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## Minutes of the August 8, 2006 special meeting of Advisory Neighborhood Commission 1-D

*These minutes approved at the September 5, 2006 meeting.*

### Call to order

The special meeting of ANC 1D convened at 8:30 pm. The audio recording began at 8:41 pm. Present were Commissioners Gregg Edwards, Mitchell Backfield, Wayne Kahn, and Jack McKay, constituting a quorum. The emergency meeting was required in order to prepare a resolution for delivery to the Alcoholic Beverage Control Board (ABC Board) in time for their meeting on Wednesday, August 9.

### Public discussion

The public discussion period preceded the audio recording.

### Statement by Rick Massumi

Rick Massumi summarized the situation concerning the interpretation by the ABC Board of the text of the "voluntary agreement" attached to the liquor license for Don Juan's Restaurant.

### Don Juan's Restaurant

Gregg introduced a resolution which was in discussion divided into two resolutions. The first resolution, after revision, was as follows:

ANC 1D advises the ABC Board:

A] To keep the current hours of operation for Don Juan's Restaurant, namely closing time of 2 AM Sunday through Thursday, and 3 AM on Friday and Saturday.

Why: These have been the hours kept for over a decade. Indeed, the Voluntary Agreement of 2001 explicitly allows serving of alcohol until "1:30 AM Sunday through Thursday and 2:30 AM on Friday and Saturday".

B] To follow the plain English interpretation of "will stop selling alcohol at 1:30 AM Sunday through Thursday and 2:30 AM on Friday and Saturday," namely that these are the times of last service, not the closing times of the business.

Why: Any other interpretation is clearly a misunderstanding. To the degree possible, laws and regulations in a democracy should be phrased in plain language, and not in ways contrary to direct understanding.

*Passed by four to zero vote.*

The second resolution, remaining after the division above, was this:

ANC1D urges the Alcohol Beverage Control Board to adopt the following understandings in the current case on Don Juan's Restaurant:

1] ANC1D has a central standing in this case.

Why?

(1) Because the changes contemplated are substantial alterations in the operating conditions, and deserves by law to be consulted.

(2) In addition, this ANC is included as a party in the 'Voluntary Agreement' of 2001:

"Don Juan agrees to be bound to MPNA by the conditions agreed to with the Mount Pleasant Advisory Neighborhood Commission (ANC-1E)"...

This commission reserves the sole right to interpret its agreements, and should be included in any negotiation of changes in operations.

2] If there are any misunderstandings or unresolved contentions, delay decision on this case until after the next regular meeting of ANC1D on Tuesday, 5 September 2006.

Why: This is in keeping with the intent of the ANC law providing ANCs an opportunity to participate and comment on such proceedings.

5] The document entitled "PREMISE-AND-BUSINESS-INFORMATION" asks for a description of the business and in fairness should not be considered to be a proposal of hours.

Why: The heading of the document does not clearly state that the applicants answers are the proposed hours. The far more apparent interpretation is that this is a form requesting information on the prior status of the business and not a proposal for new hours. This document, as conveyed by a staff lawyer, is undated (another lack of clarity) but obviously taken at the time of the transfer. That is because in Question 16 it is noted as dealing with a license transfer. Thus, it is patently unfair to consider this document to be a statement for hours different than those allowed by law.

Wayne moved that this motion be tabled until the next ANC meeting. *Motion to table passed, three to one, Gregg voting "no".*

## **Adjournment**

Jack moved adjournment, passed unanimously, and the meeting adjourned at 10:04 pm.