

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL

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Office of Government Operations
Legal Counsel Division

February 21, 2001

Regina M. James
Advisory Neighborhood Commissioner
ANC5B
1363 Adams Street, N.E.
Washington, D.C. 20018

Re: Recording Arrival Time of Commissioners in ANC Minutes

Dear Ms. James,

This responds to your letter of January 28, 2001 requesting advice as to whether Advisory Neighborhood Commission (ANC) 5B is permitted to note in the minutes of its meetings the arrival time of a Commissioner who is not present at the beginning of the meeting. You advise that one Commissioner has complained that including the time of her arrival in the minutes is a "disparaging remark", which is not permitted under *Robert's Rules a/Order*. You state that your by-laws do not address the issue. Specifically you ask: 1) Is noting the fact of her late arrival a disparaging remark? 2) If a Commissioner is not present during official ANC business, is it reasonable to note his or her absence? 3) What would be considered a reasonable amount of time to wait for a Commissioner?

1. Is noting the fact of a Commissioner's late arrival to an ANC meeting a disparaging remark that should not be included in the minutes? After research in *Robert's Rules O/Order, Newly Revised* (9th ed. 1990), I was unable to find any provision that discusses the inclusion of "disparaging remarks" or "negative comments" in meeting minutes.¹ The only relevant passage that was discovered relating to the content of the minutes is found in section 47, which states that "[t]he minutes should never reflect the secretary's opinion, favorable or otherwise, on anything said or done." A review of a copy of the minutes of the December 7, 2000 meeting, supplied by the ANC's office manager, reveals the following language in section II., Determination of a Quorum (Roll Call): "PRESENT: Commissioners... [list of 8 persons]. Late arrivals included Commissioners... [names of two Commissioners] and Kathy Henderson who arrived at 9:20 p.m." The language in the December 7, 2000 minutes does not reflect the secretary's opinion in any way; it merely records a fact of what happened at the meeting. Therefore, I advise that the ANC is within its authority to include this type of notation of a Commissioner's time of arrival in its meeting minutes.

¹ If the Commissioner in question can provide a specific reference, this Office would be happy to opine as to its applicability.

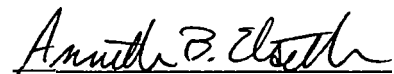
2. If a Commissioner is not present during official ANC business, is it reasonable to note his or her absence? It is reasonable for the ANC to record in its minutes when a Commissioner is absent during official business. The minutes are the only official documentation that a quorum was present at a meeting, or during a specific portion of a meeting, where official action was taken. It is also the only official record of which Commissioners comprised the quorum. For that reason, if a Commissioner is absent, late to arrive, or leaves before the end of a meeting, the ANC would be justified in including that information in the minutes.

3. What would be considered a reasonable amount of time to wait for a Commissioner? The issue of how long is reasonable for an ANC to delay the beginning of a meeting to wait for a Commissioner who is late is left to the discretion of the ANC. If this issue becomes a continuing problem or controversy for your ANC, a specific waiting period may be included in the by-laws. The only legal consideration to keep in mind when delaying the start of a public meeting is that the statutorily required notice of the meeting includes the time of the meeting. The notice is subject to challenge if it is not substantially correct as to the time of the meeting. See January 15, 1997 letter from Leo N. Gorman, Assistant Corporation Counsel, to Dorothy Miller, Commissioner, ANC 2A (attached).

If you have any questions with regard to these comments, please contact me at 724-5537.

Sincerely,

ROBERT R. RIGSBY
Corporation Counsel



By: ANNETIE B. ELSETH
Assistant Corporation Counsel
Legal Counsel Division

DGG/abe
(AL-OI-073)

Attachment

cc: Rhonda Chappelle
Chairperson
ANC5B
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