

Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

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IN REPLY REFER TO:
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(AL-97-383)

July 14, 1997

Marshall Williams
Chairman
Advisory Neighborhood Commission 6-A
652 9th Street, N.E.
Washington, D.C. 20002

Re: Advisory Neighborhood Commission questions relating to the quorum requirement, setting a meeting agenda, postponing a meeting, and obtaining financial documents from a commissioner who is not legally entitled to possession of them

Dear Chairman Williams:

This is in response to your recent, undated facsimile transmission to me in which you seek the advice of this Office as to several Advisory Neighborhood Commission (ANC) matters.

You first ask what is the number of commissioners needed to constitute a quorum where the commission has 14 single-member districts, one of which is vacant. The answer to this question is 8. A quorum is a majority of the total number of single-member districts, irrespective of the number of vacancies.

Your second question relates to who sets the agenda of an ANC meeting, the Chairman or the Vice-Chairman. This matter is not addressed by the statutory law governing ANCs, nor does it appear to be addressed in ANC 6-A's bylaws. And the 1990 edition of Robert's Rules of Order does not discuss how an agenda is to be set. Thus, it is up to each ANC to decide what procedures it will follow in establishing an agenda for a public meeting. Typically, the setting of an agenda is a group process, with all ANC commissioners having the right to propose agenda items and participating in the determination of what items of business will be taken up at a public meeting. Some ANCs have an executive meeting between public meetings, and at such executive meeting establish the agenda for the next public meeting. When there is a dispute as to whether a particular item should or should not be on the agenda of a public meeting, the question can be resolved, like any other matter that is in dispute, by a vote of the commission.

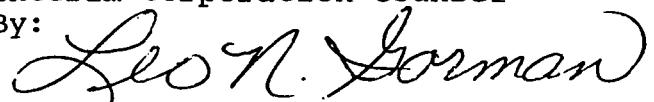
Your third question is: "Is a poll of commissioners, totaling seven, sufficient to postpone a regularly scheduled meeting which falls on the eve of a three-day weekend which is a National Holiday?" The subject of postponing a meeting is not expressly addressed by the statutory law governing ANC's. Neither does it appear to be a subject addressed in ANC 6-A's bylaws or by Robert's Rules of Order. Section 14(e) of the Advisory Neighborhood Commissions Act of 1975, D.C. Code § 1-263(e) (1992), provides in pertinent part that "[t]he Chairperson shall serve as convener of the Commission and shall chair the Commission meetings." (Emphasis added.) It is an arguable position that, in the absence of any statutory language expressly providing otherwise (and there appears to be none), the power of an ANC chairperson to convene a public meeting of the ANC implies the power to cancel or postpone such a meeting. The best way to deal with this question is to address it in the ANC's bylaws. For obvious reasons, an ANC chairperson acting alone should not have the unbridled power to cancel a regularly scheduled ANC meeting for any reason whatsoever or for no reason. In the instant situation, you appear to be stating that a majority of the commissioners of ANC 6-A agreed that the meeting in question should be postponed. Under these circumstances, I cannot conclude that such postponement was an illegal act.

Your fourth question relates to "what is the legal recourse for an ANC...to bring legal action against a member of that Commission" who wrongfully refuses to turn over financial documents, such as the ANC's checkbook. As a last resort, when all other attempts to achieve voluntary compliance have proved unsuccessful, a legal action in court for declaratory and injunctive relief could be filed in the Superior Court of the District of Columbia against an ANC commissioner who is wrongfully in possession of ANC financial records or documents (such as the ANC checkbook) and refuses to surrender such records or documents to those who are lawfully entitled to possess them. The failure to obey a court injunction ordering the person to surrender the records or documents in question would put the person in contempt of court. And, to deal with a contempt of court of this nature (*i.e.*, civil contempt), the court can order the contemnor to be arrested and imprisoned until the contemnor obeys the court order. If such a legal action is necessary, you should contact Mr. Luis Rumbaut of the Enforcement Division of this Office, at 727-3500, for assistance.

Sincerely,

Jo Anne Robinson
Interim Corporation Counsel

By:



Leo N. Gorman
Assistant Corporation Counsel
Office of Legal Counsel

cc: The Honorable Kathleen Patterson
Chairperson
Committee on Government Operations
Council of the District of Columbia

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