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Minutes of the November 1, 2011 meeting of Advisory Neighborhood Commission 1-D

These minutes accepted at the December 6, 2011 meeting.

Call to order

[7:20 pm] Chair Edwards Scott called this November business meeting of ANC1D to order at 7:20 pm. Three commissioners were present: Gregg, Jack, and Yasmin, not constituting a quorum. An interpreter from HearSay Interpreting provided simultaneous English-to-Spanish interpretation.

Public discussion

[7:22 pm] A public discussion followed. At 7:32 pm, Laura Wilson-Phelan arrived, providing a quorum.

Chair's report

[7:32 pm] Gregg reported on his ANC activities of the past month.

Secretary's report

[7:43 pm] Jack asked if there were any corrections to be made to the July 19 and August 30 meeting minutes. No corrections being requested, the minutes were declared accepted.

Treasurer's report

[7:44 pm] Jack reported that the quarterly allocation of \$3520.39 had been received, with no disallowed expenditures. The quarterly report for Q4FY11 was approved by the commission, on a 4 to 0 vote.

Jack noted current expenditures: \$50 to Tony Grillo for postering, \$100 to HearSay Interpreting for interpreting at this meeting, \$70 to Yasmin as reimbursement for her purchase of business cards. The April 2009 ANC resolution providing for business card purchases by commissioners was declared still applicable. No objections to any of these expenditures were stated.

Jack noted that Gregg had requested a reimbursement of \$225 for one year dues to the Urban Land Institute. This was agreed to by a 4 to 0 vote, under the category of commissioner training. Gregg agreed to certify that no equivalent DC Government training was available.

Yasmin had requested a reimbursement of \$30.02 for color copies of photographs of trucks parked near Haydee's Restaurant on Mount Pleasant Street. This reimbursement was approved on a 3 to 1 vote, Yasmin, Gregg, and Laura voting "yes", Jack voting "no".

Next meetings

[7:58 pm] Concerning the upcoming meetings, the commission agreed to the following, by a 4 to 0 vote:

The November 15 meeting will be held only if there is urgent business, and will be called by the chairperson if necessary. The first-Tuesday meeting of December will be the December business meeting. There will be no third-Tuesday ANC1D meeting in December.

Policing and public order issues

[8:06 pm] The commission agreed, by a 3 to 1 vote (Jack voting "no") to a 10-minute informal discussion of policing and public order issues, beginning at 8:10 pm.

After this discussion, Gregg moved the following resolution:

ANC1D advises the Mayor's office to work with the officers of 1D to sponsor a multi-agency review to solve the problems of unreported crime particularly of burglaries and robberies in Mount Pleasant. ANC1D advises that invitations to participate be made to Councilmember's offices and other agencies that may contribute.

Motion failed on a 2 to 2 vote, Gregg and Yasmin voting "yes", Laura and Jack voting "no".

Creative Minds Public Charter School

[8:34 pm] Gregg offered the following resolution:

ANC 1D advises the DC Public Charter School Board that it finds no immediate problems with the location within 1D of the Creative Minds School, and that the Cooperative Agreement already settled with that school should facilitate the rapid resolution of most future concerns, and advises approval of the application.

Passed, 4 to 0 vote.

ANC 1D notes a major change in plans in a multi-million dollar intersection, without legally required plans and consultation

[8:37 pm] Gregg introduced the following resolution:

ANC 1D advises the DC Department of Transportation (dDoT) that the rough sketch sent to one commissioner is insufficient notice considering that it appears dDoT intends to make major changes from plans previously submitted to 1D. These changes appear to be large enough that they would require full notice and consultation were dDoT to contemplate planning them on their own; thus they cannot be merely be acted on without following legal standards.

Accordingly, 1D - through its authority granted by the ANC statute - requires a complete set of plans, and the legally required 30 days to consider these changes. Since the DC Superior Court - in the Benning Library case - interpreted the ANC law as requiring an agency to provide advanced notice to ANCs of how it intends to engage with the impacted public - the statement on the source of these major changes (the community) is cryptic. Thus 1D asks for a written plan of consultation in accordance with the court ruling.

ANC1D - again through its authority to get agency documentation relevant to the ANCs inquiries-- requires dDoT to provide all documentation including emails on the subject of this intersection during the time since its first consideration, and all emails involving the office of the Ward One Planner regard ANC1D, its current and former commissioners and staff, and its contacts with or relations with residents or workers in the area 1D represents.

1D authorizes a full, fair, and balanced report and response.

If dDoT does not promptly respond with the required above documentation, then 1D authorizes its officers to engage consultants to research the issues including relevant law, and to proceed with an appeal through the DC's Administrative Appeals system. Of course, any service contractors must be explicitly approved by 1D before 1D pays any service payments.

1D authorizes its officers to engage consultants to sketch out a case for presentation to the apposite authorities, to survey a good sample of all relevant parties within the 1D area, and to prepare a fair and balanced report on the arguments, evidence, interests, and estimates of likely impacts. The consultants should report on the requirements of federal or federal agency law for local consultation on a transportation project using federal funds. This activity must be completed before the end of February 2012, unless otherwise renewed.

1D asks the assistance of the DC Attorney General, the various Inspectors General, and members of the DC Council, including Ward One Councilmember Jim Graham and members/staff of the Transportation Committee.

Why:

Significance

The size and impact of potential changes may be seen in the many years that this project has been under consideration, and by a cost estimate of just one of its features. As Mike Jelen PE - the former dDoT engineer for this area - said,

"In order to keep the bus stop at its present location and to also provide a sidewalk to it, we would have needed to construct a large retaining wall.

By moving the bus stop as you advised us to do, we were able to virtually eliminate the retaining wall need. I estimate this will save us over \$500,000 in construction costs ..."

"... it will also best preserve the woodland character of the area."

The rationale for this change: dDoT's input from "the community Apparently dDoT's proposed changes arose in a short meeting of just a few residents of one Single Member District, and only they were allowed to speak. This meeting did not include, for example, any residents of an adjoining SMD which include a substantial wooded slope whose character might be largely destroyed. Nor were consulted by this process any residents of a 197 unit building dedicated to seniors and handicapped whose needs figured substantially in past 1D considerations and resolutions. The potential for bias, or appearance thereof, is worth inquiry: dDoT staff have in the past asserted their right to ignore ANC 1D as not being representative of "the community" (despite being democratically elected in mostly contested elections) while asserting that the dDoT staff is better able to discern the interests of "the community".

Another question is what are the standards for handling local input? Case law seems to say that only an ANC should be given Great Weight. dDot has voluntarily adopted engineering process standards that include considering impacts on people around projects. There is ample regulation and case law on how projects using federal dollars must proceed by considering

local impacts on people and environment. (The environment is an issue mentioned above by the former dDoT engineer responsible for this project.)

Both of the above cluster of considerations suggest serious issues and serious consequences, and a need to obtain the facts and the legal standards to clarify the situation.

Gregg moved that this resolution be tabled indefinitely. *Motion to table approved, 3 to 0 (Laura abstaining).*

Adjournment

At 8:47 pm, the meeting was adjourned.