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## Minutes of the January 23, 2006 special meeting of Advisory Neighborhood Commission 1-D

*These minutes approved at the February 7, 2006 meeting.*

### Call to order

Chair Jack McKay called the meeting to order at approximately 7:20 pm, noting the presence of five of the six ANC 1D Commissioners, Wayne, Gregg, Mitchell, Rich, and himself. Commissioner Scott was absent.

### Public discussion

As is required by the DC Code, the meeting was opened to public discussion. Formal statements were read by Steve Mudd, for All-Ways Mount Pleasant, and by Dominic Sale, for Mount Pleasant Main Street, concerning the Bestway Market public space permit application. Fay Armstrong summarized the position of Historic Mount Pleasant.

### New business: Bestway Market public space permit application

Jack, noting that he was not viewed as unbiased on this issue, asked that Wayne take over as chair. He agreed to do so, and chaired the remainder of the meeting.

Jack then introduced his resolution concerning the Bestway, seconded by Gregg.

Rich proposed an amendment to the resolution, with text that would wholly replace Jack's text. This amendment failed for lack of a second.

Mitchell then introduced another amendment, again consisting of text that would entirely replace Jack's. Gregg seconded. There followed a lengthy discussion of this amendment.

Mitchell's amendment, itself the subject of a number of friendly amendments, was then voted on. *Motion to amend passed, three votes (Gregg, Mitchell, Wayne) to one (Rich), with one abstention (Jack).*

Now the resolution was substantially amended further, yielding the following text:

**Resolved:** The ANC Commission recommends approving the permit application of the Zion Holdings LLC/Bestway for a curb cut, driveway, sidewalk and buildings to store trash adjacent to 3178 Mt. Pleasant St., NW.

**Rationale:**

This location has long been a contentious problem for the Mount Pleasant neighborhood. The Bestway has no service alley, being on a block made narrow by the convergence of Mount Pleasant Street and 17th Street. This 17th Street frontage of the market, and the restaurant in the same building, has perforce been called upon to serve the functions of an alley, in particular, trash storage and collection. Nearby residents are justifiably unhappy with visible trash, trash containers, odors, and rats drawn by the market and restaurant garbage.

Bestway is a *very* high volume store, and serves literally thousands every week. Anything that supports this massive service should be given substantial weight in the balance of finding the greater good for the greater numbers. With that in mind, the ANC does not object to the curb cut, driveway, and sidewalk, moreover, a request for the construction of a trash enclosure occupying public space is reasonable. ANC 1D recognizes Zion Holdings' good-faith effort and the utility of said trash enclosure to manage its heavy volume of trash and therefore welcomes trash enclosures on the public space. This will be reevaluated in no less than three years, and revoked only if there is hard evidence of substantial detriment to the greater neighborhood.

ANC1D understands that the regulation concerning "prohibited deposits" on public space has been construed as prohibiting trash containers on parkings. We believe that this is a mistaken reading of the law, which is clearly intended to pertain to loose trash, not containers of trash. Furthermore, a fair number of Mount Pleasant residents keep their residential trash containers on their front-yard parkings, for lack of service alleys. A judgment by the Public Space Committee that such trash containers on public space are prohibited would impose a great hardship on numerous Mount Pleasant families.

It is the opinion of the Commission that the inflexible application of public space regulations, which may be interpreted to prohibit the construction of enclosures for trash on public space, and the storage of trash on public space is where the discussion matters. Zion Holdings acknowledges that Bestway's current procedures for the proper disposal, deposit, and scattering of trash are inadequate and insufficient. As a result, they have invested heavily in their time, resources, and private capital to address the major concerns of the community by seeking a trash enclosure intended to reduce the notorious problems of rats and odors at this location, as well as concealing trash and trash containers from public view.

Zion Holdings has reasonably sought the opinions from residents, stakeholders, and other organizations within Mount Pleasant. Although not all residents have concurred with Zion Holding's latest design, the Commission feels that a sufficient degree of consensus has been reached among residents of Mount Pleasant to offer our endorsement for the permit.

The standards by which the Public Space Committee is to judge permit applications are as follows:

\* *DCMR 24, 100.1(a) The proposed additional use will not endanger the public.* The enclosing of the Bestway trash in a vermin-proof housing will most certainly improve conditions in this vicinity;

\* *DCMR 24, 100.1(b) The proposed additional use will not substantially interfere with pedestrian or vehicular traffic.* The proposed trash enclosure abuts the building, and projects just 8 feet into the 18-foot parking, thus posing no obstruction to any pedestrian traffic, including persons crossing the parking;

*\* DCMR 24, 100.1(c) The proposed additional use will not increase the area of public space that the applicant for the permit is authorized to use by other law or regulation. According to DCMR 24, 102.1, “the public parking on streets and avenues of the District of Columbia shall be under the immediate care and keeping of the owners or occupants of the premises abutting on the public parking.” This authorizes the Bestway, like many homeowners in Mount Pleasant, to “keep” this space.*

*Resolution passed by four votes (Jack, Wayne, Gregg, Mitchell) to one (Rich).*

Jack then asked for instructions from the Commission for the Public Space Committee hearing on January 26. Gregg moved that “the chair, or his designee, be delegated to represent this Commission at the meeting of the Public Space Committee on Thursday, or within the period of time before the next business meeting of this Commission, and be instructed to answer questions that elucidate and keep within the stated resolution and rationales of this resolution”. Jack later restated this, at Wayne’s request (as acting chair) as that the Chair will read the resolution to the Committee, and “respond to questions within the boundaries set by the existing resolution, and limit myself to the points contained within the resolution”. Gregg agreed that this was an accurate phrasing.

*Motion passed, three votes (Wayne, Gregg, Jack) to two (Mitchell, Rich).*

## **Adjournment**

By unanimous consent, the meeting was adjourned, at 9:20 pm.