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# Minutes of the February 7, 2006 monthly meeting of Advisory Neighborhood Commission 1-D

These minutes approved at the March 7, 2006 meeting.

#### Call to order

Chair Jack McKay called the meeting to order at approximately 7:20 pm, noting the presence of four of the six ANC 1D Commissioners, Wayne, Mitchell, Rich, and himself, declared a quorum. Commissioner Edwards was expected later, and Commissioner Scott was absent. (Gregg arrived during the public discussion period, in time to respond to Laurie Collins' statement.)

#### **Public discussion**

The meeting was opened to public discussion. **Dora Johnson** complained about the late start of ANC meetings, and about the HMP decision concerning the Bestway permit application, without consultation with the membership. **Fay Armstrong** spoke for HMP, noting that HMP objected to the construction of a trash enclosure on the space. **Laurie Collins**, identifying herself as speaking for MPNA, objected to Jack's newsletter report about MPNA complaints concerning Supercans on public space, and stated that the MPNA was not planning any such action against residents, including condominium owners, and would shortly issue a formal statement to that effect. **Wayne Gleason** spoke of his permit problems, and harassment by repeated inspections, at the Argyle. **Steve Millar** spoke in defense of his wife, Denise Wiktor.

## **Approval of minutes**

Rich moved approval of the meeting minutes for the January 3, 11, and 23 meetings. *Motion passed with three "yes" votes, Gregg abstaining.* 

## Treasurer's report

Rich said that he was still preparing the quarterly report for the first quarter of FY2006, and would have this for Commission review at the next meeting.

### Standing committee report: Commercial Corridor

Gregg and Mitch reported on the meeting of the Commercial Corridor Committee, the evening before. Gregg said that there were 14 business owners whose family language was Korean, and 25 whose language was Spanish.

### **Special Committee Reports: Long Range Planning**

Gregg moved that Mitchell be appointed to the Long Range Planning Committee. Jack, as Chair, made the appointment. Gregg then moved that there be a meeting of that committee in mid-month. Jack pointed out that committee meetings are entirely at the discretion of the committee chairs, and no approval by the Commission is necessary. Gregg then moved that the ANC hold a second business meeting this month, in order to catch up on business set aside due to the press of other matters. *Motion passed, four to one (Rich voting "no")*.

### **Special Committee Reports: Web site**

Gregg summarized the possibility of Webcasting the audio of the monthly meetings. Further action will await the determination of the cost of hardware to do so.

### **Special Committee Reports: Long Range Planning (continued)**

Gregg said that a meeting had been set with Vivian Guerra, Ward One Planner, for 10 AM on Thursday, February 9, to which all 1D Commissioners were invited.

The Commission agreed to postpone as many Unfinished Business and New Business items as possible, in order to deal with the Bestway issue, which many people in the audience had come to hear.

## New Business: Purchase of additional language channel

Gregg moved that the Commission authorize the expenditure of up to \$1200 to purchase additional equipment to provide an additional language channel. *Motion passed by unanimous vote.* 

#### New Business: Purchase of blank CDs

Jack requested authorization to spend up to \$50 to purchase blank CDs and envelopes. Gregg amended this to be an authorization of up to \$100. *Request approved by unanimous vote*.

## **New Business: Urban Land Institute training**

Gregg requested \$65 to pay for his attendance at an Urban Land Institute training session. *Request approved by unanimous vote.* 

## New Business: Purchase of projector and laptop

Gregg moved that the Commission authorize up to \$2500 for the purchase of a projector and laptop. *Motion failed, one vote "yes" (Gregg), four votes "no"*.

# New Business: Administrative appeal of Public Space decision concerning Bestway

Gregg introduced this resolution:

ANC1D resolves to appeal the decision of the DC Public Space Committee of January 2006 on the Bestway permit to the Administrative Law Hearing office. It initially authorizes an

expenditure of up to \$2,000 for expenses, including attorney fees to pursue this case. It authorizes a Task Force of commissioners Gregg Edwards and Jack McKay to pursue this case. If the Administrative Law office initially declines to take the case, and the Task Force decides to appeal the declination, this authorizes preparation of a brief of why that office should take this case.

After some discussion, Gregg moved that this resolution be tabled indefinitely. *Motion to table approved by unanimous vote*.

# New Business: Request for rehearing by the Public Space Committee of the Bestway permit application

Gregg introduced this resolution, which read, after numerous amendments, as follows:

ANC1D advises the Public Space Committee (PSC) to rehear the case of the Bestway permit application, with at least one month notice.

#### Why

a) The PSC did not give ANC1D's resolution Great Weight.

In the course of the hearing, there was hardly a mention of the arguments submitted by this ANC.

b) The hearing was flawed in the handling of arguments and evidence.

There was little chance for the parties to know of the evidence to be submitted and to prepare rebuttals. For example, there was a claim that the street, behind Bestway is residential, whereas it is half commercial, to the centerline of the street. One letter reported the occasional congestion on this back street without balancing the hundred or thousand fold greater congestion on the front, the main reasonable alternative, and the impact of advantaging a few residents at the expense and risk of many thousands.

The hearing did not give the petitioners adequate opportunity to respond to the claims of the opponents.

c) There are potential conflicts of interests in the handling of this case.

Contrary to the ordinary precepts of administrative policy, the office head chaired the meeting. In this case, he does not have the appearance of neutrality.

Resolution passed, four to one (Rich voting "no").

## New Business: Blockages in back of the Bestway

Gregg introduced this resolution:

ANC resolves that the unusual and unprecedented extension of public policy to block a driveway in use for many decades is covered by the ANC Law and the executive order of the Mayor's Office requiring that any change in policy be noticed to the ANC within 30 days. Because this was not done, it is illegal, and therefore should be reversed.

#### Why

When asked, a representative of the DC Public Space Office said that the owners confessed to wrongdoing in preparing a curb cut. When challenged for evidence, that representative said that the lawyer for Bestway confessed to not being able to find a permit. Obviously, the derivation of the conclusion of actually making the cut from a statement of not having a permit is a logical fallacy, since there is no evidence of who made the cut.

Further, this blocking of a long-term use on the basis of not finding a permit is a new application of policy that can deeply affect a neighborhood. As such, this application of policy must be noticed to ANC1D before implementation. Because after decades of use, there is no evidence of an emergency, there is no need for pre-emptory action.

This is the kind of arbitrary action, when accompanied by many other complaints about the appearance of political and personal partiality in normal administration, that calls into question the neutrality of the relevant officers to a fair application of law.

Resolution passed by unanimous vote, five to zero.

Rich left the meeting at this point. The four Commissioners remaining (Jack, Gregg, Wayne, Mitchell) constituted a quorum, so business continued.

#### New Business: Hostile business environment

Gregg introduced this resolution:

ANC1D resolves to advise the DC government, and specifically the Mayor, the Council, and the DC Department of Transportation, that there is now accepted in Mount Pleasant the appearance of a hostile business environment. This includes the appearance of conflicts of interest, and selective and destructive application of laws. This ANC asks that Mount Pleasant be declared by Executive Order an Innovation Zone to explore better practices in the handling of regulation and the education of all connected parties. This includes special attention to revision of laws that will encourage a sense of fairness. This must include changes in laws and regulations to encourage and balance the pursuit of both business innovation and the rights of DC residents.

#### Why

In a meeting of this ANC's Commercial Corridor Committee, a large cross section of representatives of merchants, business owners, and officers of civic associations reviewed the history of DC regulation in Mount Pleasant, and the apparent favoring by the DC Government of a small group of activists who wish to change the character of the commercial corridor against the interest of a larger group of residents.

Passed by four to zero vote (Kahn, Backfield, McKay, and Edwards voting "yes").

## Adjournment

By unanimous consent, the meeting was adjourned at approximately 10:30 pm, after three hours and ten minutes.