



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, D.C. 20004

JAMES E. NATHANSON
Councilmember - Ward 3

CHAIR
Committee on
Government Operations

October 23, 1991

Mr. Paul M. Rhodes
4323 Fessenden Street, N.W.
Washington, D.C. 20016

Dear Mr. Rhodes:

I am in receipt of your September 4 letter alleging that your ANG's actions increasingly reflect the particular views or interests of individual commissioners without regard to the expressed views of community residents. Your letter adds that: "... 'considering' the views of the residents falls far short of complying with the statutory requirement that the decision of the Commissioners shall 'incorporate' the views of residents."

As Chairman of the Council's Committee on Government Operations which oversees the operation of ANCs I have had to deal with this issue throughout the city. So my response is not written simply as your Ward Councilmember.

The statute creating the ANCs originally stated that "resident views shall be incorporated in positions taken by the Commissions." Last year, however, numerous amendments were adopted and the pertinent language now reads: "Community views shall be adequately considered in positions taken by the Commission." (D.C. Code Sec. 1-262(b)). Nevertheless, a February 20, 1990 Corporation Counsel opinion on the old law is still relevant in part: [The] incorporation of views requirement does not, however, mean that the commissioners are legally bound to adopt any particular view when they vote on a final ANC position on an issue. Stated otherwise, the commissioners are required to listen to their constituents' views and consider them, but once having done that, they may exercise their own best judgment on what the official position of the ANC will be on a particular issue."

The Council's intent is that ANCs be community-based, drawing their concerns and recommendations from the neighborhoods and their residents. To facilitate this, the law requires that ANC meetings be open to the public and that they include opportunities for residents to speak out. Further-- and most important in terms of governmental theory -- if a commissioner votes against the wishes of his or her constituents, the ultimate recourse is via the ballot box, either at the next regular election or by recall.

After the law changed, the Corporation Counsel opined in a March 27, 1991 letter that: "the general intent is... that commissioners are required to report the views of residents in making recommendations to government agencies. However, commissioners may exercise their own judgment in voting."