

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



ATTORNEY GENERAL  
KARL A. RACINE

Legal Counsel Division

January 10, 2018

Stephen K. Gardner  
Chairperson  
Advisory Neighborhood Commission 3D  
4545 W Street NW  
Washington, DC 20007

**Re: Questions Concerning Proposed Special Meeting**

Dear Chairperson Gardner:

Two Commissioners have requested a special meeting to reconsider a December 6, 2017 vote of the ANC. You asked us to resolve, on an expedited basis, two questions related to that request:

- (1) **Under ANC 3D's Bylaws, may the Chairperson of ANC 3D exercise reasonable discretion in determining whether to call a special meeting when two Commissioners request one?**

Yes. A request for a special meeting from two Commissioners (or ten residents) does not obligate the Chairperson to call a special meeting.

Two years ago, we were asked whether your ANC's Bylaws (unchanged since that time) permitted the Chairperson to call a special meeting<sup>1</sup> without a request from two Commissioners or ten residents.<sup>2</sup> We concluded in a November 10, 2016 letter that the answer to that question depended on which of two reasonable interpretations of the Bylaws was correct, which meant that the question was one for the ANC, not us, to decide.<sup>3</sup> Here, our answer is different.

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<sup>1</sup> We have interpreted the phrase "to call a special meeting" in the context of ANC 3D special meetings to mean: 1) to decide that a meeting shall take place; 2) to decide of when and where the meeting will be held; and 3) to notify fellow Commissioners and the public of the location, time, and agenda for the meeting through the ANC's normal procedures.

<sup>2</sup> See Letter from William Spence Spencer *et al* to the Hon. Karl Racine, May 2, 2016 (on file).

<sup>3</sup> See Letter from Karl Racine, Attorney General, to Advisory Neighborhood Commission 3D Commissioners, Nov. 10, 2016, at 2-3, available at <https://oag.dc.gov/sites/default/files/dc/sites/oag/publication/attachments/to%20anc3d%20re%20bylaws%2011-10-16.pdf> (last visited Jan. 5, 2018).

Regardless of which Bylaws interpretation is right, the Chairperson is not required to call a special meeting when two Commissioners request one.

The Bylaws provision at issue is Article V, Section 3(B), which states in pertinent part:

Special meetings of the Commission may be called by the Chairperson, by written request of two (2) Commissioners or upon petition of ten (10) residents, 18 years or older, of the Commission area.

Our 2016 letter explained the two ways that this language could reasonably be read. One possible reading is that the Chairperson has exclusive discretion to decide whether a special meeting will be called, but he or she may not call one unless “other Commissioners or ANC residents request one.”<sup>4</sup> The other possible reading is that a special meeting may be called (1) by the Chairperson; (2) by written request of two Commissioners; or (3) upon petition of ten residents. Under that reading:

the Chairperson has the power to call a special meeting, and even if a Chairperson does not call a special meeting, two Commissioners (by request) or ten residents (by petition) may nonetheless call one.<sup>5</sup>

That second reading would authorize someone other than the Chairperson (here, two Commissioners) to call a meeting, but even under that reading, the Chairperson would not be required to call the meeting him- or herself.

**(2) Does the ANC’s 8-1 vote in its December 6, 2017 meeting signify its overriding will and express intention with respect to calling a special meeting?**

That is a factual question for the ANC, not us, to determine, especially since the views and preferences of individual Commissioners can and do evolve over time. For example, even if the “will” of the ANC as expressed in its December 6, 2017 public meeting did not favor a special meeting, that fact does not affect the Commission’s authority to reconsider that measure in a special meeting called in accordance with the Bylaws.

If you have any questions, please contact Josh Turner, Assistant Attorney General, at 442-9834, or Janet M. Robins, Deputy Attorney General, Legal Counsel Division, at 724-5524.

Sincerely,

KARL A. RACINE  
Attorney General for the District of Columbia

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<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.*

By:



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