA because the building should be on the vacant property list.

**Mr. Holmes** reported that a property on the corner of 8<sup>th</sup> and C Streets that collapsed has been renovated and sold, and that a property at 12<sup>th</sup> and C Streets that had been proposed as a 5-unit building has been sold and rebuilt as a single-family house. He reported that Traceries did its historic survey of each building on H Street, and presented its report to a large crowd.

## 6. Committee Reports

### ABL

The committee did not meet, and there was no report. Ms. Beatty said that the issues at Martini Lounge will be discussed at the next committee meeting. She said the owner says there were no weapons involved. In answer to a question from Mr. Marshall she said that an individual can file a complaint with ABRA. Another idea would be to revisit the moratorium.

Mr. Robinson commented on what a “fabulous job” Ms. Beatty has done with the committee. He said that he doesn’t see the problem on H Street getting any better, and in fact, see it getting worse. He said that people respond better to the police, and will respond as “business and usual” without police involvement.

Mr. Alberti said that the MPD has a program with ABRA to use off duty officers that is aimed at late night enforcement—from midnight to closing. Licensees can collectively hire officers. He said that while owners can’t be forced to do this, the ANC can facilitate a program. Mr. Fengler added that there’s no requirement for a security plan, but perhaps the ANC should have a plan incorporated into the VAs that would require additional cost for security. He said that the ANC should have ABRA come to a meeting and address the issue, and formally ask the committee to develop a model for such a security plan.

### Economic Development and Zoning

## H Street Connection

Mr. Fengler suggested that while there has been a recommendation on an amenities package for the H Street Connection, many issues are still unresolved, and the ANC should wait and consider all the relevant issues and motions as a comprehensive document. **Motion:** Mr. Fengler moved/Mr. Robinson seconded a motion to consider all the H Street Connection recommendations incorporated into a single document to be dealt with at one time. The motion passed without objection.

## 1212 Wylie St., NE

This is a request for support of a BZA application for a variance from the rear yard requirements, and a variance from the nonconforming structure provisions to allow a second-story addition to an existing one-family row dwelling in the R-4 district. The committee unanimously recommended that the ANC support the project.

The house, purchased in terrible condition, is undergoing full interior renovation. The first floor has a kitchen room attached to the back; BZA did not permit the addition requested in her original application. The owner is not increasing the footprint of the house. At least 50% of the houses on the block have rear extensions, including her neighbors on both sides (both neighbors have provided letters of support for the project).

Mr. Alberti asked why a variance is needed and was told that the owner is increasing the building's square footage. **Motion:** Mr. Fengler moved/Mr. Holmes seconded a motion to accept the Committee's recommendation to support the application for a variance for 1212 Wylie St., NE. The motion passed without objection.

**Motion:** Mr. Holmes moved/Mr. Robinson seconded acceptance of the resignations of Patricia Schaub and Johnathan Schrader, and the removal of Alan Page from the committee. The motion passed without objection.

Mr. Holmes reported that there will be a BZA hearing on 1242 H Street. He will attend the hearing.

The Committee's report was accepted without objection.

## Community Outreach

### Maury School PTA Grant Application for Sound Equipment

Elizabeth Nelson presented a grant application for \$3,500 for funding for a sound system for Maury's multi-purpose room. The committee's original recommendation was contingent on receipt of a new application from the school with a revised estimate of the cost of the system, which is now estimated to be \$4,906. The PTA is committed to raising the additional needed funds for the system, which can be installed in stages. Brittany May, the school's music teacher, who was present at the ANC meeting, said that the school has extensive and expanding performance arts programs for which the system will be used.

Mr. Holmes was assured that the grant was not being used for any purpose the District would otherwise fund. **Motion:** Mr. Fengler moved/Mr. Holmes seconded a motion to accept the committee's recommendation to provide Maury Elementary School with a \$3,500 grant for a sound system. The motion passed without objection.

In answer to a question from Mr. Marshall Ms. Nelson said that the Sherwood Advisory Board has not applied for any funds.

The Committee's report was accepted without objection.

### Transportation

The Committee's report was accepted without objection.

### Public Safety

There was no October meeting of the committee. Mr. Robinson made a plea for committee members.

## 7. New Business

### Appletree School

Mr. Holmes gave a brief history of the ANC's involvement in the issue of the Appletree School, which wants to locate a charter pre-school at 138 12<sup>th</sup> St., NE. The school meets none of the new zoning regulations covering charter schools, but was grandfathered into the law because its application was filed prior to the regulations being implemented. The ANC took the issue to an Administrative Law judge, but it would have been too expensive for the city to follow through. The school is now going before the Charter School Board for its final approval (it wanted to complete all its zoning requirements prior to doing so).

The ANC has been notified of the December 21<sup>st</sup> hearing, and plans to testify; it will be the last opportunity the Commission has to try to stop the school from locating at an inappropriate location. Mr. Holmes said that the community does not want the school in that location, and has suggested other locations, even within the same SMD. The problems include that there is no drop-off for the children, there are three busy commuter streets on three sides of that Square, inadequate staff parking, and there are many pre-schools within a seven block area.

**Motion:** Mr. Holmes moved/Mr. Alberti seconded the following motion: (the strikeouts and italic addition are the final version of the resolution)

Advisory Neighborhood Commission (ANC) 6A continues to ~~vigorously~~ oppose the siting of a school at 138 12<sup>th</sup> St., NE, in the middle of a residential row house block.

The ANC ~~finds~~ *resolves*: This site falls far short of meeting current city requirements for street front footage, parking, and minimum lot size. It has no play area, and will require a long walk for toddlers to reach the nearest park playground. Maury School, a block away at 13<sup>th</sup> Street, already has a pre-school, as do Miner, Tyler, Payne and Peabody Schools, all within seven blocks. The proposed site shares walls with 19<sup>th</sup> century residential row houses. The school would have no on-site drop-off for parents, leading to traffic congestion and blockage. The site will provide, at most, only two parking spaces, accessible on in the alley, for staff, teachers and parents. There are many appropriate locations for pre-school in ANC 6A. This is not one of them.

Commissioners Nick Alberti and David Holmes are authorized to represent the ANC in this matter before the Public Charter School Board meeting of December 21<sup>st</sup>, and before any agency of the city government.

Ms. Beatty said that Appletree offers an alternative to DCPS schools, and that while she understands the concerns of Commissioner Holmes and Alberti and their neighborhood she doesn't think the ANC should take a position on an issue in an individual SMD. She also said she objects to the use of the words "vigorously" and "finds"—these are not findings.

Mr. Robinson said he is a huge supporter of charter schools, and he is trying to understand where the ANC is in the process: what is it the ANC hopes the Charter School Board will do. He said the school has a license, and the zoning issues have already been settled. He asked what the ANC hopes to gain at the hearing. Mr. Holmes said to express the ANC's opposition to a school at that site. He said that the Board has the matter of an expansion campus before it, and is looking at whether it should be granted. It's similar to the process with a VA—the school worked out the zoning issues prior to applying to the school board. Mr. Fengler added that the Charter School Board was required to notify the ANC of the hearing.

Mr. Schultheiss said he is in support of the motion. He was on the EDZ committee three years ago when Appletree came before it. The director of the school came before the committee and the ANC and dismissed the traffic concerns and said the kids could walk.

Ms. Beatty said the issue was very NIMBY, that it will mess up traffic, etc. She said the motion was not appropriate, that the ANC can't make statements about "findings". Mr. Robinson said that Appletree should be present, and questioned the need for the motion at this meeting since the hearing is December 21<sup>st</sup>. Mr. Fengler responded that a Commissioner asked to have it placed on the agenda, even though it's true that there's another meeting before the hearing.

**Motion:** Mr. Robinson moved/Ms. Beatty seconded a motion to postpone action on the motion until the December meeting, and invite Appletree to appear before the community. Mr. Holmes said that Appletree had appeared at the ANC and there's nothing they can add. They have done well in other locations, but this one is wrong. He said he would like to take action at this meeting, when we're sure we have a quorum. Mr. Alberti added that the ANC has already taken a position to oppose more than a year ago, and this motion is only to reconfirm that position. The motion failed, 3-4 with Commissioners Alberti, Fengler Holmes and Schultheiss in opposition.

**Motion:** Ms. Beatty moved/Mr. Marshall seconded a motion to strike the word "vigorously" in the first paragraph, and to strike the second paragraph. The motion failed 3-4, with Commissioners Alberti, Fengler Holmes and Schultheiss in opposition.

Mr. Robinson said that if the ANC already has a position, then no introductory language is necessary. **Motion:** Mr. Robinson moved/Ms. Beatty seconded a motion to strike the first two paragraphs, just leaving the third. The motion failed, 3-4 with Commissioners Alberti, Fengler Holmes and Schultheiss in opposition.

Mr. Holmes said that he could have used the word "resolved" instead of "finds." **Motion:** Mr. Fengler moved/Mr. Holmes seconded a motion to strike the word "vigorously" and to replace the word "finds" to "resolved." The motion passed 5-2, with Commissioners Alberti and Robinson in opposition.

**Motion:** Mr. Alberti moved/Mr. Schultheiss seconded a motion to call the question. The motion failed 2-5, with Commissioners Alberti and Schultheiss in support.

A member of the community asked whether suggestions have been given to Apple tree for use of their building if they were to move. Mr. Holmes responded that it could be used as a meeting hall for a religious organization, for example. Mr. Lee, who lives in the 1200 block of G Street, said he supports Ms. Beatty's position, and unless there is support on the part of the community a position shouldn't be taken. He said he would suggest going back to the community to get their views. Margaret Holwill said that since 2005 her community has been fighting Appletree, and in fact, it was the community that brought the issue to the ANC. She said she has file boxes filled with information on Appletree. She said the ANC has created

zoning changes and until Commissioner Holmes went to the Attorney General's office nothing happened. Commissioner Holmes said that charter schools use public funds, and the meeting in December will be the only opportunity that the community can have its say.

Mr. Alberti added that the history is: it was not until Appletree was going to get its permits because there were no zoning laws for charter schools. The Zoning Commission looked at the issue and decided the location is too small for a school. Appletree got permits because its application was filed before the regulations were changed. Mr. Schultheiss added that his transportation consulting firm specializes in assessing school sites and its obvious there is no drop-off site for 60-90 students, and no safe way for kids to get in and out. Most troubling, he said, is that the owners have no interest in the safety of children.

Mr. Holmes said that this is the first use of the public notification requirement by the Charter School Board. This is the only site in the city, because of the change in zoning regulations, which will have this problem.

Mr. Robinson said it was troubling to him that the motion dealing solely with authorization was defeated, and there must be some other reason for having that language. He said he would be voting no. Mr. Alberti said that what's written in the motion is consistent with what the ANC has done before, and that bringing the motion to the ANC was just to be above board and keep the Commission abreast of what was being done. Mr. Fengler added that it would have been easier to just authorize Mr. Alberti's and Mr. Holmes' participation. However, things in the resolution are all in letters that have previously been written.

The vote on the final, amended, motion was 4-2-1, with Mr. Robinson and Ms. Beatty in opposition, and Mr. Marshall abstaining.

#### ANC Roundtable

Mr. Robinson asked whether the ANC wanted to have an official presence at Councilmember Yvette Alexander's ANC Roundtable on November 23<sup>rd</sup>. Mr. Holmes said he had met with the Councilmember, and she thought the ANC's suggested changes in the ANC law were worthwhile. It was suggested that no formal ANC action was necessary.

### **8. Community Comment**

Alex Rotan of the Mayor's Office said that there are homeless people involved at 1400 Maryland which makes it more complicated to take action. It is the owner's responsibility to abate the situation, and they are moving on the situation. He said the City is anxious to take care of the situation.

The meeting was adjourned at 8:37 p.m.