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Minutes of the October 24, 2007 meeting of Advisory Neighborhood Commission 1-D

These minutes accepted at the November 6, 2007 meeting.

Call to order

[7:09 pm] Chair Gregg Edwards called the meeting to order at 7:09 pm. Present were four of the five ANC1D commissioners, Gregg, Dave Bosserman, Jack McKay, and Jane Zara, constituting a quorum.

Public discussion

[7:10 pm] A number of residents spoke during the public discussion period, with most questions pertaining to the liquor license voluntary agreement matter.

Voluntary/Cooperative agreement endorsement

[7:37 pm] The chairing of the meeting was transferred first to Dave, then to Jane, to deal with the following resolution, offered by Gregg:

Resolved, ANC1D advises the DC Alcoholic Beverage Control Board to accept the Cooperative Agreement, in the two variants attached below, as the model for CR and D licensees in Mt Pleasant, and to remove all other conditions attached to these licensees, which are listed below.

Why: The attached variants are the product of many years of discussion, and many months of public meetings on this issue, including two large, broadly representative public meetings with most of the licensees present. The unanimous sentiment of those meetings was to:

- (1) set up a Responsible Hospitality Institute process so that there can be a broad and continuing engagement of representatives of all those substantially impacted;
- (2) to assure that no small group can unilaterally set the course for alcoholic beverage policy here;
- (3) to include consideration of all the factors that affect the peace, order, and quiet in and around the licensees and the situation in our commercial corridor;
- (4) to simplify the Cooperative Agreement and provide for a level playing field for those cooperating in good faith due diligence;

(5) to provide a mechanism for formulating and updating a comprehensive and comprehensible policy regime that all can understand and be held responsible to;

(6) to support economic and cultural development, including live music and dancing, that will engage all sectors of our neighborhood, both with paying work and with opportunities for cultural and community expression;

(7) and, most importantly, to provide support to reverse the apparent decline of economic and community life on Mount Pleasant Street, a situation leaving a dangerous environment that threatens the peace, order, and quiet of all that live near or visit this short three block strip that is the physical and social heart of our neighborhood.

In addition to meetings sponsored by ANC1D, the general form of the Cooperative Agreement and its variants is the result of many meetings over many months held by:

All-Ways Mt Pleasant Neighbors Association (represented by the "Mudd Eight")

the Community of Christ (a church located on Mt Pleasant St in the middle of this environment);

Hear: Mt Pleasant (represented by a group of more than a score of signators); and

Mt Pleasant Main Street, Inc. (a not-for-profit entity supported by the DC government to foster the development of the commercial corridor).

All of the above have been accepted as protestors for at least one license process by the ABC Board.

It is manifestly apparent that over the last few years there has been a strong decline in the population, density, and safety of conditions on Mt. Pleasant St around and near the licensees. We have numerous reports of gangs and gang predation in and around the area, a situation that feeds on and worsens the situation on the corridor. Testimony at our meetings strongly suggests that a major driving factor is the over-regulation by past "Voluntary Agreements", specifically the welter of scores of pages of restrictions, and especially restrictions against live entertainment.

After all this consultation, including almost all of the active civic organizations in Mt Pleasant, that ANC1D concludes the best way to improve the peace, order and quiet of the neighborhood is to vacate the prior arrangements that appear

(1) to convulse polarizations and thwart the cooperative agreement and good-faith collaboration necessary for improvement; and

(2) to strangle public life at night to the point of creating increasingly dangerous conditions.

In addition, it behooves us all to explore the better practices that in many other neighborhoods across the US and now some in Europe, those based on the processes of the Responsible Hospitality Institute.

NB: The variant of the CA for Don Jaime's, Don Juan's, and Haydee's differs somewhat because it is the result of a larger, longer, and more protracted set of negotiations. There is a good chance that there will be a reunion of all Cooperative Agreements in the future, and the way explicitly is left open.

Don Juan's

Don Juan Restaurant and Carry Out

1660 Lamont Street NW

Don Juan Restaurant, Inc.

License # 15934

Class Retailer CR 02

Haydee's Restaurant

3102 Mount Pleasant Street NW

NHV Corporation

License # 24663

Class Retailer CR 01

Don Jaime

3209 Mount Pleasant Street NW

Jaime T. Carrillo

License #21925

Class Retailer CR 01

ANC1D advises that the general form, below, be used with all other CR and D licensees.

Tonic

3155 Mount Pleasant Street NW

Tonic of MP, LLC

License # 60786

Class Retailer CR 01

Radius

3155 Mount Pleasant Street NW

Bob's Your Uncle, LLC

License # 72310

Class Retailer CR 01

Marx Café American Bar

3203 Mount Pleasant Street NW

Dalunas, LLC

License # 74712

Class Retailer CR 01

Corado's Guatemalan Restaurant

3217 Mount Pleasant Street NW

Corado's Restaurant, Inc.

License # 15941

Class Retailer CR 01

Pupuseria San Miguel

3110 Mount Pleasant Street NW

Pupuseria San Miguel, Inc.

License # 74630

Class Retailer DR 01

Marleny's Restaurant, Inc..

3201 Mt. Pleasant Street NW

license application # 77454

trading as Marleny's Restaurant and Carry Out)

applying for a Retail Class "D" Restaurant license to serve alcoholic beverages.

(The draft Cooperative Agreements are attached.)

After some discussion, Jack moved that the preceding resolution be amended by replacement in its entirety with the following text:

ANC1D reiterates its support for the Hear Mount Pleasant voluntary agreement, as stated in its resolution of August 7, 2007, with the changes as of today, October 24, 2007.

Motion to amend passed, three to one (Gregg voting "no").

The commission then voted on the amended resolution, consisting of only the replacement text.

Resolution passed, three to one (Gregg voting "no").

Open records for liquor license protesting organizations

[8:09 pm] Jack offered this resolution:

Resolved, that ANC1D advises the Alcoholic Beverage Control Board to require that any private organization or group of individuals filing as a liquor license protestant make certain records pertinent to the protest open to public inspection, including, but not limited to, any organization by-laws, the articles of incorporation (if incorporated), the detailed records and minutes of meetings at which protests are decided and cooperative agreements defined, and votes on such actions .

Why: The consequences of a liquor license protest, in particular the legally binding provisions of a cooperative agreement, are substantial, and affect the public in the vicinity of the liquor-licensed establishment. In a democratic society, laws may not be made in secret meetings, then pronounced to the public like royal decrees. Yet this is the effect of allowing private organizations, meeting in private, to create and impose cooperative agreements, which are attached to liquor licenses and become *de facto* law. Like any other organizations that so directly influence the making of public laws, these organizations should be transparent and function in the open, in the public eye, at least insofar as liquor license protests are involved.

Under current conditions, there may be questions as to the propriety of any proceedings leading to an agreement to protest a liquor license. No one may know who participated in defining such an agreement, why the group agreed to protest the license, nor who might have disagreed with the protest. There is no assurance, other than claims made by the leaders of the protestant group itself, that the proceedings leading to the agreement to protest were consistent with the rules of the organization.

Our experience in Mount Pleasant serves as an example. The local organization that has protested all liquor licenses in this area does not reveal the time and place of its protest-deciding meetings, those meetings are closed to nonmembers, and the vote by the officers or board of directors to file a protest is never revealed. The discussions at those meetings are confidential, and remain forever confidential. Even the general membership of the organization cannot be certain that their organization's by-laws were respected, cannot know if there was any dissent from the decision to protest, and cannot know why the provisions of the cooperative agreement were chosen. This is not an appropriate way to go about making what amounts to local law.

Resolution passed, four votes to zero.

Adjournment

[8:30 pm] By unanimous agreement, the commission adjourned the meeting.