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Minutes of the February 5, 2008 meeting of Advisory Neighborhood Commission 1-D

These minutes accepted at the March 4, 2008 meeting.

Call to order

[7:02 pm] Chair “Stormy” Scott called the meeting to order at 7:02 pm. Present were four of the six seated ANC1D commissioners, Stormy, Gregg Edwards, Dave Bosserman, and Jack McKay, constituting a quorum.

Public discussion

[7:03 pm] The meeting was opened to public discussion. David Sitomer spoke. *Commissioner Tunda arrived at 7:04 pm, and Commissioner Zara at 7:05 pm.* Claudia Schlosberg, Wayne Kahn, Steve Mudd, David Vacca, and Haydee Vanegas spoke.

Minutes of previous meeting

[7:17 pm] No corrections being offered by any commissioners, the minutes of the January 22 meeting were declared accepted.

Treasurer’s report

[7:18 pm] Jane noted that the ANC participation in the ANC Security Fund had to be completed before the ANC could write any more checks. Some discrepancy on the ANC’s past allotments remained. Gregg moved that the ANC pass a resolution asking the Auditor to clarify the situation, and to restore any allotments missed. Jack moved that that resolution be tabled until a second February meeting, and our Treasurer determines the facts of the situation from the Auditor. *Motion to table passed, 6 to 0.* Jane agreed to follow up with inquiries to the DC Auditor.

The Q1FY08 quarterly report was brought up for discussion. Gregg moved that “we approve this now, and look at it and put in amendments later”. *Motion passed, 5 to 1 (Jack voting “no”).*

Committee reports

[7:29 pm] Jane provided a report for the Education Committee.

ABC Board representation and protestant reinstatement

[7:32 pm] Gregg moved the following resolutions as “consent” items:

Representation:

ANC1D hereby authorizes Commissioner Jack McKay, 1D03, to represent its interests before the Alcoholic Beverage Control Board, and in all other dealings with the Alcoholic Beverage Regulation Administration. This authorization will continue until terminated by the Commission.

Reinstatement:

Resolved, that ANC1D petitions the Alcoholic Beverage Control Board for reinstatement as a protestant to the entertainment endorsements for Haydee's and Don Jaime's Restaurants, on the grounds that the ANC1D letter of protest was in fact sent to ABRA prior to the petition date of November 26, 2007, but that fax was mislaid by ABRA.

ANC1D has proof that the resolution was sent by fax to ABRA. ABRA, having misplaced its fax printout, has no evidence to support an assertion that the protest was received after the November 26 deadline. All the evidence at hand says that the protest was sent to ABRA before November 26, but the fax was lost somewhere in the ABRA offices. Hence, it must be assumed that the fax was in fact sent before that deadline.

Rationale:

The resolution advising the ABC Board of ANC1D's protest was passed by this ANC at the public meeting of November 20, 2007. That the Commission did so on that date can be confirmed by the posting of that resolution on a publicly-accessible Web site, the Mount Pleasant Forum, on November 21:

<http://www.mtpleasantdc.org/forum/viewtopic.php?t=5634>

The Commission Secretary, Jack McKay, sent the resolution of protest to the ABC Board on the same evening that the resolution was passed, November 20. This was sent by fax so that the resolution would bear his signature, as he had been told by ABRA was necessary for a formal resolution. The fax was sent to the ABRA fax number, 202-442-9563. Attached is the printout confirming that the resolution was sent to that fax number.

Unfortunately the time/date function of the fax machine was not working, so the indicated date (January 13, 2005) is meaningless. Nonetheless, given that the resolution was passed on November 20, and posted publicly on November 21, it is implausible that the communication of this resolution to ABRA was not faxed until more than a week after the meeting. The Commission, and Commissioner McKay, were well aware of the November 26 deadline.

The fax printout is proof positive that the resolution was sent by fax to the ABRA fax number. ABRA seems to be unable to locate that fax. If they could find that fax, then presumably the receiving machine would have printed the time and date of receipt, thus confirming its timely arrival. Alternatively, if we suppose that Commissioner McKay did not fax the resolution to ABRA in a timely manner, then that printout at ABRA would prove that point. Since ABRA cannot locate the fax, though it was definitively sent to ABRA, one must conclude that the error is ABRA's, in losing the paper printout.

Since ANC1D can prove that the resolution was sent to ABRA by fax, and ABRA cannot locate that fax printout to prove that it was received after the November 26 deadline, one must presume that it was sent in a timely manner, as asserted by ANC1D.

Resolutions passed, 6 to 0.

Permitting live music

[7:38 pm] Jack and Gregg introduced a resolution concerning permission for live music in Mount Pleasant restaurants. Due to confusion over the text, proceedings were interrupted for a period while Gregg retrieved the text from his home.

Education Committee Funding and Budget

[7:51 pm] Jane introduced this resolution:

It is hereby resolved that \$10,000 be allotted for funding public education, and local non-profit endeavors for enhancing the literacy, writing skills, and analysis of issues of concern to Mt. Pleasant.

Rationale: We support enhancing vital living skills in our community and this is one way to further that effort.

Jack moved that this resolution be tabled. *Motion to table passed 4 to 2 (Jane and Dave voting "no".)*

Permitting live music (continued)

[7:58 pm] Discussion of the live-music resolution was resumed, with the following resolution text:

Resolved, that ANC1D advises the Alcoholic Beverage Control Board to accept voluntary/cooperative agreements which permit dancing, cover charges, live music, and live entertainment. Resolved further, that ANC1D accepts the termination-hour limits specified in the Hear Mount Pleasant agreement, with the proviso that those limits should automatically expire at the end of one year, if there is no strong proof that there has been significant degradation of peace, order, and quiet in the area directly attributable to live music and live entertainment offerings by the licensees.

ANC1D further advises the ABC Board to terminate any voluntary/cooperative agreements that fail to permit dancing, cover charges, and live music and entertainment, as described above.

Rationale:

The need for the current severe limitations on live music and live entertainment for preservation of "peace, order, and quiet" in Mount Pleasant has never been confirmed. Mount Pleasant's restaurants and tavern are currently open until 2 and 3 AM. No one has demonstrated that adding live music and live entertainment will make any significant difference to the occasional late-night disturbances already reported by some neighbors.

On the contrary, if live music and live entertainment draw more people to Mount Pleasant Street, safety and security of all residents will be enhanced. Under current conditions, Mount Pleasant's small commercial area is nearly deserted at night, presenting serious threats, real and perceived, to residents passing through the area late at night, for example, when returning home from bus stops or the Metro. Furthermore, many residents of Mount Pleasant have expressed their desire to have live music and live entertainment within walking distance of their homes.

ANC1D is well aware of the possibility of disturbances to residents by noisy people on the street, as they approach or leave our restaurants and tavern. But the total capacity of our restaurants and tavern is so small that large crowds, such as are observed in Adams Morgan at night, will not come to pass. Furthermore, ANC1D expects the formation of a Responsible

Hospitality neighborhood organization that will deal with any such problems specifically, if and when they occur.

Resolution passed, 6 to 0.

Choice of agreements

[8:10 pm] Gregg moved the following resolution:

Resolved, that ANC1D agrees to withdraw its protest of liquor license renewal and entertainment endorsement upon the acceptance of either its version A agreement, modeled on the Hear Mount Pleasant CA, or its version B agreement, modeled on the All-Ways Mount Pleasant CA, by the licensee and the Alcoholic Beverage Control Board. Resolved further, that the licensee may switch from one agreement to the other upon request, if both versions have been accepted by the ABC Board.

Rationale: ANC1D believes that these agreements should be truly voluntary, as expressed in its resolution of January 8, 2008. In that spirit, licensees should be permitted to choose between the two cooperative agreement forms developed in conjunction with two neighborhood organizations.

Resolution passed, 4 to 2 (Jane and Dave voting “no”.)

Legal assistance for alcoholic beverage issues

[8:16 pm] Gregg requested permission from the Commission to withdraw his resolution of January 8, 2008, concerning contracting with Paul Pascal for representation before the ABC Board. *Permission granted, 6 to 0.*

Adjournment

[8:17 pm] Gregg moved for adjournment. The commission agreed to adjourn the meeting.