ADVISORY NEIGHBORHOOD COMMISSION 1C Adams Morgan

Minutes of May 20, 2002, Meeting

A scheduled agenda and forum meeting of Advisory Neighborhood Commission 1C was held on May 20, 2002, at the 3rd District Police Station. A quorum being present, Vice-Chair Wright called the meeting to order at 7:05 pm.

Attending were Commissioners Roth, Wright, Miscuk, Jovanka, Johnson, Brody and Klempay. Approximately 15 members of the public attended.

COMMITTEE REPORTS

ABRA (ABC) and Public Safety - Commissioner Brody reported the status of current ABRA protests. Commissioner Roth reported on the pilot public space enforcement program and stated that several permit applications should be received shortly for review by ANC 1C.

Communications, Grants etc. - Commissioner Wright reported that the Auditor's office has advised by telephone that the grant to the Fund for Kalorama Park has been approved.

Quality of Life and Public Works - Commissioner Johnson reported that a walk through of 1701 Kalorama Road was conducted on May 6, 2002. The Committee will meet on June 3, 2002, 7 pm at the Kalorama Recreation Center.

SECRETARY'S REPORT

Commissioner Klempay, Secretary, distributed copies of the Minutes of the April 16, 2002 meeting and moved their approval. The motion was seconded and the Minutes approved by voice vote.

The Secretary distributed copies of the draft Minutes of the May 1, 2002 meeting for review by the Commissioners prior to their being submitted for approval at the June 5, 2002 meeting.

SPECIAL BUSINESS

Chair Miscuk introduced John Bailey, who has been qualified by the Board of Elections and Ethics to serve as Commissioner of Single Member District 1C4 for the remainder of the present term, and requested the Commission advise the Board of its consent to seating Mr. Bailey. The Commission approved the request and the seating of Mr. Bailey by unanimous consent.

FORUM

Commissioner Wright recognized Dr. Olivia Golden, Director, DC Child and Family Services Agency, and Angela Jones, Executive Director, DC Action for Children.

Dr. Golden stated that the mission of the agency, which is now a year old, is to promote the safety, permanence and well-being of children and families in the District of Columbia.

NEW BUSINESS

Commissioner Brody offered a resolution pertaining to Madam's Organ, The resolution was seconded and debated. Commissioner Jovanka moved to amend by expanding the listing of protected classes. The motion to amend was approved by consent. Commissioner Brody moved to amend to clarify the Resolution language. The motion to amend was approved by consent. The resolution, as so amended, was approved by roll call vote:

YEA Roth, Wright, Jovanka, Johnson, Brody, Klempay ABSTAINING Miscuk

The resolution reads:

RESOLUTION PERTAINING TO MADAM'S ORGAN

WHEREAS, ABC licensed establishments are required to respect all those who ask for admission to their premises regardless of race, color, ethnic background or nationality and all protected classes under the DC Human Rights Act; and

WHEREAS, it has been alleged that Madam's Organ. located at 2461 18th St., NW, has shown a bias towards potential patrons based on their race, color, ethnic background or nationality and all protected classes under the DC Human Rights Act; now, therefore,

BE IT RESOLVED, that ANC !C will asked the Mayor's Office, and all relevant city agencies, to determine is Madam's Organ is discriminating

against patrons based on their race, color, ethnic background or nationality and all protected classes under the DC Human Rights Act.

Commissioner Miscuk, Commissioner Wright presiding, offered a resolution approving expenditures, which resolution was second and approved by roll call vote:

YEA Roth, Wright, Miscuk, Jovanka, Johnson, Brody, Klempay

The resolution reads:

RESOLUTION AUTHORIZING EXPENDITURES

BE IT RESOLVED that Advisory Neighborhood Commission 1C authorize the following expenditures:

\$74.40 for Verizon \$97.00 for Storage USA \$98.00 for storage USA

Commissioner Miscuk, Commissioner Wright presiding, offered a resolution approving the ANC Quarterly Report of Financial Activity, FY 2002- Second (2nd) Quarter (JAN, FEB, Mar), which resolution was seconded, debated and approved by roll call vote:

YEA Roth, Wright, Miscuk, Brody, Klempay NAY Jovanka, Johnson

Commissioner Roth offered a resolution on criteria for evaluating public space permit applications and amendments, which resolution was seconded, debated and approved by roll call vote:

YEA Roth, Wright, Miscuk, Jovanka, Johnson, Brody, Klempay

The resolution reads:

ANC 1C RESOLUTION ON CRITERIA FOR EVALUATING PUBLIC SPACE PERMIT APPLICATIONS AND AMENDMENTS

WHEREAS, the District Division of Transportation has implemented a pilot

program in Adams Morgan requiring establishments to bring sidewalk cafes on public space into compliance with District laws and regulations, and

WHEREAS, Advisory Neighborhood Commission 1C on February 6, 2002 endorsed this pilot program by a vote of 8-0, and

WHEREAS, the resolution endorsing the pilot program contemplated ANC 1C adopting a set of standards and criteria by which applications to the Public Space Committee under this pilot program will be reviewed by the ANC.

NOW, THEREFORE, BE IT RESOLVED, that the attached document entitled "ANC 1C Criteria and Checklist for Evaluating Public Space Permit Applications and Amendments" is hereby adopted and approved by ANC 1C, and be it further

RESOLVED, that the attached Criteria and Checklist will also be used by ANC 1C to evaluate all future public space permit applications and amendments.

The Criteria:

ANC 1C CRITERIA AND CHECKLIST FOR EVALUATING PUBLIC SPACE PERMIT APPLICATIONS AND AMENDMENTS

General Standards

A requested sidewalk cafe or other public space applicant must meet the following general requirements of 18 DCMR 100, 304, and 305:

- 1. No adverse effect on the public interest
 - a. The cafe should not adversely affect public needs for the public space
 - b. The cafe should provide an economic benefit to the District
 - c. The cafe should promote public use and enjoyment of the public space
 - d. The design and location should be compatible with the other structures and uses in the surrounding area
 - e. The cafe should comply with all other District laws, rules, and regs.
- 2. *Use must not endanger public safety*
 - a. The cafe should provide a reasonable degree of safety for life and property from fire and explosion hazards
 - b. The cafe should not have an adverse effect on public

- safety and policing procedures
- c. The cafe should not have an adverse effect on public health and must meet the sanitation standards of 18 DCMR 314 (see below).
- 3. Use must not substantially interfere with pedestrian or vehicular traffic
- 4. Use must not increase the area of public space that the applicant is authorized to use by other laws or regulations

Specific Requirements

- Public Notice Procedures Under 18 DCMR 303, the applicant is required to post a public notice that an application for a public space/sidewalk cafe permit has been filed. This notice must be:
- o posted on the front of the building (and on each street frontage of the property involved if it involves more than one street);
- o in plain view of the public;
- o on paper at least 8.5 x 11 inches;
- o contain the date of the application, nature of the application, name of the applicant, ANC in which the property is located, the address of the property involved, and the name and address of the person at the Public Space Records and Permits Branch who can receive public comments.
- Maintenance of Clear Passageway Under 18 DCMR 204, the general rule is that the applicant must maintain a clear, unobstructed passageway for pedestrian traffic not less than 10 feet in width at all points across the frontage of the property. Under 18 DCMR 311, the following sidewalk rules apply:
- Clear sidewalk space is measured from the farthest extended portion
 of the cafe frontage to the curb line or nearest obstruction, whichever is
 nearest to the cafe.
- Recesses in the cafe frontage shall not be used to satisfy the clear sidewalk space requirements.
- O Trees, streetlight poles, sign poles, fire hydrants, and other objects located on the sidewalk are considered obstructions. However, the space between a tree and the building line shall be considered unobstructed if the treebox is protected by a tree grate that is flush with the grade of the sidewalk.
- o No sidewalk cafes within 15 feet of a bus stop or bus shelter.

Under 18 DCMR 204.2, a waiver may be granted permitting a passageway of less than 10 feet - but not less than 6 feet - if the flow of pedestrian traffic is usually, or at certain periods of the day or evening, sufficiently light to permit a narrower passageway. The waiver may be for all times of the day, or for certain specified periods. This is a discretionary decision based on the particular circumstances.

- <u>Use of Structural Materials</u> Under 18 DCMR 300, no person shall be issued a sidewalk cafe permit unless the proposed cafe also meets the requirements of 18 DCMR 210, the most significant of which are as follows:
- O All structural materials shall be easily demountable and capable of being removed within 24 hours after notice, without damage to the sidewalk or public space that it occupies.
- O No sidewalk cafe shall project more than 20 feet from the building line or occupy more than 60% of available surface space (subject to the "maintenance of clear passageway" requirement above).
- A separate building permit is required for any structure on public space under section 314.3 of the D.C. Building Code (12 DCMR).

Under 18 DCMR 210.10, a waiver may be granted from any of these requirements if both of the following two conditions are met: (a) strict application would result in exceptional practical difficulty because of shape, topography, or other condition of the particular property, or undue hardship; and (b) relief can be granted without substantial detriment to the public good or the general purpose of these requirements.

- <u>Other Physical Requirements</u> Under 18 DCMR 312 and 315, the following physical requirements also apply:
- O Nothing shall swing or project beyond the exterior perimeter of the cafe except for fire or emergency exit doors.
- o All furnishings shall be readily movable.
- O No fixtures shall be bolted or permanently affixed to public space, except that screw sockets may be permitted as a form of anchoring.
- O The floor of the cafe shall be at the same elevation as the existing surface space, except that in order for the floor of the cafe to be at level grade, the floor may be constructed so as not to exceed 18 inches above the sidewalk where the cafe meets with the adjoining clear sidewalk space (subject to the requirement above that any structural materials must be capable of being removed without damage within 24 hours after notice).

- O A railing may not be higher than 36 inches.
- O Artificial turf, carpet, platforms, or other surface covering is allowed on the floor only when specifically approved by the Fire Chief and the Public Space Committee.
- <u>Life and Safety Requirements</u> Under 18 DCMR 313, no exit door may be obstructed so that it can't be opened from the inside. Chairs and tables must be arranged so as to allow for ready access by aisles to each exit. And no part of any aisle may be used in any way that obstructs its use as an exit or that constitutes a hazardous condition.

Evaluation of Current and Past Operations

The public space regulations contain numerous requirements and restrictions concerning operations on public space after public space and sidewalk cafe use permits have been granted. The ANC considers an establishment's history and past practices under these provisions relevant to a decision on whether an amendment to an existing permit should be approved or a new permit granted. The most significant of these provision are as follows:

- 18 DCMR 200.5 Have all rents and other charges for public space occupancy been paid? (Under the new DDOT amnesty program, these charges for the last 2 years must be paid in full, or a payment plan established with DDOT, by May 9, 2002.)
- 18 DCMR 200.8 Is all personal property placed on public space movable and maintained in a good, clean condition; or has it been allowed to deteriorate or become unsightly or dangerous to the public?
- 18 DCMR 207.9 Does the applicant promptly remove any litter deposited on or in the vicinity of the public space the results from activities conducted by the applicant on the public space or on any area adjoining the space?
- 18 DCMR 207.14 If food is consumed on the public space, is table service provided by a waiter or waitress, or is an attendant assigned to the area for maintenance purposes at all times the area is occupied by patrons?
- 18 DCMR 208.2 Does any music provided for the enjoyment of patrons disturb the peace or quiet of the neighborhood, or the comfort or repose of any inhabitant of the neighborhood?
- 18 DCMR 208.4 Is any music produced or amplified by any electronic or mechanical means? (This is strictly prohibited on public

space.)

- 18 DCMR 314 Does the establishment meet required sanitation standards, as follows:
- o 314.2 server available or attendant present at all times?
- o 314.3 no food preparation or storage in the cafe area?
- o 314.4 pitchers, coffee pots, utensils, condiments, etc. protected from contamination?
- o 314.5 sugar, salt, and other condiments packaged and maintained in a covered container?
- o 314.6 no presetting of tables unless silverware is protected from contamination?
- o 314.7 outdoor seating counted in satisfying restroom code requirements?
- o 314.9 no trash or refuse storage in the vicinity of the sidewalk cafe?
- o 314.10 no structure or enclosure to accommodate storage of garbage placed adjacent to cafe?

Commissioner Brody offered a resolution on Mexicali/Showboat/Las Placitas, which resolution was seconded, debated and approved by voice vote:

YEA Roth, Wright, Miscuk, Johnson, Brody, Klempay ABSTAINING Jovanka

The resolution reads:

RESOLUTION ON MEXICALI/SHOWBOAT/LAS PLACITAS

WHEREAS, Mexicali, Showboat, and Las Placitas have applied for renewal of their CR licenses; and,

WHEREAS, said establishments fall within the jurisdiction of ANC 1C; and

WHEREAS, concern has been expressed by the community over certain issues, how

THEREFORE, ANC 1C will protest the issuance of these licenses on the grounds of the adverse effects on peace, order, and quiet in the neighborhood, until such time as the parties agree to a voluntary agreement, at which time the ANC will withdraw its protest and request that the agreement be incorporated in the Board's order granting the license renewal.

Commissioner Klempay offered a resolution on Caravan Grill, which resolution was seconded, debated and approved by roll call vote:

YEA Roth, Wright, Miscuk, Brody, Klempay ABSTAINING Jovanka, Johnson

The resolution reads:

RESOLUTION ON CARAVAN GRILL PROTEST

WHEREAS, Caravan Grill Inc., 1825 18th Street, NW, has applied for renewal of its Class C License, Application No. 33591, the establishment being located in Single Member District 1C09; and

WHEREAS, neighbors have concerns of the adverse effects on peace, order and quiet relating to the operations of the establishment; and

WHEREAS, all of Single Member District 1C09 south of U Street, NW, has been redistricted into Ward 2 and ANC 2B;

NOW THEREFORE, BE IT RESOLVED that ANC 1C authorizes the Commissioner of SMD 1C09 to file a protest to renewal of the license on behalf of ANC 1C on the grounds of the adverse effect to peace, order and quiet and to prosecute the protest.

Commissioner Miscuk, Commissioner Wright presiding, offered a resolution to have DC Parks and Recreation advise appropriate neighborhood groups about permit issues in parks, which resolution was seconded, debated and approved by roll call vote:

YEA Roth, Wright, Miscuk, Jovanka, Brody, Klempay NAY Johnson

The resolution reads:

RESOLUTION TO HAVE DC PARKS & RECREATION ADVISE APPROPRIATE NEIGHBORHOOD GROUPS ABOUT PERMIT ISSUES IN PARKS

Whereas, instances have occurred where permits have been issued for park usage without the consultation of various park groups in our neighborhood and;

Whereas, These groups have been recognized by DCPR and other agencies as "caretakers" of these parks;

Whereas, These groups are most familiar with needs, usage, appropriateness and deficiencies of our parks

BE IT RESOLVED that Adams Morgan ANC 1C requests that any permitting issue regarding Adams Morgan Parks be referred for commenting to the appropriate neighborhood group as follow:

Walter Pierce Park

Kalorama Park

The Friends of Walter Pierce Park

The Kalorama Park Advisory Board

S & T Street Parks

The Friends of S & T Street Parks

BE IT FURTHER RESOLVED that ANC 1C requests that this is done in a timely manner so that any disagreements between DCPR, the appropriate neighborhood group or the permit applicant may be addressed by the Adams Morgan ANC for Great Weight;

BE IT FURTHER RESOLVED that ANC 1C reserves the right to lend its great weight to these issues;

BE IT FURTHER RESOLVED that ANC 1C requests notification of ALL Park Permit issues in case there is a need to comment;

BE IT FURTHER RESOLVED that the officers of ANC 1C are authorized to take appropriate actions necessary to secure the support of Councilmember Jim Graham, Other Councilmembers and the support and actions of any relevant city agencies to further this goal.

Commissioner Johnson moved to adjourn, which motion was seconded and approved by voice vote.

The meeting adjourned at 9:40 pm.

Peter L. Klempay Secretary ANC 1C

Approved June 17, 2002