

# Government of the District of Columbia

OFFICE OF THE CORPORATION COUNSEL

JUDICIARY SQUARE

441 FOURTH ST., N.W.

WASHINGTON, D. C. 20001



IN REPLY REFER TO:

Prepared by:LCD:ABE  
(AL-99-229)

April 26, 1999

Commissioner Gustavo M. Ventura  
Vice Chairman  
ANC6A  
Via Fax: (703) 602-0075

Re: Removal of Chairman of ANC 6A

Dear Mr. Ventura:

This letter responds to your fax of Friday, April 23, 1999, wherein you requested written advice regarding the validity of a proposed resolution to remove the current Chairman of ANC 6A. You also requested comments on the proposed agenda of a special meeting, tentatively scheduled for May 4, 1999, to consider the resolution. This morning, by telephone, you also requested advice concerning two additional related issues: 1) whether Mr. Pernell, the current Chairman, is entitled to individual notice of the special meeting and the proposed resolution to rescind his election as Chairman; and 2) what is the potential effect of Mr. Pernell's absence from the special meeting.

The proposed resolution appears to present cause for the removal of Mr. Pernell from the office of Chairman of ANC 6A. The agenda for the special meeting is also appropriate, with the changes we discussed. Of course, the agenda and the proposed resolution will only provide a sufficient basis for removing Mr. Pernell as Chairman when they are accompanied by the appropriate procedures. Because the issue before the ANC pertains solely to Mr. Pernell, in his capacity as Chairman, Mr. Pernell must turn over the special meeting to the Vice Chairman, if present, or other temporary presiding officer, in accordance with §46 of Robert's Rules of Order, Newly Revised (9<sup>th</sup> Edition, 1990)("Robert's Rules"). The major procedural issues raised are as follows:

1. Notice - A special meeting "shall be called upon writing [sic] request of three (3) commissioners" under Article V., *Section 3(c)* of ANC 6A's by-laws. The mandatory use of the term "shall" provides that the Chair has no authority to block a special meeting properly called for in writing by three commissioners. Furthermore, the notice provision of the by-laws requires that the general public

receive at least seven days advance notice of a special meeting. Considering the nature of the removal of the Chair as a "for cause" proceeding, I have determined that Mr. Pernell should also receive at least seven days notice of the special meeting. Once proper notice has been given of the special meeting, the commissioners present at that meeting may proceed with a vote on Mr. Pernell's removal from office even if Mr. Pernell chooses not to attend the meeting.

2. Debate - Mr. Pernell must be afforded an opportunity to respond to the charges against him. Your agenda clearly provides Mr. Pernell with an opportunity to respond to the charges at the special meeting. The agenda limits debate to 10 minutes per commissioner in accordance with §42 of Robert's Rules. This time limit may be further extended or limited by motion, upon affirmative vote of 2/3rds of the members present.

3. Vote - §34 of Robert's Rules requires that the resolution removing Mr. Pernell from office as Chairman of ANC 6A be approved by a majority of those commissioners present at the meeting in order to be valid. A majority vote is permitted because notice of the intent to make the motion is being given in the call of the meeting. (A quorum is, of course, required for a valid meeting as well)

If you have any further questions, please do not hesitate to contact me at 724-5537.

Sincerely,



Annette B. Elseth  
Assistant Corporation Counsel  
Legal Counsel Division