

FINAL

**ADVISORY NEIGHBORHOOD COMMISSION 2F
REGULAR MONTHLY MEETING
WEDNESDAY, MAY 7, 2003 7:00PM
THE WASHINGTON PLAZA HOTEL**

IN ATTENDANCE: Helen Kramer, Chair
Jim Brandon, Vice Chair
Bob Hinterlong, Treasurer
Cary Silverman, Secretary
Thomas Funk
Miriam Trimble

Community Forum

George Galt said that he felt the proposed closing of Church Street for new construction is inappropriate. Kramer said that Craig Baldwin would address this issue during the meeting. Edward Sayre asked about signage directing traffic to the convention center and the MCI Center past Thomas House on the Massachusetts Avenue side service road next to the Thomas Circle underpass. Charles Biggio said that the traffic signals and signs need to be improved at 14th and N, as accidents are happening. He also asked Commissioner Trimble to look into a drainpipe that is running into the street at the Post apartments on 15th Street. Kramer asked that Clark Ray look into the matter. Kramer also asked about the inspection of the building at 1337 11th Street. Ray said that one inspection had been completed but that they were waiting for the DCRA to inspect it as well. Brent Beals asked about the status of the light at 11th and O Streets.

DC MPD Sgt. Fitzgerald gave a report on PSAs 309 and 310. The biggest problems recently are burglaries in the 1400 blocks of Corcoran and Q Streets. Theft from autos continues to be a problem. He said that the groups of juveniles who were beating up pedestrians have been arrested and are in the process of being charged. All of the victims were white males. There was a stabbing at 11th and M Streets. It appeared to be a robbery.

Approval of Agenda

Kramer added the Helix Voluntary agreement, Modern Liquors on 9th Street and District Liquors on 11th Street to the agenda. Brandon moved approval of the amended agenda. Funk seconded.

VOTE: Approved 6-0.

Approval of April Minutes

Brandon moved approval of the minutes, Hinterlong seconded.

Vote: Approved 6-0.

Residential Parking Plan for Convention Center

Heather Brophy, Ward 2 Transportation Planner presented the residential parking plan to the commissioners for a vote. Kramer asked if all the DC Council members are in support of the increased fines, particularly Councilmember Schwartz. Brophy said that they have been working closely with Councilmember Evans, since it is in his district, but the entire Council is aware of the proposal. Funk asked when the changes will be put into effect and when signage will be erected. Brophy said that it has been a bit delayed, and that the signs are ready to be installed as soon as the Council approves the regulations. She anticipates it will be done by the end of June. Funk moved that ANC2F approve the parking plan. Hinterlong seconded.

VOTE: Approved 6-0. Silverman will send a letter to Dan Tangherlini.

Liquor License Issues

Hamburger Mary's Changes to License Kramer gave guidelines for procedure. She asked that Glen Mlaker begin speaking, followed by Jackie and Charles Reed and their tenants in the building next door. The ANC commission would give their comments, followed by other involved parties, then the public would be permitted to give brief (one minute) comments.

Mlaker said that he appreciated the parties meeting last week, and that he feels that they have reached a compromise and he is ready to sign the voluntary agreement. Charles Reed said that he is delighted that Mlaker has eliminated some of the requests, but that he still opposes the longer hours and that he objects to the voluntary agreement that Commissioner Silverman has drafted. Reed said that the original voluntary agreement was carefully crafted, and that some of the details were not included in the draft being considered. He reminded the commission of the history of this establishment. When Mlaker first proposed the restaurant, he was going to have a neighborhood bar, a restaurant and sports bar. Reed said that this was not an issue of lifestyle, and never has been. His objection has always been the noise and the vibration from the establishment. The original agreement said that no noise or vibration would be heard next door, and that there would be no live music or disc jockeys and no dancing. Reed stated that in the 2 years since then, the original agreement has been violated. His tenants have had to put up with loud noise, measured at over 65 decibels. Reed talked about the Titan Bar upstairs and the special events on their website, some of which feature dancing. He said that this is a nightclub, and it was to be a restaurant only. One year ago when the license was up for renewal, the Reeds protested and got Mlaker to put in additional soundproofing. The Reeds paid part of the cost. The noise is still there and the additional hours will make it last longer. Reed wants compliance before any changes are made to the license. He is not trying to put him out of business, and has no objection to the outdoor café. He does think that 10 tables and 24 chairs are too many for the space. The

Reeds are required by the mixed-use zoning to keep residents in their building. The attorney for Mlaker, Andrew Kline, said that the ANC is spending too much time on the feelings of just one property owner, and not all the residents of the area. He said that there may have been transgressions to the voluntary agreement, but that other signers to the voluntary agreement seem to be in support of the changes. Kramer said that she had not seen any proposed drawings of the outdoor space, and that is required for the public space permit. David Gainer, 1339 14th Street said that it has been 2 years of consistent noise. He said that the tenants support more vibrant 14th Street. The noise complaints have been largely ignored. The noise has been less since the sound-proofing wall was put up, but there have still been noise issues that have kept them awake at night. When they call, they are put on hold, or nothing is done. Mlaker has never visited the apartments to hear the noise himself. They have seen live music even though that is not permitted. Jessica Gainer said that they have lived there longer than Hamburger Mary's has been in business, and that they love the neighborhood and the apartment, but the noise is a continuous problem. They have kept a log over the past two years. When the patrons leave they are often noisy. Jeff Cabody is a former tenant who said that one of the reasons he left was because of the noise. It has a negative effect.

Commissioner Brandon asked the tenants if most of the noise comes from the second floor and not the first floor of Hamburger Mary's. Answer: yes. Brandon said that he thinks the restaurant is a boon to the community and that the modifications should be accepted. Brandon asked El Sayed if there was anything about theatrical productions in his original agreement for 1409 Playbill. Answer: No, but the business changed and grew.

Funk said that he has been on both sides of the wall. He heard some noise in the apartments, but went next door and was surprised to discover that the music was extremely loud. He offered the suggestion that the nightclub move downstairs and the restaurant be moved upstairs, or the music be lowered somewhat. He reiterated that this is not about dancing or live music but about noise.

Silverman said that he felt the process has come a long way and the proposal has been significantly modified. He addressed comments to Kline saying that this ANC is not a court of law. He said that this is basically about two parties, and perhaps this belongs in a court. He said that Mlaker needs to be more responsive to the complaints of the tenants.

Hinterlong said that he was at the Gainers' apartment with Funk and Kramer. Hinterlong addressed some omissions in the proposed voluntary agreement. Silverman said that those were omissions that should be put back in. Hinterlong said that he was very disturbed to hear that the tenants were ignored, and that he would encourage Mlaker to go to the apartments and listen. Mlaker said that he has a new management team that will be more responsive.

Trimble noted that residential and commercial do have problems cohabitating. She saw both sides and supports business, but feels that the residents have a legitimate complaint.

Kramer said that the video jockeys at the Titan Bar certainly violate the intent of the voluntary agreement. The speakers upstairs are huge. What has been done to date to negate the noise is clearly not enough. Addressing Kline's comments, Kramer said that under DC Law, there is a prohibition of any kind of activity that causes noise to penetrate the neighboring building. The comments of the Reeds and their tenants should be very important, as it appears to Kramer that the noise violates the law. There must be no impingement upon the rights of the tenants of the adjoining building. Kramer said that although she has no problem with dancing, she would recommend that dancing not even be considered until the applicant shows that there is compliance with the current voluntary agreement, and that should not be left up to the ABC Board to make that call.

Jim Smith, 6 Logan Circle, stated his opposition to Mlaker's tactic to make this a gay issue. Smith stated that he is gay and resents that this issue is being misrepresented as homophobia, instead of the real issue of noise. Jim Sprata, 1 and 2 Logan Circle, said that residents are bombarded daily by sirens, truck horns, traffic noise, etc. He feels it is a resident's responsibility to keep their interior quiet. There is sound-proofing that could be put on the inside of the wall by the owner of the building for his own tenants. Biggio said that having this license obligates Mlaker to take these noise issues into consideration. Charles Reed said that traffic noise is a much lower level. He also noted that he paid for part of the noise barrier installed in Hamburger Mary's as well as the engineering study. Curtis Huberman, 1440 N Street, said that construction noises are far louder than noises emanating from the bar. He suggested that all bars in the area have the same hours. Primi Mussells, 1307 Rhode Island Avenue, said that this is a community affair. She took issue with the claim that this is just between the Reeds and Mlaker. A resident of Swann Street said that he came to the meeting in support of Hamburger Mary's but was struck by the disregard that Mlaker has had for the neighbors. He thinks that the neighbors seem to be accommodating on the changes. By not being considerate, he feels that Mlaker is hurting his own business, and it's not good business practice. Doll Gordon said she lives 4 doors down from Hamburger Mary's. They share the alley. She said that the commissioners should check with the neighbors who are affected, and that they are doing a disservice to their constituents. Silverman said that the commissioners did an outreach through websites, the LCCA newsletter, publications, etc. He said that the residents have a responsibility to contact their commissioner as well. Bill Millar, Millar Catering, said that Hamburger Mary's has been a good and reasonable neighbor. His business is next door. If the noise issue is addressed, he would be in full support of the expansion. John Grimberg said he came to address the way in which Mlaker portrayed this as a "homophobe" issue. He feels that any attempt to use this rhetoric is uncalled for.

He asked why the ANC would support any expansion by anyone who does not make any effort to comply with the current agreement. He also asked Mlaker why he doesn't serve decent hamburgers. Eric Peery, manager of Post Properties, suggested that the area between 14 and 15th is seedy at best. He would think that the area would want to encourage businesses and commercial revitalization. Kramer said that this ANC has been encouraging commercial development and that the area has improved significantly. She gave a brief history of some of the problems with the restaurants on 14th Street that transmogrified to nightclubs. David Rowley, 1239 Vermont Avenue, said that he goes to 17th Street for the outdoor seating and he would stay in this neighborhood if there were any establishments with outdoor seating. He said that establishments that have later hours would make the corridor seem safer.

Silverman took the new agreement paragraph by paragraph for approval. The first 4 paragraphs were accepted by acclamation.

Paragraph 5, Noise and Privacy: Amended to be in compliance with DC Code.
Vote: Approved 5-1, Trimble opposed.

Paragraph 6, Operations to Reduce Noise to Adjacent Properties: Silverman suggested that this be amended to include "applicant will continue to take all applicable steps to avoid noise and will demonstrate these actions at such time as they apply for any change to their license." Kramer suggested that they also include "prior to June 4th, applicant will present a plan for abatement of the noise to the parties to the voluntary agreement." Kline interrupted to say that this may not be able to be presented prior to June 4th. Reed suggested that the parties sit down again to work on the details of a voluntary agreement. Silverman said that negotiation will still have to go on, but the commission needs to take a vote and move forward. The Reeds have the option of protesting the license if nothing is completed by the hearing date. Silverman added "have a noise engineer evaluate the problem and present a plan for abatement within 90 days of May 7." Approved by acclamation.

Paragraph 7: No change.

Paragraph 8: Amend: "The sidewalk café shall be of a size, occupancy and placement as permitted by the Public Space Committee with input and prior approval by the ANC." Also, the café hours were discussed. Amend: add that "tables shall be removed by 11:00 Sunday through Thursday, and midnight on Friday and Saturday."

Paragraph 9: The ANC would protest any application by HM to get live music and dancing until a period of compliance with noise abatement is established.

Paragraph 10 and 11: No changes

Paragraph 12: Kramer suggested that the hours not be changed until noise compliance is reached. Brandon said that he thought it was unfair for Hamburger Mary's to have different hours from the other restaurants and bars on the block. Kramer: without conditioning this on compliance, you are rewarding non-compliance. Silverman: I see this as a progressive compliance issue. Extending the hours also adds to the safety of the neighborhood. We will address this issue again because the license will be up for renewal in a year. Funk: I think we're forcing this on the tenants and I think that the compliance should be demonstrated prior to the hours being extended. Kline: this was a package compromise. There is something in this for everyone, and additional soundproofing may not be financially feasible if there are not additional hours. Funk: If we give you an extension of your hours, will you turn down the music or sound so as to not disturb the tenants? I will vote in favor of extending the hours if there is a real effort to keep the complaints down to zero. The problems are mainly with voices and microphone. The sound barrier has made a difference. Mlaker agreed to go to the tenants' apartments and listen to what the noise level is on that side. The ANC said that they hoped Mlaker recognized that his compliance with these noise issues would be monitored by the ANC.

VOTE: In support of additional hours 6-0.

Paragraphs 13, 14, 15, 16, 17 and 18: No changes.

Silverman moved that upon acceptance of this agreement by Glen Mlaker the applicant, the ANC will submit a letter to the ABC board supporting the changes upon acceptance of the agreement by the other voluntary agreement parties. The letter shall specify that the changes are: a one-hour change to the closing time and the addition of a sidewalk café. Brandon seconded.

VOTE: Approved 5-0-1, Trimble abstained.

CDC – Church Street construction traffic plan

Craig Baldwin of DDOT presented changes to the proposal to close Church Street for construction purposes. PN Hoffman, Metropolis, and Walnut Street Construction all have projects that affect this street. The residents of Saxon Court were worried about safety if the street was closed. The revised proposal is that the street would be closed to traffic from 7 am until 7 pm, with the exception of moving trucks, and delivery trucks with heavy packages. After 7pm, and on weekends, the street would remain open. A barrier would be put up to protect pedestrians walking. Funk noted that this was very different from the presentation made to the CDC. There is no pedestrian access during the daytime. Baldwin said that they would be the enforcing agency. The developers addressed the issue of parking for subcontractors and said that they had made arrangements so that the subcontractors would not affect the neighborhood. Funk moved to approve the plan as presented tonight. Trimble seconded.

VOTE: Approved 6-0.

Discussion of liquor license issues continued.

Barrel House and Sav-On Liquors Mesfun Ghebrelul, the manager of Barrel House Liquors, sells single micro-brews to customers. Yamani Merisi, the owner of Sav-On Liquors, sells singles the same way and they want to be able to continue to do so. They do not sell malt liquors, MD 20-20, etc. as forbidden by their current voluntary agreements. Hinterlong: we name specific brands of vodkas and other hard liquors. Why are we not specifying brand names of beers? Answer: they change. Silverman: I can only support a singles ban if it is an ABC ban, ANC-wide. Funk: why are we debating this if the ANC voted at the last meeting to adopt certain guidelines when dealing with ABC licenses, and a ban on the sale of singles was one of those guidelines? MG: I talked with Sav-On Liquors and Best-In, and we welcome the changes to our businesses, that we are now dealing with middle class neighbors who have different buying habits. But the ban on the sale of all singles does not serve those customers. Microbrews are as distinctive as wines now. They are different types and from different areas.

Silverman: I view the guidelines as guidelines. We have an existing agreement in place and it has been working, so I see no need to modify these agreements.

Kramer moved that the ANC send letters to the ABC board supporting the renewal of the licenses with Barrel House and Sav-On and keeping the current voluntary agreements. Brandon seconded.

VOTE: Approved 6-0.

11 & O Street Market, 1137 11th Street Hinterlong said that negotiations are continuing on this license transfer request. There are 4 groups of protestants. Hinterlong said that the ANC is not a formal protestant. However, Chair Kramer sent a letter to the ABC on behalf of the full ANC supporting the protest and received a return letter saying that the ANC did not send a response in time. Hinterlong moved that the ANC send a letter to the Chair of the ABC supporting our position in opposition of the liquor license, and designating Robert Hinterlong to represent the ANC. Trimble seconded.

VOTE: Approved 6-0. Kramer to send letter.

District Liquor and Modern Liquors Hinterlong has begun discussions with both licensees to enter into voluntary agreements. He is proposing that the agreement with Modern Liquors at 9th and M take effect 6 months after the chain link fence in front of the store (erected due to convention center construction) is removed. Hinterlong said that if he finds out that a voluntary agreement can be put into place at a time later than license renewal, he will enter into a voluntary agreement that will take effect 6 months after the chain link fence is removed.

Best In Liquors, 1450 P Street Brandon will contact the owner to negotiate a voluntary agreement.

Mid-City Liquors, 1216 13th Street They will be moving due to construction on their site. Jim Smith suggested that the ANC file a protest until they sign a voluntary agreement since they can transfer the license to another location. Kramer moved that the ANC protest the renewal of the license of Mid-City Liquors and that Kramer negotiate a voluntary agreement. Trimble seconded. **VOTE:** Approved 6-0.

So Much More, 1428 L Street Silverman moved that we take no action. Trimble seconded. **VOTE:** Approved 6-0.

Helix Hotel Voluntary agreement Brandon moved that we accept the voluntary agreement negotiated between the Helix Hotel and Rhode Island West Community Association. Trimble seconded. **VOTE:** Approved 6-0.

Bovis Construction – request for removal and replacement of tree
Mark Roy of Bovis Construction sent a letter to William Beck at the Urban Forestry Administration requesting permission to cut down and replace two trees on 14th at N Streets. Kramer said that the ANC permission was needed to do this. Bovis will be putting in a covered walkway along 14th Street and the trees are in this route. The trees are outgrowing the area, with roots pulling up the sidewalk. The trees are 12"-14" in calliper. Smith asked if there was a letter from Beck to specify what to do. Silverman moved that we defer this until next month with the understanding that it be placed at the top of the agenda since Roy showed considerable patience in waiting for his agenda item. Funk seconded. **VOTE:** Approved 6-0.

Treasurer's Report

Hinterlong moved the following expenses be approved:

300.00	National City Christian Church Foundation, June rent
56.37	Verizon, monthly telephone service
721.77	Sherri Kimbel, April wages, 49.5 hours
44.00	DC Treasurer, January withholding
334.80	Starpower Communications, 2 years internet service
195.35	Cary Silverman, reimbursement for web hosting fees
100.00	S. Kimbel/Petty cash-reimburse petty cash fund
7.00	Bob Hinterlong, reimbursement for parking

Funk seconded.
VOTE: Approved 6-0.

Quarterly Report 4th Quarter

Hinterlong moved that we approve the 4th quarter report. Silverman seconded.

VOTE: Approved 6 -0.

There being no further business, the meeting was adjourned at 11:48 pm.