

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE CORPORATION COUNSEL

* * *



Office of Government Operations
Legal Counsel Division

May 16, 2001

Ivette Basterrechea
Chair
Advisory Neighborhood Commission 6A
624 H Street, N.E., 1st Floor
Washington, D.C. 20002

Re: Procedures for filling vacancies and making motions

Dear Ms. Basterrechea:

This responds to your letter of April 17, 2001, wherein you requested advice regarding two issues of concern. First, you ask about the procedure for seating new Commissioners to fill a vacancy on your Advisory Neighborhood Commission (ANC). You state that the Board of Elections sent a letter to the ANC requiring it to appoint a particular individual to a vacant seat. After the ANC voted to appoint the new Commissioner, a question arose regarding whether the new Commissioner must be sworn in and whether the new Commissioner's name must be published in the D.C. Register before she can vote on matters pending before the ANC. In accordance with the prior advice of this Office dated July 29, 1996, to Robert H. Fleming, Chairman of ANC IE, from Karen L. Cooper, Director, Office of Legal Counsel (see attached), the newly-appointed Commissioner cannot act in her official ANC capacity until she is sworn in, however, she need not await the publication of the filling of the vacancy in the D.C. Register.

The second matter you raise concerns the application of Robert's Rules of Order. You state that at the April 5, 2001 meeting the ANC was hearing community concerns regarding a particular matter. After the community was finished, but before a motion was made regarding the same matter, a Commissioner made a motion to adjourn the meeting without seeking to be recognized by the Chair. The motion to adjourn was immediately seconded. You refused to entertain the motion to adjourn because it was made without recognition. Although no vote was taken on the motion to adjourn, several Commissioners argued that the meeting was adjourned and left the meeting. At that point another Commissioner, who was recognized, made a motion dealing with the matter of community comment, and the remaining commissioners (a quorum) proceeded to vote on the motion. You ask whether the vote taken was proper and valid. Section 3 of Robert's Rules of Order Newly Revised (9th Ed., 1998) prescribes the proper procedure for obtaining the floor to make a motion, as follows:

Before a member in an assembly can make a motion...he must *obtain the floor*;
that is, he must be *recognized* by the chair as having the exclusive right to be

Ivette Basterrechea
Chair, ANC 6A
May 16,2001
Page 2

heard at that time... The chair must recognize any member who seeks the floor while entitled to it. To claim the floor, a member rises at his place when no one else has the floor. ..faces the chair, and says ... "Madam Chairman" ..If the member is entitled to the floor at the time, the chair recognizes him - normally by announcing, as applicable the person's name or title....

(Emphasis in original.) You state that the normal procedure in ANC 6A is for the Commissioners to seek the floor by addressing you by name or title, and that they are recognized by you saying their name. Therefore it appears that the motion to adjourn was not properly made because the Commissioner who made it did not have the floor. ¹ Even if the motion to adjourn had been properly made in this case, the meeting was not adjourned merely by the making of the motion to adjourn. The meeting would only have been adjourned upon a vote of the ANC to adjourn. ² Therefore, the subsequent substantive motion was properly made and the vote is valid.

If you have any further questions with regard to these issues, please contact Annette Elseth, Assistant Corporation Counsel, Legal Counsel Division, at 724-5537.

Sincerely,

ROBERT R. RIGSBY
Corporation Counsel



By: DARRYL G. GORMAN
Senior Deputy Corporation Counsel for
Government Operations

DGG/abe
(AL-01-269)

Attachment

¹ You have presented no evidence that the Commissioner sought to be recognized and you improperly refused to do so.

² You state that at the end of ANC meetings the normal adjournment procedure is for the Chair **first** to announce that the agenda is complete and then to state that if there are no objections the ANC will adjourn. You did not utilize this consent adjournment procedure in this case presumably because you objected to the adjournment, therefore, a vote would have to have been taken on the motion to adjourn before the meeting would be considered adjourned.