



**Government of the District of Columbia  
ADVISORY NEIGHBORHOOD COMMISSION 3/4G**

CHEVY CHASE, BARNABY WOODS, HAWTHORNE

**COMMISSIONERS**

3/4 G-01 - Abraham Clayman  
3/4 G-02 - Chanda Tuck-Garfield, Treasurer  
3/4 G-03 - Randy Speck, Chair  
3/4 G-04 - Rebecca Maydak, Secretary  
3/4 G-05 - Gerald Malitz  
3/4 G-06 - Dan Bradfield  
3/4 G-07 - Christopher Fromboluti, Vice-Chair

5601 Connecticut Avenue N.W.  
P.O. Box 6252 Washington, D.C. 20015  
Chevychaseanc3@verizon.net  
<http://www.anc3g.org>  
YouTube: ANC3G  
202.363.5803

**Minutes:** ANC 3/4G Public Meeting, May 14, 2018, Chevy Chase Community Center, 5601 Connecticut Ave, NW, Washington, DC 20015 (Video of this meeting is available at: <https://tinyurl.com/y9q84bmj>)

**Present:** Speck, Fromboluti, Tuck-Garfield, Maydak, Clayman, and Bradfield (Malitz absent). A quorum was declared.

**Attendance:** Approximately 33 people attended the meeting.

**Adoption of Agenda (video at 02:40):** The agenda was adopted by a vote of 6 to 0.

**Commissioner Announcements (03:00)**

Commissioner Speck:

Street Trees at 5333 Connecticut — Michael Chuko at the Urban Forestry Division notified the Commission on May 11, 2018, that he has asked the developer’s arborist for 5333 Connecticut to make arrangements to remove two street trees adjacent to the circular driveway. Mr. Chuko noted that the developer had agreed with the ANC to remove and replace the trees if their health declines. The ANC and Urban Forestry had required extraordinary steps to preserve these trees when the developer installed the circular driveway, but Mr. Chuko has concluded that despite those efforts, “one is dead and the other is in decline.” He asked that the trees be removed “expeditiously” and noted that a public space permit will be required. The ANC will review that application when it is submitted.

Seniors Telephone Town Hall — The D.C. Office on Aging, the Mayor’s Office on Community Relations, and the Deputy Mayor for Health and Human Services will conduct a Seniors Telephone Town Hall at 11:00 am on Wednesday, May 16, 2018. It will provide information and updates on senior programming and events. To RSVP, call 202-442-8150 or email

[engagement.dc@dc.gov](mailto:engagement.dc@dc.gov). To join the call on May 16th, call in to 1-855-756-7530 with access code 30984.

Carnegie Neighborhood Lecture — Carnegie Science will hold its final 2017-18 Neighborhood Lecture on Thursday, May 24, at 6:30 pm in the Greenwalt building of the Broad Branch Road campus, 5751 Broad Branch Road. The talk is entitled "Harder, Better, Faster, Stronger: How High Pressure and Supercomputers Will Shape Materials of the Future" and is free and open to the public.

Chevy Chase Artist Exhibition — The Chevy Chase Artists continues their exhibition in the Community Center Lounge through May 26. The exhibit includes paintings, mixed media, photographs, prints, pastels, and drawings by 30 local artists. It's available for viewing during Community Center hours.

Commissioner Bradfield:

41st Street Paving — The paving work on 41st Street south of Western is complete, but DDOT is looking at possible speed mitigation measures that will be added. Some questions have been raised about these proposals, and the ANC expects to address these at a meeting in late June.

Commissioner Fromboluti:

Dockless Bicycles — Greater Greater Washington sponsored a meeting on dockless bicycles that included representatives from DDOT (Director Jeff Marootian and Sam Zimbabwe), the dockless bike companies, and ANCs. It began with presentations by DDOT on the program followed by breakout sessions. DDOT said that they conducted the trial program without regulation to identify problems and will now proceed to implement regulations. The trial program has shown that dockless bikes improve mobility, but there is a problem with bike "litter." Some of the steps that they are considering include the use of "tip sensors" that will identify bikes that have tipped over, requiring a picture of the bike being stored before the rental session will end, regulations requiring the bike to be "locked to" some fixture, and use of designated places to drop off bikes (e.g., marked locations on streets or in parking garages). The District's goal is to have 25% of trips by walking or bikes — a significant improvement over the current 5%. DDOT is conducting a survey to obtain community feedback (<http://sgiz.mobi/s3/Dockless-Bikeshare-General-Survey>), and the pilot program will end in August.

Commissioner Tuck-Garfield:

DC Bike Ride — The DC Bike Ride will be held on Saturday, May 19, 2018, from 8:00 am to 12:30 pm. This will be a celebration of bicycling in Washington, DC, and provides an opportunity to bike 20 miles around the city with no cars. More information on starting location and registration is available at <https://dcbikeride.com>.

Oregon Avenue — DDOT assured the Commission at its April 9, 2018 meeting that it would update the website devoted to the Oregon Avenue reconstruction project (<http://oregonaveddot.com>), but nothing has been done yet. The ANC will continue to push

DDOT to provide current information about the project, particularly as the DC Water project ends and DDOT's reconstruction project begins.

Commissioner Clayman:

Chestnut Street Sidewalks — DDOT Director Jeff Marootian walked Chestnut Street with residents on April 30, 2018, to brief them on DDOT's plans for installing sidewalks. The work is expected to begin in 2019. If anyone has questions or wishes to discuss these plans, they should contact Commissioner Clayman ([3G01@anc.dc.gov](mailto:3G01@anc.dc.gov)).

**Discussion and possible vote on revised application for public space permit to construct a new curb cut and driveway at 3012 Military Road, NW (Tracking Number 278822) (14:20)**

Commissioner Speck indicated that at the ANC's April 9 meeting, it voted to object to the application for a curb cut at 3012 Military Road on safety grounds because the proposed driveway did not have a turnaround, and cars would have to back into the traffic on Military Road. The applicant, Sabri Eriksen, did not disagree with these concerns and submitted an optional plan that included a turnaround in the only feasible location — within public space. The applicant also agreed to preserve the trees on the site and to use permeable pavers for the driveway. Since there is no parking on Military Road during evening rush hours, the only available parking access would be on 30th Street if Mr. Eriksen cannot install a curb cut and driveway.

At the Public Space Committee's April 26, 2018 meeting, its members agreed with the possible safety considerations. They also acknowledged the difficulties of on-street parking since the rear alley was closed in 2003. Nevertheless, they outright rejected the proposed turnaround because it would be in public space. Even with pervious pavement, they believe that this is an impermissible encroachment on public space, which is supposed to have "vegetation, not paving."

The applicant also ran into another problem with his original proposal because his curb cut was less than 24 feet from a neighbor's curb cut. To address this issue, he offered two options that would move the curb cut to about 24 feet from the adjacent driveway. The first option would curve the driveway to a parking pad located in approximately the same spot as the original proposal, and the second would move the entire driveway over, putting it close to a pine tree and the house. Neither of these last two options had been reviewed by DDOT's safety reviewers or by the Urban Forestry Division.

In order to obtain those reviews, the Committee tabled the application until its meeting on May 24, 2018. In addition to those reviews, the Committee told the applicant to go back to the ANC to get its views. For that reason, we are revisiting the application. As of May 14, there had been no safety review posted from the Public Space Regulation Division, and the staff at the Public Space Committee said that the reviews would be updated after the applicant uploads new drawings, which he did on May 14.

Mr. Eriksen said that he had consulted with Capitol Flexi-Pave, a leading contractor for permeable surfaces and driveway installations in the District, and Capital Tree Preservation, an arborist recommended by the Urban Forestry Division. They visited the site and prepared a tree root protection plan for the proposed driveway options. These consultants have assured Mr. Eriksen that they can build the driveway while protecting all trees, as they have done at other locations in the District. Mr. Eriksen uploaded this information for the two driveway options to DDOT's TOPS system on May 14. He prefers "Option 1," which is a straight driveway since it is more in keeping with the other driveways in the neighborhood, and it may be easier to back out than from a curved driveway.

Commissioner Maydak reiterated the Commission's safety concerns with a driveway that does not allow a turnaround space so that cars will head out onto Military Road. She emphasized the paramount importance of protecting life and public safety even if it means removing a non-heritage tree. Commissioner Speck noted, however, that the Public Space Committee had removed that option and would not permit a turnaround in public space.

Commissioner Fromboluti asked whether an arborist had looked at the trees on the property, and Mr. Eriksen said that they had and assured him that the driveway could be built without damage to the trees. Urban Forestry has not yet reviewed this latest proposal, however. Commissioner Fromboluti agreed that the home owner should be entitled to have some access to his home with a curb cut and driveway. Otherwise, he would have no way to drop off groceries or passengers. Commissioner Bradfield said that he preferred Option 1 as a more straightforward solution and more consistent with the neighborhood. Commissioner Tuck-Garfield said that since DDOT will not permit a circular driveway or a turnaround space, she supported Option 1.

Commissioner Speck noted that the Commission approved a curb cut in a similar situation at 3411 McKinley, where there was no alley and no other access to the property. While McKinley Street is not exactly comparable to Military Road, it is also a bus route and is heavily trafficked. He also noted that DDOT will expressly review the safety of the proposed driveway and determine whether it is acceptable from that standpoint.

Based on this discussion, Commissioner Speck moved that the Commission advise the Public Space Committee that it does not object to Option 1 — the straight driveway — provided that the safety and Urban Forestry reviews find it acceptable. The Commission adopted the motion by a vote of 6 to 0.

**Discussion and possible vote on application by Chevy Chase Wine and Spirits (5544 Connecticut Avenue, NW) to renew its Class A liquor license (ABRA 103575) with no change in hours or operations (35:30)**

Commissioner Bradfield noted that there have been no complaints or objections to this renewal application, and there would be no changes to the conditions of the license. This is the first renewal by the new owners. The applicant was not present at the meeting, but Commissioners had no questions.

Commissioner Bradfield moved that the Commission support the application, and the motion was approved by a vote of 6 to 0.

**Discussion and possible vote on application by the Gordon Restaurant Group for a public space permit for a new sidewalk cafe (un-enclosed) at 5600 Connecticut Avenue on both the Connecticut Avenue and McKinley Street sidewalks (DDOT Tracking No. 10598084) (37:00)**

Commissioner Speck noted that this application has stimulated more posts on the Chevy Chase Community listserv — more than 70 by his count — than any topic in recent memory. Obviously many people wish to be heard, so the Chair invoked the Commission’s usual procedure of limiting each speaker to no more than three minutes, with speakers taken in the order that they signed up.

Commissioner Bradfield began by thanking everyone involved in this process. Sometimes these types of things take some effort to ensure the best outcome, and the process in this instance has been beneficial. He appreciated the community for its thoughts and concerns, as well as many words of support for the new restaurant. The neighbors had been diligent in being a part of the process, including at the community meeting with the owners on May 9, 2018. Finally, he thanked the Gordons for listening and adapting to what makes the community more comfortable.

Commissioner Bradfield then reviewed several facts. First, the issue before the Commission at this meeting is limited to the outdoor cafe public space application. The Commission addressed the liquor license issues at its April 23, 2018 meeting.

Second, the applicants officially submitted new plans and drawings on May 14, 2018, which include significant changes to address the neighbors’ needs. The Commission will work off of those drawings in considering the application.

Third, last week, DDOT confirmed that it had conducted a pedestrian safety analysis and concluded that it could move the Capitol Bikeshare station to a location near the Safeway, which will likely increase usage. This eliminates an obstacle on the sidewalk that will not need to be considered in evaluating the outdoor cafe.

Fourth, when the ANC approved the liquor license application and a Settlement Agreement with the Gordons, they agreed to reduce the hours for service at the outdoor cafe on McKinley Street to no later than 11:00 pm on weekdays and 11:30 pm on weekends. This is a substantial reduction from the previous request to remain open until 2:00 am on weekends and will be the shortest hours of any similar establishment on Connecticut Avenue. Additionally, the applicant agreed to the Commission’s requirement for seven-day-a-week trash pickup and to comply with all noise regulations.

Fifth, the applicant has agreed to meet all regulations for sidewalk clearances, which results in reducing the deck size by 16% on the McKinley side and by 50% on the Connecticut side.

Sixth, based on measurement by Commissioners, the Little Beast outdoor cafe will have more pedestrian walk space than 80% of all other outdoor restaurants on Connecticut Avenue between Legation and Northampton.

Seventh, the applicant has conducted a test to determine the effect of sound at the outdoor cafe on the surrounding neighbors. Enlisting the help of a sound engineer, they found that the sound impact contribution from the outdoor cafe will be less than negligible, easily below requirements, and less than the ambient noise create from the bus traffic.

Finally, the plans will comply completely with the ADA requirements.

Commissioner Bradfield then asked Aaron Gordon, the applicant and co-owner, to describe the current application. Mr. Gordon said that the restaurant will be family friendly and will contribute to the neighborhood environment. He said that the outdoor patio on the Connecticut Avenue side will be reduced from 450 square feet to 200 square feet and from 30 seats to 12 seats. They will also have a 15-foot clearance from the bus shelter and the required ADA access.

On the McKinley Street side, the “summer garden” — DDOT’s nomenclature for an outdoor cafe entirely on the owner’s property but in public space — will be reduced from the proposed 15 feet wide to 13 feet in order to provide a 10-foot clearance from all sidewalk obstacles (a fire hydrant, a streetlight pole, and a supporting wire for the pole). The number of seats will be reduced from 52 to 44.

Mr. Gordon said that the usual practice is to ask for exceptions to the requirements in order to maximize seating capacity. Instead, they have made concessions to the neighborhood to address expressed concerns. Mr. Gordon also provided a petition supporting the new restaurant with 25 signatures that his wife collected in only 90 minutes. He also read some of the 30 emails in support that he had received after posts on the listserv. Mr. Gordon, his father (Robert Gordon, who is co-owner and former chair of ANC 3/4G), and his management team also held a meeting with the community on May 9, 2018, to answer any questions. They are open to talking about any problems that may arise and working with the neighbors to address any noise or trash concerns.

Robert Gordon described the sound analysis that they did to evaluate the extent to which noise from the outdoor cafe would carry to neighboring homes. Robert Gordon collected the data with Commissioners Bradfield and Speck as observers to validate the readings. They then hired Greg Lukens, a recognized sound engineer, to evaluate the data, and he reached the following conclusions:

I have carefully reviewed the data in your attached document and find your collection technique and the resulting data both viable and valuable. The measured sound levels and distances show clearly that the addition of a 44-person serving patio will not have a negative impact on the restaurant’s neighbors.

Key details that cause me to draw that conclusion are:

- 44 customers on a patio with a 15 square foot per person density, this sparse density spreads the people and sound sources out, minimizing the summation of their combined sound level.
- The distance from the proposed patio to the neighbor being nearly 200 feet provides for substantial natural attenuation, in the range of 40 to 46 dB.
- The “raw” ambient sound level at the quietest time of the day measuring in the 50 dB range is substantially higher than the probable sound radiating from the patio.

Commissioner Tuck-Garfield asked when the sound measurements were taken, and Robert Gordon indicated that they were taken between 8:00 pm and 10:00 pm or 11:00 pm on Friday night, May 11. He also reported on observation of other outdoor cafes on Connecticut Avenue and said that from about 30 feet away, it was difficult to differentiate any noise from an outdoor cafe from the ambient street traffic noise.

Commissioner Fromboluti noted that sidewalk clearances for outdoor cafes on heavily trafficked 19th Street, NW were universally eight feet with no apparent safety or congestion problems.

Commissioner Speck reported that the applicable DDOT regulations — DCMR Sections 24-204 (<http://dcrules.elaws.us/dcmr/24-204>) and 24-311 (<http://dcrules.elaws.us/dcmr/24-311>) — specify that an outdoor cafe must be at least 10 feet from the curb or any “obstructions” and at least 15 feet from a bus stop or bus shelter. The revised plans comply with these regulations.

To address some concerns raised about the width of the remaining sidewalk, even if it conforms with DDOT regulations, Commissioner Speck measured sidewalk clearances for the other outdoor cafes along Connecticut Avenue from Livingston Street to Northampton Street. These measurements indicate the following approximate distances between the outdoor cafes and the nearest sidewalk obstruction: (1) Starbucks — 6.5 feet from the bus shelter and 7.5 feet from a sidewalk bench; (2) Pumpernickel’s — 7.5 feet from a tree box without grates; (3) Parthenon — 7.0 feet from a tree box without grates; (4) Macon — 7.0 feet from a tree box without grates; (5) American City Diner — 6.0 feet from a tree box without grates on the Morrison Street side, 13.5 feet from a streetlight pole, and 8.0 feet from a sidewalk bench on the Connecticut Avenue side; (6) Arucola — 8.5 feet from a tree box without grates; (7) The Avenue — 13.0 feet from a parking meter; (8) Bread and Chocolate — 9.0 feet from a tree box without grates and 7.0 feet from a sidewalk bench; (9) Magruder’s — 10.5 feet from a sidewalk bench; and (10) Jetties — 9.5 feet from a parking meter. A minimum sidewalk clearance of ten feet will provide more available sidewalk space for pedestrians than at most other outdoor cafes in the neighborhood.

With respect to the noise concerns, Commissioner Speck noted that the reduction in the size of the McKinley Street outdoor cafe reduces the maximum seating capacity by 15%, with a comparable reduction in the potential noise patrons will create. The reduction in hours as a result

of the ANC's settlement agreement will close the outdoor cafe on the McKinley Street side no later than 11:00 pm on weekdays and 11:30 pm on weekends, thus eliminating any noise from the outdoor cafe after those times.

Commissioner Speck further noted that some residents had suggested that because the proposed restaurant will have carryout service, traffic may be congested along McKinley Street by cars that stop illegally to pick up orders. He said that this concern is unrelated to the outdoor cafe since the carryout service is not related to whether there is an outdoor cafe. Moreover, the ANC does not presume that patrons of the restaurant will violate traffic laws and park illegally. If this were to occur, it would be an enforcement issue for MPD, and the ANC would seek their assistance. Since this is a busy intersection, MPD would undoubtedly take swift action to prevent illegal parking.

Several members of the community offered their views about the application. Lois Foster-Crowder, an architect and nearby neighbor, provided photos and sketches of the sidewalk on McKinley Street currently and with the outdoor cafe. She said that the bus shelter near the curb — which she said was 36 feet from the planned outdoor cafe — would require pedestrians to “dodge” around the cafe and the bus shelter without a straight path, which she said should be at least four feet wide. She said that the outdoor cafe should be moved back 18 inches to provide a clear, straight path for pedestrians. She said this was primarily a “visual issue.”

Peter Kolker, a nearby neighbor on 39th Street between Morrison and McKinley, expressed concerns about trash and trash collection. He said that there was no place for trash collection in the alley, and he worried about noise from moving the trash from the restaurant to the alley and a rat problem. He said that rolling a trash can to the dumpsters would be disruptive. He also raised an issue about traffic backups that may be caused by patrons parking at the bus stops on Connecticut Avenue or McKinley Street. He also questioned where patrons will park and said that if there are 80 seats, that could translate to 30 to 40 cars that will park in the neighborhood. Commissioner Speck asked whether these concerns about trash and traffic/parking related to the restaurant as a whole or to the outdoor cafe. Mr. Kolker said that the size of the outdoor cafe will increase the total amount of trash and traffic related to the restaurant.

Allen Seeber, a neighborhood resident, said that the viability of businesses in our neighborhood is dependent on residents' continued willingness to invest in their homes. Trash is an issue for all of the establishments along Connecticut Avenue, and there is no reason to treat this applicant any differently than the existing businesses. He said that the applicant should be treated as an “appellant,” with a presumption in favor of the application so long as it complies with requirements. He said that the “tipping point” argument is a dangerous proposition. The solution to the parking problem is underground parking (e.g., under the Safeway) and is not an issue to be resolved with this application.

Mike Durr said that he looks forward to having a new family restaurant in the community that will provide additional options. He said he's known the Gordon family for many years, and this is the kind of restaurant that we want for our neighborhood. It will be a “big plus.”

Elliott Beard lives near Pete’s Pizza on Wisconsin Avenue and Fessenden Street, but he looks forward to a family-friendly pizza restaurant nearby that expands his choices. He has known the Gordon family for 30 years. They are a part of the community and will consider what’s best for the neighborhood.

Leila Gordon lives at 3711 Military Road. She and her family have eaten at all of the other outdoor cafes along Connecticut Avenue that are part of the fabric of life in the community. She hopes that this new restaurant will contribute more happy stories for other families in the neighborhood.

Jerry Levin, a real estate/zoning lawyer and former chair of ANC 3/4G, knows the Gordons and strongly supports their application. He said that because of the benefits of sidewalk cafes, there is a presumption in favor of them if they meet the minimum requirements. Arguments can always be made against a new outdoor cafe, but the balance of equities should favor the applicant if it meets the minimum criteria.

Peter Gosselin, a resident at 3701 Military Road, said he choose to live in a location that is on a busy street and close to a busier street — Connecticut Avenue — where he can walk to eat and shop. There are downsides to living near an active commercial strip, but also great advantages. The neighborhood is changing, but the addition of this outdoor cafe is not the first. There are 11 other outdoor cafes in adjacent blocks on Connecticut Avenue. More variety and choice will only make it better.

Robert Weinberger lives at 3939 McKinley Street, a block and a half from the proposed new restaurant. He said that it will add diversity and improve the overall quality of life. The Gordon group is not a startup but an established business that has been around for ten years and operates seven restaurants. They have also been active in the community, donating food to schools and non-profits. They will provide a positive contribution to the quality of life.

Zak Hoffman said that he lives in Shaw and has worked at 12 restaurants in the District, including during their startups. He supports people who take the initiative to start a new business. No one goes into the restaurant business to make the maximum amount of money possible because it’s hard work with small profit margins, and restaurant owners have to be committed to serving the community. The proposed restaurant will make the neighborhood better.

Stuart Miles-McLean, a nearby neighbor, said that he appreciated the Gordons’ meeting with the community. He is concerned, however, that the takeout section will be closest to the residential houses, and illegal parking near the bus stop may be a problem. He asked what WMATA says about locating the takeout in a “less than perfect spot.” The problems created by the new restaurant are not the neighbors’ fault — e.g., taking the garbage out the front door to the alley in back. He also expressed concern that the outdoor cafe could be enclosed and made permanent without any further review, but Commissioner Speck indicated that the requirements for an enclosed outdoor cafe are different and would be subject to another application process. Mr. Miles-McLean does not agree with the outdoor cafe on McKinley Street and urges at least a reduction in its size.

Kathleen LeDain is a neighbor closest to the new restaurant. She likes the vitality of the city, and it is one reason she was attracted to live here. Her concerns are related to living close to the restaurant. She urged reduction in the size of the McKinley Street outdoor cafe so that there will be a “direct route” along the sidewalk rather than have to “curve” around the bus shelter and the cafe. She said that the entrance to the parking lot behind CVS makes it dangerous to walk on the other side of McKinley.

Aaron Gordon said that he appreciates the concerns expressed, but the cafe is actually 50 feet from the bus shelter and about 12 feet from the curb.

Commissioner Maydak said that the ADA requirements for accommodating wheelchairs on sidewalks only specify that they be four to six feet wide. The proposed 10-foot clearance is more than enough to satisfy ADA regulations. Commissioner Clayman thanked all the parties for raising issues and making adjustments to the plan, which is better because of this process.

After full consideration of all of this discussion and the applicant’s modified plans, Commissioner Bradfield moved that the Commission advise the Public Space Committee that it does not object to the revised application filed on May 14, 2018, since it conforms to DDOT regulations, and the cafe will be at least ten feet from any sidewalk obstruction and at least 15 feet from the bus shelter on Connecticut Avenue, with a resulting reduction in the size of the outdoor cafe. The Commission approved the motion by a vote of 6 to 0.

**Presentations by and questions for Ryan Aston (Restaurant Workers of America, Kevin Wrege (Restaurant Association of Metropolitan Washington), and Diana Ramirez (Restaurant Opportunities Center United), on Initiative 77, a tipped worker minimum wage measure that is on the District’s June 19, 2018 primary election ballot (1:45:00)**

Commissioner Speck indicated that Initiative 77 on the June 19 ballot (<https://www.dcboe.org/Elections/2018-Elections>) would, if passed, gradually increase the minimum wage for tipped employees so that by 2026, they would receive the same minimum wage directly from their employer as other employees. Although the June 19 primary is “closed” for purposes of choosing party candidates for the November 6 general election, any registered voter, regardless of party affiliation, may vote on whether to approve the Initiative.

In order to help the Commission and the community to understand the implications of the Initiative, the ANC invited three people with varied views.

Diana Ramirez is Deputy Co-Director of Restaurant Opportunities Center United, the organization that filed the Initiative. The Initiative calls for employers to pay full minimum wages to tipped employees by 2026. The minimum for tipped employees would increase by \$1.50 per hour each year until it catches up with the standard minimum wage. The current minimum wage for tipped employees is \$3.33 per hour, which employers must pay to tipped workers. If that wage plus any tips received does not exceed the standard minimum wage for all workers — currently \$12.50 per hour — the employer must pay the difference.

Some higher-tipped workers do earn more, but this initiative is not intended to help them. The majority of tipped workers are women and of color. Ms. Ramirez said that this initiative is about racial, gender, and economic equity. The reality is that employers take advantage of tipped workers, requiring them to work more hours or on different days to make up any shortfall in tips so that the employer does not have to pay. She contends that dependence on tips also makes women workers more susceptible to sexual harassment in order to get more tips.

Ms. Ramirez said that several states (e.g., California) have done away with a separate minimum wage for tipped workers without the adverse consequences that some have predicted. She believes that the single minimum wage has worked well in those locations. This Initiative does not call for the elimination of tips so that high-tip workers can still earn more.

Commissioner Speck asked whether the Initiative would essentially switch who pays the tipped worker — i.e., under the current system, customers pay the difference between the tipped wage minimum (\$3.33) and the standard minimum wage (\$12.50) unless there is a shortfall, but if Initiative 77 passes, that difference will be paid entirely by the employer. Ms. Ramirez agreed.

Peter Bayne spoke as a representative of the Restaurant Association of Metropolitan Washington. He is a native Washingtonian, graduated from Murch and Deal, and began working at Marvelous Market. He has waited tables and tended bar in a variety of restaurants where he learned the business and then began opening restaurants of his own. He is co-founder of the Tin Shop restaurant group (<http://www.tinshopdc.com/businesses/>).

Mr. Bayne said that restaurants must pay the full minimum wage to all employees because that is the law. A restaurant's payroll contractor will not process payroll that does not pay the minimum wage, including any employer supplement above the tipped minimum wage. He said that the restaurant business in Washington is "beautiful" with extraordinary variety and quality, and passage of Initiative 77 would jeopardize that success.

Mr. Bayne said that the Restaurant Opportunities Center does not represent workers but is supported by unions and is using the Initiative to unionize restaurant workers. He said that Initiative 77 would "flip the incentives" for tipped workers. Staff likes tips because it gives them an opportunity to sell — the more that they please the customer and sell the restaurant's services, the more they earn in tips. Initiative 77 would increase restaurants' labor costs — not only for the increased wages but for associated benefits like unemployment insurance. That will in turn increase prices for customers — as much as a 30% increase. He argues that this will drive some restaurants out of business and reduce the vibrancy of the restaurant market in the District.

Ryan Aston, a professional bartender and member of the Board of the Restaurant Workers of America, said that Initiative 77, if passed, would have a negative effect on him and his family. He said that the customer always pays for whatever service is provided, whether in restaurants or other businesses. He said that 96% of restaurants in Washington are independently owned and operated. This has made Washington a world class city for restaurants. These businesses "don't play games" with tipped workers. They are family businesses and take care of the workers as family.

Mr. Aston said that the tipped wage paid by the employer usually goes entirely to taxes. If tips plus the tipped minimum wage don't exceed the standard minimum wage, the employer supplements what is not covered by tips. This system allows a restaurant to be fully staffed, even when business is slower. Restaurants will be more likely to go out of business if there is an increase in the minimum wage, and there will be fewer restaurant worker jobs. On the question of sexual harassment, he said that the Equal Employment Opportunity Commission received double the number of sexual harassment charges in California — which eliminated the tipped minimum wage — as in other states with the tipped minimum wage, suggesting that there is not the link that has been suggested

Mr. Aston said that the Restaurant Opportunities Center, which sponsored this Initiative, does not represent his community but merely wants to organize a union. If Initiative 77 passes, restaurants will close. In response to a question by Commissioner Clayman, Mr. Aston said that his organization, the Restaurant Workers of America, is a non-profit run by tipped workers. In response to a question from Ms. Ramirez, he said that his organization has focused in the District primarily on defeating Initiative 77.

The Commissioners thanked all three representatives for helping to educate the community on the pros and cons of this Initiative. The Commissioners agreed that because this is a ballot question that will be decided by each individual voter, it would be inappropriate for the Commission to take a position, but the Commission will continue to help distribute information to voters about this ballot Initiative.

#### **Commission Business (2:19:00)**

1. The Commission voted 6 to 0 to approve the minutes for its April 23, 2018 meeting.
2. The Commission approved the following check by a vote of 6 to 0: \$47.94 to Stefanie Van Pelt as reimbursement for web hosting services for the Commission's website.
3. After a discussion, the Commission voted 6 to 0 to approve the ANC's quarterly report for the quarter ending March 31, 2018.
4. Items for June 11, 2018 meeting may include: discussion and possible vote on resolution supporting the Climate and Reinvestment Act, which would apply a carbon fee for the use of fossil fuels with an accompanying rebate to consumers; presentation by the office of the Chief Financial Officer on the District's use of Wells Fargo Bank and possible options.

The meeting adjourned at 9:30 pm. (2:22:00).

Signed,

---

Randy Speck

---

Rebecca Maydak

Chair

Secretary