



ADVISORY NEIGHBORHOOD COMMISSION 1B

Government of the District of Columbia

Minutes

Thursday, July 2, 2009. 7:00 PM, Reeves Center, 2000 14th Street N.W.

The regular monthly meeting of ANC1B occurred on Thursday, July 2, 2009, at 7:00 pm in the Reeves Center, Commissioner Nadeau being present as Chair. Other Commissioners present during the meeting: Rosemary Akinmboni, Myla Moss, Meghan Conklin, Peter Raia, Juan Lopez, Sedrick Muhammad, and Deborah Thomas.

Chairperson Nadeau observed the presence of a quorum and called the meeting to order at 7:07 PM. She began the meeting with the following announcement:

I am Brianne Nadeau, Chair of the Commission. I would like to make the following announcements on behalf of the Commission. We ask that you silence your cell phones. By "silence" I mean either put them on "silence" or turn them off if you are able. The vibration and rings interfere with our recording and we sometimes lose valuable information.

- ✓ This meeting is audio-recorded for the public record and the draft minutes of the meeting, which will be published on our website within one week.
- ✓ We welcome and encourage public comment at appropriate points in the meeting. Normally, we will ask for public comment on issues before the Commission before any motion is offered for official action. Once a motion has been made and seconded, comment and discussion is confined to Commissioners.
- ✓ We ask that all those making presentations, asking questions, or making comments speak loudly and clearly for the benefit of our recording device. You can come forward and sit at the witness table and make sure that your comments are picked up. Please state your name, residence address, and what organization you represent. If you are representing yourself as a resident, rather than an organization, please say so.
- ✓ For the accuracy of our public records, we ask that all those making presentations, asking questions, or making comments complete the very brief speaker information form located on the sign in table at the back of the room. Please give the completed form to our Staff Director, Jim Irwin, either before or after you speak to the Commission. The purpose of this form is to assure

correct spelling of your name in the minutes, accurate address and accurate statement of representation.

Thank you for your attendance, participation and cooperation.

Introductions and Officers' Reports

Chairperson Nadeau asked Commissioners present to introduce themselves.

Secretary's Report

Chairperson Nadeau noted that the Secretary of the Commission was absent. She said that she did not want to delay the approval of the minutes and noted that drafts of the May and June minutes had been circulated to all Commissioners and posted on the website. She asked for any corrections or amendments. Hearing none, Chairperson Nadeau moved that the minutes of the May and June 2009 meetings of ANC 1B be approved as presented.

Commissioners Conklin and Lopez seconded the motion.

The motion was adopted unanimously, 6-0.

Treasurer's Report

Chairperson Nadeau called for the Treasurer's Report.

Commissioner Lopez reported that the bank balance as of June 30th was \$89,351.75.

He advised the Commission that the following checks were written in June:

MidCity Business Association for \$2,000.00, approved at the May 7th meeting;

Ethiopian Community Services and Development Corporation for \$1,000.00, Grant #09-11

Mentoring Works 2 for \$1,000.00, Grant #09-12;

Arose Youth Development for \$2,000.00, Grant #09-13;

Arts Under the Stars for \$4,000.00, Grant #09-14;

Westminster Neighborhood Association for \$1,285.00, Grant #09-15; all of these checks were approved at the June 4th meeting.

Checks that cleared our bank account in June were:

Friends of the LeDroit Park Gardens for \$300.00;

Mentoring Works 2 for \$1,000.00;

Commissioner Lopez asked the Commission to approve reimbursement of expenses for Commissioner Raia: \$82.00 for business cards and \$165.95 for office supplies, including ink for his printer and paper.

Commissioner Lopez moved that ANC 1B approve reimbursement of Commissioner Raia's expenses in the total amount of \$247.96.

Commissioner Moss seconded the motion.

The motion was adopted unanimously, 7-0.

Commissioner Lopez reported that the Commission's financial allotment from the District Government has been withheld because the Commission has been unable to provide adequate documentation on grant expenditures in the 3rd Quarter of FY 2008. The problem originates with a grant recipient who has not provided documentation as required by District law. Staff Director Jim Irwin is working on this problem and will try to provide all documentation to the D.C. Auditor as quickly as possible. Once the Auditor receives the documentation, our allotments for the 1st and 2nd Quarters of FY 2009 will be released to us.

Commissioner Lopez moved that the Treasurer's Report for June 2009 be approved.

Commissioner Conklin seconded the motion.

The motion was adopted unanimously, 7-0.

Community Events and Announcements

Commission Announcements

Commissioner Muhammad announced that the Executive Committee of the Ward One Democrats will meet next Thursday, July 10th, in the second floor conference room of the Reeves Center, and will meet regularly the second Thursday of each month through next May. Next Saturday, July 12th, there will be a special election for Ward One Democrats Treasurer and Corresponding Secretary at the Columbia Heights Community Center at 1480 Girard Street N.W. Next Friday, July 11th, a ribbon cutting will be held for the Girard Park at 14th and Girard Streets N.W. at 12 noon. The South Columbia Heights Neighborhood Association will hold its monthly meeting on July 15th at 7:00 PM at 2437 15th Street N.W.

Addition to Treasurer's Report-Discussion of Staff Director's Work and Salary

Commissioner Lopez noted that he had sent Staff Director Jim Irwin's work logs for the month of June, showing hours worked and gross pay due to all Commissioners. The Commission will be paying salary to Mr. Irwin based on the Commission's action at the June meeting approving Mr. Irwin's hiring. Commissioner Lopez noted that staff salary

was budgeted for 2009 and the payment does not therefore require a vote of the Commission. He also noted that the salary budget for 2009 was \$3,000.00 and would clearly be insufficient, so the Commission would be asked to vote on salary payments in future meetings until the end of FY 2009, on September 30th. The funding of the Staff Director position would have to be addressed in developing the 2010 budget.

Commissioner Raia asked if Mr. Irwin is now working every day for four or five hours.

In response, Chairperson Nadeau asked Mr. Irwin to discuss the work he did in June.

Mr. Irwin said that during the past month his work time averaged about 24 hours per week. For the first ten days, however, beginning with the June 4th meeting, he worked a total of 49 hours, 25 of which were devoted exclusively to the preparation of the May minutes. Therefore, he refrained from working two days the second week, so that he only worked 15 hours. His work hours went up again during the rest of the month. The total hours worked was 95.75, or an average of about 24.

Chairperson Nadeau asked Mr. Irwin to describe how he thought transcription of the meeting recordings and preparation of the minutes could be made more efficient. Mr. Irwin said that he prepared the May and June minutes using the hand-held digital audio recorder, which was difficult and inefficient. Once May and June were completed, he found that there was software with the recorder that permitted the downloading of all meeting recordings on the digital recording device. He downloaded all the meeting recordings to his laptop. He believed that it will much easier to work with the audio recording using the computer for future meetings. In addition, the audio recordings of the meetings are now backed up on a computer and can be transferred to a Commission-owned computer when one is purchased. Mr. Irwin also mentioned voice-recognition software that might be usable to transcribe the audio recording to a typescript. However, Commissioner Raia said that he had such software and it really requires dictating or reading into the recording device to work. He did not think it would work in a meeting environment. Mr. Irwin observed that he spent significantly less time preparing the June minutes than he had spent on May minutes because he had the benefit of his own notes for June.

Commissioner Muhammad asked who on the Commission knew when Mr. Irwin clocked in and out. Could any Commissioner verify the times that Mr. Irwin recorded?

Chairperson Nadeau observed that in the past, the Commission has trusted the Administrative Assistant to be honest about her hours. In addition, she said she could vouch for Mr. Irwin's hours because she is in constant contact with him and knows when he is clocking in because she gets an e-mail from him. She said that she thought Mr. Irwin's work product spoke for itself, and she hoped that Commissioners would have the opportunity to work with Mr. Irwin on an issue of importance to their Single Member Districts (SMD) in the future, because they would find him really committed to the Commission's mission.

Commissioner Raia asked about letters to ABRA and other agencies. He had received e-mail copies, but wanted to receive paper copies of the actual letters when they were mailed to agencies and businesses. Mr. Irwin said he would insure that Commissioners were copied on all relevant correspondence in future.

Commissioner Raia asked if Mr. Irwin would be hand-delivering letters to ABRA so that the Commission could obtain date-time stamped copies. Commissioner Lopez said that he agreed that it was important to have stamped copies. Chairperson Nadeau agreed that this should be done and that Mr. Irwin would be available to Commissioner Raia for this service.

Commission Announcements Continued

Commissioner Akinmboni announced that the D.C. Alliance of Youth Advocates is having its National Summer Learning Day on Thursday, July 9th. Two member organizations of the Alliance are located in ANC 1B, and she encouraged everyone to visit them to see the work they are doing with youth. They are: Arose Youth Development at 1350 Clifton Street N.W., open from 9 AM to 5 PM, and Martha's Table, 2114 14th Street N.W., open from 7:00 AM to 6 PM.

Community Announcements

Ms. Andrea Doughty, 1417 Q Street N.W., chairs the ANC 2F Arts Overlay Review Committee. She announced that the Committee has been participating in a citywide review of zoning regulations with particular attention to the Arts Overlay Zoning District. The ANC 2F committee is studying what more the zoning regulations could do to encourage vibrant development of retail and other uses on the 14th and U Street corridors. They conducted four public meetings in June and will hold four more in July. The next public meeting will be July 7th from 6:30 PM to 8:30 PM at 1401 Q Street N.W. Anyone concerned about or interested in the impact of zoning on the 14th Street & U Street corridors is invited to present their views to the committee.

Mr. Nick McCoy, 2013 New Hampshire Avenue N.W., represents the ANC Action Team of D.C. Marriage Equality. The team has been visiting all ANC meetings to discuss on-going efforts to support the D.C. Council's legislative actions in support of marriage equality in D.C. and to oppose efforts to get a referendum on the ballot that would reverse the Council's action. Progress is being made. Judge Retchin has ruled against the opponents of marriage equality who were asking for an extension of time to get their petitions regarding a referendum signed. The City Council is moving to consider legislation that will legalize gay marriage in the District of Columbia. The Team has been meeting with both opposition groups and supporters. The team will talk with any group willing to talk with them. On July 22nd, they will be making a presentation at Guilford Baptist Church, one of the first churches to send letters to the Mayor and Council denouncing their action in recognizing same-sex marriages from other jurisdictions. They are inviting everyone interested and supportive of their work to attend this presentation.

Public Safety and Public Safety Committee Report

Commissioner Moss observed that the Committee would not meet until Tuesday, July 7th, so she has no report to make. She announced that the Committee regularly meets on the first Tuesday of the month, beginning at 7:00 PM, at the D.C. Housing Finance Agency.

Chairman Nadeau asked that Commissioner Moss e-mail meeting information to Jim Irwin so that it can be posted on the website.

Presentations

Commissioner Moss introduced Mr. Derrick Woody from the Executive Office of the Mayor, Deputy Mayor for Planning and Economic Development. The subject of his presentation is the Howard Theatre restoration project. She said the theatre has great historical significance. It was in operation before the Apollo Theatre and we will be celebrating its 100th anniversary in 2010. Groundbreaking for the project will take place in the fall. Councilmembers Evans, Graham and Brown have been instrumental in getting funding for the project, and Mr. Woody has been very committed to the project. She said Mr. Woody would discuss the restoration project, the plan to expand the rear of the building to include classrooms, dressing rooms and offices, and the proposal to close an alley to permit that expansion.

Mr. Woody said he works for the Great Streets Project in the Office of the Mayor. The Howard Theatre project is part of that program. The groundbreaking will occur in either November or December. The project will be completed next year in time for the 100th anniversary. The intended use for the theatre is to have live performances six nights per week, and it will have a bar and restaurant to help offset operating costs. Presently, the theatre has no space behind the stage, so the plans include expansion of the back of the building to provide space for dressing rooms, offices and other facilities. His purpose at the meeting was to ask the Commission's support for the closing of the north alley, closest to the theatre. About a year ago, the District government purchased land adjacent to the alley and the theatre to accommodate the expansion of the rear of the theatre building.

Chairperson Nadeau asked if closing the alley would cause displacement of traffic.

Mr. Woody said there would not be any traffic displacement. He hoped that the change would make traffic flow more efficient along Wiltberger Street N.W. The north and south alleys are now about 16 feet wide. When the north alley is closed, the south alley will be widened to about 25 feet to allow truck access for construction, and that will improve traffic flow once the project is completed.

Commissioner Moss noted that this project has been vetted with the residents of LeDroit Park, and there has been no protest or opposition. Commissioner Moss noted that both

the D.C. Department of Transportation (DDOT) and the Department of Public Works (DPW) have stated their support for the project and the proposed alley closure.

Commissioner Moss moved that ANC 1B support the Surveyor's report and the recommended closure of the north alley to permit the expansion of the rear of the Howard Theatre, and that she be designated the Commission's representative to all agencies and organizations regarding this issue.

Commissioner Lopez seconded the motion.

The motion was adopted unanimously, 7-0.

Design Review Applications and Design Committee Report

Chairperson Nadeau noted that Commissioner Smith was not able to attend the meeting, so there would be no committee report.

BZA 17942 Asian American Lead

Chairperson Nadeau observed that both the applicant and the neighbors had made presentations and comments at the June Commission meeting regarding the application of Asian American Lead for a five-year extension of their special exception. They were asked at that time to meet together with Commissioner Akinmboni to resolve their differences. She called on Commissioner Akinmboni to report the results of those meetings.

Commissioner Akinmboni reported that on June 8th she visited Ms. Dorothy Brizil to discuss her concerns regarding the applicant. Ms. Brizil was working in the front yard of her house and said that she could not meet at that time because she had to go to Baltimore. She told Commissioner Akinmboni she would get back to her.

Commissioner Akinmboni said she did not hear anything further from Ms. Brizil. On June 15th, she went back to Ms. Brizil's house to try to contact her. However, no one answered the door when she rang. On June 29th she went back to visit Asian American Lead. She inspected the back yard and found a fence between the two properties that would make it impossible for anyone to turn a car around in Ms. Brizil's yard. She also went through the building and found that the children are only accommodated on the first floor. She also visited with other residents in the immediate vicinity and no one she talked with had any problem with Asian American Lead.

Commissioner Akinmboni recommended that the Commission support the application of Asian American Lead for a five-year extension of their special exception.

Chairperson Nadeau asked the Commission if Commissioner Akinmboni's report and recommendation were sufficient to take action on this issue.

Ms. Dorothy Brizil asked for the opportunity to correct what she termed “factual errors” in Commissioner Akinmboni’s report.

Chairperson Nadeau said that the Commission had heard from Ms. Brizil at length at the June meeting, written testimony and petitions had been received from numerous persons, and the Commission would now vote based on all of that information.

Commissioner Akinmboni moved that ANC 1B send a letter of support for Asian American Lead’s application for a five-year extension of their special exception to the Board of Zoning Adjustment (BZA), and that she be designated as the Commission’s representative at hearings on this issue.

Commissioner Raia seconded the motion.

The motion was adopted unanimously, 7-0.

Liquor Licenses & ABC Committee Report

Commissioner Raia said that he had no committee report.

Commissioner Raia noted that he had given all Commissioners a package including letters from the community and a sample of voluntary agreements to show how they are drafted. At training provided by the Alcoholic Beverages Regulatory Agency (ABRA), participants are told what can and cannot be included in voluntary agreements. He reported that all voluntary agreements negotiated by ANC 1B are in compliance with ABRA guidelines. Sample voluntary agreements in the package include some from Georgetown, Adams Morgan and other ANCs to show how different ANCs deal with this. He also included a voluntary agreement negotiated by former Commissioner Phil Spalding, one developed jointly by him and Mr. Spalding, and one developed by him alone to show how voluntary agreements are currently being developed as compared to the past.

Commissioner Raia also noted that all the voluntary agreements he has looked at specify that sidewalk cafes must close at midnight.

Chairperson Nadeau asked why that would be in a voluntary agreement. She thought the license would address that.

Commissioner Raia responded that voluntary agreements usually include a stipulation of hours of operation.

Chairperson Nadeau asked if that had to be done. She observed that the Commission addresses the question of operating hours when it votes on the license, and such a provision in a voluntary agreement would be redundant. When a business has a substantial change or the law changes, then the license changes and the voluntary agreement has to be changed too.

Commissioner Raia said that would be true for the hours of inside operation, and he wants to suggest a way to deal with that, but when there is a substantial change involving a summer garden or sidewalk café, it must be addressed in the voluntary agreement.

Commissioner Conklin asked that the meeting dates and times for the ABC Committee be posted on the website. She said she would be very interested in participating in those committee meetings since voluntary agreements are a significant issue for the Commission, and she was sure that others in addition to her would want to know when and where the meetings would be.

Commissioner Moss noted that ABRA has hired Fred Moosalay as their new Director and that its offices would be moving to the Reeves Center.

Chairperson Nadeau suggested that the Commissioners review the documents presented by Commissioner Raia and that questions and discussion continue at the next meeting. Perhaps one issue to be addressed by the ABC Committee is how to develop and use voluntary agreements.

Commissioner Moss reminded the Commission that they did not want to replicate what had happened in Adams Morgan; a blanket moratorium on licenses or blanket voluntary agreements is not desirable. Each business is different and the Commission should tailor voluntary agreements to the different circumstances of different businesses.

Commissioner Conklin agreed and said that she thought voluntary agreements are an important tool for this community, but that they should be used strategically and not arbitrarily.

Chairperson Nadeau said she was a little uncomfortable with having voluntary agreements negotiated and then signed by her without further review and vote by the Commission. She asked whether Commissioners would like voluntary agreements to come back for a final vote after they have been finalized.

Commissioner Raia said a standard motion on voluntary agreements could include a provision that authorizes the Chairperson to sign without further review by the Commission. He warned that having all agreements come back to the Commission after being finalized would mean significant delays for businesses, especially if a monthly meeting could not act due to the lack of a quorum. This was what had happened in the past.

Chairperson Nadeau asked if the drafts of voluntary agreements could be circulated to the entire Commission while they were being developed. She said that would make her more comfortable.

Commissioner Raia said that circulating drafts is fine, but that delaying a vote for another month would create unacceptable delays. He also cautioned that when

reviewing draft voluntary agreements, Commissioners must remember that the Commissioner negotiating a particular agreement is best able to judge what is appropriate in his or her SMD and what his or her constituents' concerns are.

Amendments to Voluntary Agreements

Commissioner Raia proposed that the Commission authorize him to amend all existing voluntary agreements whose licensees request it to read that they are allowed to be open by the license of the law, and that this provision be included in all future voluntary agreements. As it is now, voluntary agreements specify hours of operation, and when a special exception is made, as in the case of the Inauguration, the Commission has to consider special amendments for individual licenses. This proposal would eliminate that problem. This does not mean any increase in hours for any licensee, it only means that they can operate as permitted by law or by special exceptions adopted by the proper government agency.

Mr. Stanley Mayes, 1319 Wallach Place N.W., asked whether this amendment means that the specific hours negotiated in a voluntary agreement would be negated by the hours specified by legislation. Commissioner Raia replied that if a business has restricted hours because of a voluntary agreement, this amendment would not change that. This amendment would apply only to those businesses who have not agreed to restricted hours.

Mr. Mayes asked as a point of clarification whether this amendment would be an incentive to increase hours or to avoid specifying restricted hours in a voluntary agreement because legislation already specifies maximum hours of operation. Commissioner Raia replied that he could not speak for other Commissioners, but as far as he was concerned, there still could be a restriction on hours in a voluntary agreement if circumstances of a particular business justified it.

Commissioner Raia asked if he should move a blanket amendment for all of ANC 1B, or only for his SMD.

Commissioner Moss asked for clarification as to the impact of the amendment. Does it affect the hours of operation for roof decks, sidewalk cafes and summer gardens?

Chairperson Nadeau suggested that this matter be deferred to the August meeting to give Commissioners more time to consider it and clarify the details.

Commissioner Raia said that he would like a blanket amendment for his SMD immediately, and that he had two items coming up on the agenda that would require specific amendments unless this blanket amendment was approved.

In response to Commissioner Moss, Commissioner Raia said that his proposal affects only indoor hours of operation and has nothing to do with outside hours for sidewalk cafes or other outdoor elements.

Commissioner Akinmboni recalled that the DC government extended hours of operation for the Inauguration in January and asked if this amendment would help address the problems caused by that kind of situation.

Commissioner Raia said that some voluntary agreements have specified full hours of indoor operation and some have not. This amendment would relieve those licensees of having to come to the Commission when the D.C. government approves special exceptions to the law. This would level the playing field.

Mr. Paul Carlson, owner of Vinoteca at 1940 11th Street N.W., said that in the case of the Inauguration, licensees with voluntary agreements had to get a letter to operate the extended hours. He asked if a letter would still be required if this amendment were approved. Commissioner Raia said no, ABRA had indicated that they will not require letters if this amendment is included in voluntary agreements.

Commissioner Raia moved that ANC 1B authorize the amendment of voluntary agreements that state full hours to read: “the applicant’s hours will be permitted by the license assigned by law.”

Commissioner Moss seconded the motion.

The motion was adopted unanimously, 7-0.

Commissioner Raia said that he could now withdraw the DC9 amendment from the agenda.

Duffy’s Tavern CR to CT

Mr. Andy Duffy, the owner of Duffy’s Tavern, 2106 Vermont Avenue N.W., told the Commission he was seeking their support to change his license from CR to CT. He received unanimous support for this change from the Cardozo-Shaw Neighborhood Association (CSNA) last month. He does not plan any significant change to his operation, but the change in license would significantly reduce his paperwork. His voluntary agreement restricts what he can do and prevents any real change at this point. He believes he has demonstrated that he knows how to run a good business and that he has been a good neighbor.

Chairperson Nadeau asked if any Commissioners had comments or questions.

Commissioner Conklin said that she considered Mr. Duffy an upstanding member of the community. He runs a wonderful business, and she fully supported the change he is requesting. She did not believe this change required the Commission to reconsider his voluntary agreement at this time. Mr. Duffy will have to appear before the Commission again next year, and that will be the appropriate time to reconsider the terms of the voluntary agreement.

Commissioner Moss said she agreed with Commissioner Conklin. Mr. Duffy has been very proactive and has worked closely with the community. He has been in full compliance with his voluntary agreement.

Chairperson Nadeau opened the floor for questions and comments from the community.

Mr. Charles White, 2104 Vermont Avenue N.W., told the Commission that his mother owns the property adjacent to Duffy's. The property has been in his family since his grandfather purchased it 85 years ago. He said he wanted to draw the Commission's attention to the broad public policy implications of what they proposed to do. While not saying that Duffy's is specifically involved, Mr. White believes that what is being asked is part of a broad strategy of the hospitality industry around the city, which is to initially apply for a CR license which implies an upscale restaurant which then gets approved when the real intention is to ultimately convert to a bar or tavern.

Chairperson Nadeau interrupted Mr. White to say that he seemed to be making a general policy statement. She asked if he had any specific comments to make about this specific licensee's application. Mr. White said that if the Commission supported this application, it opened itself up to an inability to move against a business that turns out to be a "bad actor." If the Commission supported this application, it would have a difficult time turning the clock back. It is not the role of the Commission to choose economic winners or losers, or make decisions based on who is a good actor. That sets a bad precedent. He reiterated that he was not saying Duffy's is engaged in an improper strategy, but it is something that is happening all across the city.

Chairperson Nadeau thanked Mr. White for his concern and asked if he had any specific comments about Duffy's.

Mr. White said that he had no comments appropriate for the Commission's role, but that he was providing information that he thought the Commission would want to consider before making a decision. He said that Mr. Duffy had, to a large extent, maintained the conditions of his voluntary agreement, which he had entered into freely and without any duress. The fact that Mr. Duffy does not now like the results is not the Commission's fault or ABRA's fault.

Chairperson Nadeau thanked Mr. White for his comments and said that his larger point was one the Commission could consider at another time.

Commissioner Raia said that there is a growing trend of restaurants converting to taverns in his SMD. This is a big concern for his constituents.

Chairperson Nadeau said that, in Adams Morgan, licensees had been using the change as a loophole, but in ANC 1B neighborhoods, she thought it was a matter of owners realizing they were in the wrong category and trying to correct that, but the Commission needs to look closely at every application of this kind

Mr. White said that there is a major problem with loopholes in the alcohol laws in the city. The city government does not have the capability to audit and follow through on the reports that are submitted to them by licensees. There is no way for the public to gain access to the information in the reports or to know what is being done incorrectly.

Commissioner Raia said he believed it would be naïve to say that businesses did not realize that they had got themselves into the wrong license. Businesses are choosing to apply for the change because it means fewer requirements, not that they had the wrong license.

Chairperson Nadeau said that she did not mean that businesses did not understand what license they were applying for, but that over time they realized that the license did not properly fit their business plan. Commissioner Raia replied that the main issue was that they did not want to do paperwork or keep their kitchen open.

Chairperson Nadeau called for a motion.

Commissioner Akinmboni said that there was a major battle before the Commission over Duffy's initial license application, so she felt that it was important to hear from people in the community who have concerns about the proposed change.

Chairperson Nadeau asked for further public comment.

Mr. Stanley Mayes, 1319 Wallach Place, N.W., said that he had represented residents who protested the Duffy's license. He said that Mr. White's point was valid. Whether or not a business is a good citizen or not was not the purview of the Commission. These licenses are bought and sold. The license is not transferred based on whether the licensee has been a good or bad actor. The Commission should take this into consideration. This approach also opened up the Commission to continuous comments about the performance of licensees. The Commission should inform the public if it wished to receive ongoing reports and complaints about the performance of licensees. There have been many problems with Mr. Duffy's license, and there is both a photographic and a written record of complaints and transgressions, but these have not been reported to the Commission on a routine basis. That has not been the expectation or the practice. The ANC has not piled up its record with all the complaints. If that is what the Commission wants, in order to judge a licensee adequately, it should inform the public.

Chairperson Nadeau observed that the normal practice is for constituents to communicate with the Commissioner representing their single member district (SMD). That Commissioner then shares information and complaints with the whole Commission. This happens whenever people want to communicate, no matter when the license is up for consideration. She felt that it was important to clarify for the record that when a license changes hands, it does come back to the Commission for review and the voluntary agreement has to be reviewed as well. Commissioner Raia disagreed

that this was required. Chairperson Nadeau said she would want to get clarification on this point for the next meeting.

Commissioner Raia said that since there is no substantial change to the operation of Duffy's there is nothing the Commission can do but support the application. He noted that he did meet with people in the community, including Mr. White. It is a bad situation for Mr. White and for Mr. Duffy because of the location. He visited Duffy's on Tuesday night and sat in Mr. White's house. He said the noise of people coming and going at Duffy's was very audible. He said that when the voluntary agreement comes up for review next year, issues to be addressed would include soundproofing and a food percentage to try to assure that the business does not turn into just a bar.

Commissioner Raia moved that ANC 1B support Duffy's application to convert its license from CR to CT, and that he be designated the Commission's representative for hearings on this issue.

Commissioner Moss seconded the motion.

The motion was adopted 6-0-1. Commissioner Akinmboni abstained.

Commissioner Raia said that ABRA should have a letter from the Chairperson designating all Commissioners as authorized to represent the Commission at ABRA hearings. He also suggested that Jim Irwin be included in the letter so that he can be present to schedule Commissioners when hearing dates are set.

The Commission agreed informally that this letter should be sent to ABRA.

Vinoteca Substantial Change for Sidewalk Cafe

Mr. Paul Carlson, owner of Vinoteca, 1940 11th Street N.W., said that he was asking the Commission to support his application for a stipulated license so that he can immediately operate his sidewalk café for the extended hours approved by the Commission at its May meeting.

Chairperson Nadeau observed that Mr. Carlson's request appeared consistent with the vote taken by the Commission at its May meeting.

Commissioner Raia pointed out that the May vote authorized comment to DDOT. The issue now was whether to support a stipulated license before ABRA has a hearing on the substantial change in hours.

Chairperson Nadeau said that the matter had been discussed in the community for the past two months and had been thoroughly vetted and publicized. She said she had received lots of community comment.

Commissioner Raia said the comment he has gotten is that 1:00 AM is too late and the extended hours should not be approved.

Chairperson Nadeau said the Commission had already voted to support extended hours.

Commissioner Raia reiterated that the vote was addressed to DDOT, not to ABRA. ABRA has said that the Commission must vote specifically on the application for a substantial change and then on the request for a stipulated license.

Commissioner Conklin asked if the CSNA has taken a position on this request.

Commissioner Raia said that a motion to support the request was not adopted at the CSNA meeting. He did not know what the vote count was. Mr. Carlson said it was a tie vote.

Chairperson Nadeau moved that ANC 1B support a stipulated license for Vinoteca's extended patio hours.

Commissioner Raia suggested a friendly amendment to have the motion say that ANC 1B supports Vinoteca's extended hours when they receive approval from DDOT.

Chairperson Nadeau said she did not accept the amendment.

Commissioner Raia pointed out that Vinoteca had not previously been placarded. Now it is and the public notice period has just begun. His amendment would mean that the Commission would not act until ABRA has its hearing. If Vinoteca gets the stipulated license, it can extend hours tomorrow, but the community has not had the required public notice period.

Chairperson Nadeau observed that the community had been notified twice. Commissioner Raia said that, according to ABRA, notice in the Commission's agendas or meetings is not sufficient. The posting of placards and the required public notice period is the governing fact.

Chairperson Nadeau said that, since the Commission had voted in favor of extended hours in a past meeting, she did not see why the Commission would not support starting those hours immediately.

Commissioner Raia suggested that, since CSNA failed to support the application for a stipulated license, the Commission should reconsider its support. He also observed that Vinoteca had presented a petition to the Commission purporting to support their request for extended hours, but he has not yet seen it and he would like to review it.

Chairperson Nadeau said she did not have the petition. It was given to the Secretary of the Commission, Commissioner E. Gail Anderson Holness, and she has not heard from

her. She asked Commissioner Raia if he had requested the petition from the Secretary. He said that he had asked the Secretary for the petition in the same e-mail he sent to the Chairperson, but had not heard from her. He said he did not know if the claim that the owner of Vinoteca had twenty-two signatures swayed the Commission's decision.

Chairperson Nadeau said that her motion had not been seconded and asked for community comment.

Mr. Bill Riggins, 1921 11th Street N.W., said he would like an opportunity to inspect the petition. Chairperson Nadeau asked Commissioner Raia to contact the Secretary again and request a copy of the petition. Commissioner Raia said he would do so, but the Secretary worked for the Chairperson, so he thought she should contact the Secretary too. Chairperson Nadeau said that the Secretary was the official Custodian of all Commission records. Commissioner Conklin objected that the Secretary did not work for the Chairperson, but for all Commissioners. A member of the audience asked where the Secretary was and commented that she did not seem to be doing any work tonight.

Commissioner Raia observed that in the package of documents he had distributed to the Commissioners there were two e-mails specifically opposing Vinoteca's request and other e-mails that generally oppose patio or sidewalk café hours past midnight.

Commissioner Conklin said that the issue at hand seems to be whether DDOT is going to rule on Vinoteca's request to them to expand its public space hours. She asked when that is supposed to happen. Mr. Carlson said that DDOT said, with the ANC letter of support in hand, they could give him a permit on Monday. Commissioner Raia said that ABRA must still determine whether to permit the hours. Chairperson Nadeau said that normally ABRA would use our DDOT letter as a letter of support pertinent to their consideration, but Vinoteca is asking for a stipulated license to avoid having to wait for the ABRA hearing. She asked when the hearing was scheduled. Mr. Carlson said he thought sometime in August. Mr. Carlson pointed out that if there ever was an issue with the stipulated license, ABRA could pull it immediately.

Mr. Riggins asked if he could give input on the substance of Vinoteca's request. He said that he lives across the street and a few doors down from them. He said that he could see and hear everything that occurs on their patio. In the earlier part of the evening, the noise is not bad, but as it gets later, the noise gets louder and he can clearly hear it inside his house, although he has installed modern double-paned windows. He opposes the extended hours because of the noise, which is a major disturbance for him. This is a residential block and he does not think it is appropriate for bars and restaurants to have patios open until 1 AM. Vinoteca is a fine business and he has nothing against the business or the owner, but the outdoor patio should not be permitted to stay open so late.

Chairperson Nadeau observed that the Commission has already voted to support the extended hours. The question now is whether to support the stipulated license.

Commissioner Raia pointed out that he is asking only that the Commission refrain from supporting the stipulated license, but provide that support at the appropriate time, when ABRA holds its hearing on Vinoteca's request for a substantial change. He said that he was not proposing to protest Vinoteca's license on the basis of peace, order and quiet in order to negotiate a voluntary agreement, although there is a noise issue, but that is a motion that he could make in this meeting. He did not want to do that. He just wanted to have ABRA go through the review process and consider the application.

Chairperson Nadeau said that she wanted to restate her motion. She moved that ANC 1B support the stipulated license for the Vinoteca sidewalk café extended hours, which corresponds with the vote that the Commission took at its May meeting.

Commissioner Moss seconded the motion.

The motion was adopted 5-1-1. Commissioner Akinmboni abstained.

Dickson Wine 903 U Street 082216 CT with Entertainment Endorsement

Commissioner Raia moved that ANC 1B support Dickson's request for a CT license and authorize him to negotiate a voluntary agreement with them, to be signed by him and by whomever the Chairperson designates.

Chairperson Nadeau asked what issues had to be negotiated in a voluntary agreement.

Commissioner Raia said that the issues are the usual ones, including noise and how the owner plans to dispose of trash.

Commissioner Lopez asked if there has been reason to complain..

Commissioner Raia said the business is located at 903 U Street. They have not yet opened for business.

Commissioner Muhammad seconded the motion.

The motion was adopted unanimously, 7-0.

Chairperson Nadeau asked that the draft voluntary agreement be circulated to the Commission.

Eatonville Summer Garden – 2021 14th Street N.W.

Commissioner Raia observed that the Eatonville Summer Garden issue was not on the agenda, but had to be addressed at this meeting.

Commissioner Conklin said that Eatonville was in Commissioner Thomas's SMD. Commissioner Raia said that it was in his SMD.

Chairperson Nadeau said that Eatonville had not been on the draft agenda that she circulated to all Commissioners and posted on the website.

Commissioner Raia said that Eatonville was asking for a substantial change, that it is a big issue in the community, and that he had provided copies of e-mail correspondence to all Commissioners. If the Commission was to have standing to protest or otherwise comment, it would have to act at this meeting.

Chairperson Nadeau asked if the community is well aware of the issue.

Commissioner Raia said that it was. He said that the residents of Union Row Flats had voted to support a protest by ANC 1B. In addition, six residents are prepared to file a private protest. He said he did not think the Commission should leave it to the residents to do the Commission's job.

Chairperson Nadeau asked what the protest was about.

Commissioner Raia replied that it was about peace, order and quiet. There are trash issues and noise issues. In addition, Eatonville is already using their summer garden without ABRA approval.

Mr. Steven Tulin, 1906 11th Street N.W., asked if Eatonville was located in the Union Row building. Commissioner Raia said they were. Mr. Tulin said that it appeared the Union Row condominium association had an issue with its tenant, and he thought they should deal with it.

Chairperson Nadeau noted that Commissioner Thomas was not present and suggested that the issue be deferred until she arrived.

New Business

Youth Curfew

Chairperson Nadeau noted that Commissioner Smith was unable to attend so the agenda item on Youth Curfew would be deferred.

Support of Same Sex Marriage Legislation

Commissioner Conklin reviewed the action of the City Council in April 2009, to recognize same-sex marriages performed in other states. Her constituents have expressed support for this action, and she believed it was a very important justice issue, especially to a number of residents of ANC 1B.

Commissioner Conklin moved that ANC 1B send a letter to the members of the City Council of the District of Columbia expressing support for their recent vote to recognize same-sex unions performed in other states.

Chairperson Nadeau seconded the motion.

The motion was adopted 6-0-1. Commissioner Akinmboni abstained.

U Street Community Festival

Chairperson Nadeau referred Commissioners to the action recommendation in their meeting folders regarding the U Street Community Festival, organized by the Cardozo-Shaw Neighborhood Association. She said the U Street Festival would occur on August 1st in conjunction with the Dog Days Sidewalk Sale. The event will be on U Street in front of the Reeves Center. ANC 1B has been asked to sponsor the event and have a display table so that the Commission can promote its work and accomplishments, and possibly share its table with an organization that cannot afford one. The sponsorship and table will cost \$250.00. Commissioners could be present to staff the table. Chairperson Nadeau said that she would be there.

Commissioner Moss said this would be a great opportunity to show support for CSNA and for the community at large. She suggested that Commissioners sign up for specific times of the day to assure that there is someone at the table at all times but that no one has to be there all day.

Chairperson Nadeau moved that ANC 1B register for the U Street Community Festival and pay the registration fee of \$250.00 to the Cardozo Shaw Neighborhood Association.

Commissioner Moss seconded the motion.

The motion was adopted unanimously, 7-0.

Eatonville Summer Garden-2021 14th Street N.W.

Commissioner Thomas joined the meeting at this point. Chairperson Nadeau asked the Commission to resume consideration of the Eatonville application to operate a summer garden.

Commissioner Raia said that there was a question as to whether Eatonville was in his SMD or Commissioner Thomas's SMD. Commissioner Thomas said that Eatonville and Union Row were located in her SMD, 1B04. She asked if there was some discrepancy.

Commissioner Raia said he had received the ABRA notice specifying his SMD, 1B02, and he had received communications from concerned residents. He asked Commissioner Thomas to review the communications he had provided to all Commissioners, requesting that the Commission protest the Eatonville application.

Commissioner Conklin asked if this issue had to be voted on this month.

Commissioner Raia said yes, because the deadline for a protest occurs before the next Commission meeting.

Commissioner Thomas asked who the protesters were.

Commissioner Raia said that he had received letters from residents in Union Row, the president of the Union Row Condo Association and some members of the community.

Commissioner Thomas observed that she had publicly announced meetings with various agencies including the Mayor's office, CSOSA, and the police department every other Wednesday of the month, and quite a few people from Union Row attend those meetings, so she was surprised that people would not be sure in what SMD they were located. Eatonville's location is clear from the ANC 1B map. She also thought that those who voted in the last election should have known for whom they were voting. She said she had had no chance to review any of the material since Commissioner Raia had received it, nor had she seen any e-mail communications about this issue from anyone. She asked whether notices of liquor license changes, protests and other matters are distributed to all Commissioners, and at what point do they get such materials? She said that she would like to know what was going on in other Commissioners' SMDs because these matters affected the entire ANC. She asked what process is in place, because this was the first she had heard of this issue.

Commissioner Thomas then asked if anyone from Union Row or Eatonville was present at the meeting. Several people indicated they were from Union Row.

Commissioner Muhammad said that he had just checked the Board of Elections website, and they place 2021 14th Street N.W. in Commissioner Raia's SMD.

Chairperson Nadeau said that ABRA probably got the SMD from the Board of Elections, but for the purposes of this discussion, the Commission knows that address is located in Commissioner Thomas's SMD, while Commissioner Raia has received the community's communications. Between Commissioners Raia and Thomas, the Commission has as much knowledge as it is going to get. She suggested that the Commission work together to resolve the issue.

Commissioner Moss said she would like to hear from the owner of Eatonville. Commissioner Raia said that the point of contact for Eatonville was the owner's attorney, who had been in communication with him.

Chairperson Nadeau asked Commissioner Raia if he had the ABRA notice. He said that he did, and she asked him in future to give copies of the notices he receives to Jim Irwin for distribution to all Commissioners. Commissioner Thomas reiterated her

conviction that these matters are of relevance and concern to the entire Commission, not just the Commissioner whose single member district is affected.

Chairperson Nadeau suggested that Commissioners who have issues for the agenda keep all Commissioners updated over the course of the month as the issue develops.

Commissioner Moss called for the question. Chairperson Nadeau said that she did not know if there was yet a question on the floor. Commissioner Raia had made a presentation on this issue before Commissioner Thomas arrived. She wanted to give Commissioner Thomas an opportunity to give her thoughts and comments on a license in her jurisdiction.

Commissioner Thomas said that the entire issue was a surprise to her. The owner was not present. There was a complaint or complainant before the Commission. She had had no opportunity to read or study the materials before her. She said she was also concerned because Eatonville was not something that just popped up. It had been in development for quite some time. If there had been issues, she would have thought they would have come out before the license got to this point.

Commissioner Raia said that issues were brought up when former Commissioner Phil Spalding was working on Eatonville.

Commissioner Thomas asked what the biggest issue was now.

Commissioner Raia said that what he had found out just today was that Eatonville had applied for permission to have outdoor seating, but they had gone ahead and opened it without receiving the permit. They had applied for the outside license but had not yet gotten it. He talked with the attorney who said that their application asked for a closing time of 3:00 AM, but they did not intend to operate the summer garden past 12 midnight. The issues of noise and trash must still be addressed.

Commissioner Thomas reiterated that this restaurant plan did not just pop up overnight. She said of course Commissioners had to honor their constituents' concerns and issues, but she had not been involved in discussions with people on this problem, while Commissioner Raia had been. She was not sure where she could go from here.

Commissioner Raia said that Commissioner Thomas had to make the decision whether the e-mails and the resident present to speak were sufficient for her to make a decision to support a protest so the residents' concerns could be addressed. Commissioner Raia said that residents had tried to address their concerns in the past with former Commissioner Spalding and were told that they would be fixed, but they were not fixed. Commissioner Thomas asked if there was a public record of what issues had been raised in the past, what solutions had been proposed and what did not happen. Commissioner Raia said there was not. Commissioner Thomas observed that then this was hearsay. Could anyone clear that up? Was there something on record as to what was originally promised to the community and what was done differently?

Commissioner Moss said that she thought there were too many moving parts, too many variables to the issue for the Commission to take a vote. She would not be happy until she heard from either the owner or his representative. She did not think the Commission was in a position to take a vote.

Commissioner Conklin agreed with Commissioner Moss. She said that she would prefer to comment to ABRA and have standing with them, but because the issue was not on the public agenda, because Commissioner Thomas was unaware of the issue and therefore unprepared for the discussion, and because the business owner was not present, she thought the Commission could not have all the facts.

Commissioner Conklin moved to table the matter until the August meeting.

Commissioner Raia said that Commissioner Conklin could move to make the decision and then withdraw it later if the facts justified it. The problem was that if a decision were not made at this meeting, the Commission would have no standing on the issue with ABRA.

Commissioner Thomas asked why she should make a decision when she did not have all the facts. The owner was not present, there was one protester present, and she was expected to read all the correspondence on the spot and take it all in.

Commissioner Raia said that he understood the problem was confusion over SMD boundaries. However, if the Commission learns that the address really is in his SMD and no action has been taken, he has done an injustice. If on the other hand the address is in Commissioner Thomas's SMD, then she has to make a decision.

Commissioner Muhammad observed that it was critical to resolve the confusion over SMD boundaries and find out which SMD is responsible for 2021 14th Street N.W.

Chairperson Nadeau said that the Commission must communicate immediately with ABRA about the confusion and get correct information to them.

Commissioner Raia agreed, but said that something had to be done at this meeting.

Commissioner Thomas said she was simply not prepared to vote on a matter where there were so many unresolved questions.

Commissioner Raia suggested that Commissioner Thomas could base her decision on Eatonville's request for a stipulated license and the community's request that the Commission take a position with ABRA on that request.

Commissioner Thomas raised the question of the issue not being on the agenda.

Chairperson Nadeau said that she had made a mistake, that the matter should have been on the agenda, and that Commissioner Raia had requested it.

Commissioner Conklin said that in the future, regardless of whose SMD was involved, both Commissioners Raia and Thomas should work together on issues affecting this business. Commissioner Thomas should be intimately involved and should be copied on any e-mails or other communications received by Commissioner Raia.

Commissioner Thomas said she was concerned about the way ANC committees are working. If committees are scheduling meetings and setting agendas, all Commissioners should be aware of it. There should be minutes of committee meetings. No matter whose SMD is involved, she did not think it was fair to concerned residents or business owners for her to vote on matters where she did not have enough information. She asked if the Commission has an ABC Committee and when and where does it meet?

Commissioner Conklin said that, earlier in the meeting, Commissioner Raia had agreed to give Jim Irwin information on ABC Committee meetings so that they could be posted on the ANC website.

Chairperson Nadeau said she liked the idea of having minutes from committee meetings.

Commissioner Raia said that the issue at this meeting seemed to be that the Commission was not sure which SMD was responsible for Eatonville's license.

Chairperson Nadeau observed that there was a motion to table on the floor.

Commissioner Moss observed that if the Commission votes on that motion and it fails, then the Commission would have to determine how to deal with the Eatonville issue now.

Commissioner Thomas seconded the motion to table.

The motion was adopted 5-1-2. Commissioners Lopez and Muhammad abstained.

Commissioner Raia said there was no need for the issue to be on the August agenda. He said that the Commission's action had ruined the system.

Commissioner Akinmboni observed that, by the rule of five, five residents could protest Eatonville's application. The Commission may not have acted, but there was nothing to stop residents from filing a protest.

Commissioner Raia said that everyone understood the rule of five, but Commissioners should remember that they were elected to represent residents. Residents should not be forced to take their own time to file protests. He said that was the issue.

Commissioner Akinmboni disagreed. She said the issue was that there was confusion over SMD jurisdiction and there was a mistake somewhere. Because of that, the review and vetting of the issue had not included all the relevant parties and the Commission could not act because of a lack of information. Because of this administrative or clerical problem, residents would have to take the initiative to file the protest themselves.

Commissioner Thomas said she would very much like to clarify exactly which SMD the residents of Union Row and adjacent buildings are voting in.

Commissioner Raia said that there were quite a few people who did not even know who their Commissioner was, and Commissioner Thomas made that sound strange.

Commissioner Thomas said that she wanted to clarify facts. The fact was that there was a discrepancy. When people go to the polls to vote, they should know whom they are voting for, what SMD they are in, and what precinct they are in. She said that she was being asked to vote on something when she did not have the facts, but at the same time, people who were not quite sure what SMD they were in were being allowed to complain about things.

Chairperson Nadeau observed that the U Street Community Festival would be a good opportunity to disseminate information and educate people on the boundaries of SMDs and the identities of their Commissioners.

Westminster Neighborhood Association grant

Commissioner Raia submitted the receipts for the Westminster Neighborhood Association grant to the Treasurer. He said that \$13.00 of the grant was unspent and he will ask for that to be returned to the Commission.

Commissioner Moss moved to adjourn the July 2009 meeting of ANC 1B.

Commissioner Conklin seconded the motion.

The motion was adopted unanimously, 8-0.

The meeting adjourned at 8:52 PM.