

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

September 22, 2008

Lynard Barnum
Financial Auditor/ANC Program Manager
Office of the District of Columbia Auditor
717 14th Street, N.W.
Washington, D.C. 20005

Re: Requirements for Submitting ANC Minutes with
Quarterly Report

Dear Mr. Barnum:

This is in response to your e-mail of August 14, 2008 requesting that this Office provide its views as to whether section 16(j)(1) of the ANC Act¹ requires an ANC Commission to submit with its quarterly report, which is filed with the Office of the District of Columbia Auditor ("Auditor"), the minutes of all public meetings held during the quarter period. You acknowledge that the Act may be interpreted as requiring only the minutes of meetings at which there was an approval of expenditures, but note that the practice of the Auditor has been to require submission of all of the minutes of meetings held during the time period covered by the quarterly report. You also point out that minutes not submitted with the quarterly reports would in any case have to be provided to the Auditor during the periodic audits.

For the reasons stated below, this Office concludes that an ANC Commission is required to submit with its quarterly report only the minutes of the meetings during the quarter in which expenditures were approved.

Section 16(j)(1) of the ANC Act provides in relevant part:

The treasurer of a Commission shall prepare a quarterly financial report on a form provided by the Auditor. The financial report shall be presented to the Commission for its consideration at a Commission meeting within 45 days after the end of the quarter. A copy of the approved financial report, signed by the Chairperson, the secretary, and

¹ Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-58, D.C. Official Code § 1-309.13(j)(1) (2008 Supp.))

the treasurer, shall be filed, along with a record of the vote adopting the report, with the Auditor within 15 days of approval. Each quarterly report shall include copies of canceled checks, bank statements, grant request letters and grant disbursements, invoices and receipts, executed contracts, details about all contributions received during the time period covered by the quarterly report, the minutes of all meetings indicating the Commission's approval of disbursements during the time period covered by the quarterly report, and certification of the Commission's approval of the quarterly report signed by the Commission's Secretary.

(Emphasis added.)

Based on the plain language of section 16(j)(1), the Commission is required to provide with each quarterly report only the minutes of the meetings at which the Commission approved particular disbursements or expenditures that were voted on during the time period. The language of this statutory provision is clear and not subject to any other interpretation. An axiom of statutory construction is that the "plain meaning rule" should be used to interpret a statute when the language of the provision is clear. SINGER, STATUTES AND STATUTORY CONSTRUCTION, § 46.01 at 113 (6th ed. 2000). See *Veney v. U.S.*, 936 A.2d 811, 822 (D.C. 2007) ("Statutory construction begins with the plain language of the statute"). Under section 16(j)(1), it is unambiguous that the minutes requirement is only for the particular minutes reflecting approval votes for expenditures. This requirement constitutes one element of the supporting documentation (which includes canceled checks, bank statements, grant request letters and grant disbursements, invoices and receipts, executed contracts, details about all contributions covered by the quarterly report) that the Commission must provide to the Auditor with each quarterly report.

The Court of Appeals has explained that it will "look beyond the ordinary meaning of the words of a statute only where there are 'persuasive reasons' for doing so." *Peoples Drug Stores v. D.C.*, 470 A.2d 751, 755 (D.C. 1983) quoting *Tuten v. United States*, 440 A.2d 1008, 1013 (D.C. 1982), *aff'd* 460 U.S. 660 (1983). While in this situation there is no persuasive reason to look beyond the language of section 16(j)(1) of the Act, given the clear language of this provision, a review of the legislative history does demonstrate that the legislative purpose of the provision -- to require submission of only the minutes reflecting approval of expenditures -- was well-served by the language used. The minutes submission requirement in section 16(j)(1) was amended by section 2(a) of the Advisory Neighborhood Commission Amendment Act of 2001, effective March 6, 2002, D.C. Law 14-80, 48 DCR 11268. The Committee Report accompanying that law states the following as the reason for the amendment:

In the recent past there has been confusion as to the minutes submission requirement for quarterly reports for Advisory Neighborhood Commissions. This bill is intended to provide clarification as to what minutes are required to be submitted with a quarterly report. The amendment requires the ANCs to include with their submission of a

quarterly report the minutes of all meetings indicating the Commission's approval of disbursements during the time period covered by the quarterly report. For example, the First Quarter (October, November, and December) Quarterly Report would include minutes from the Commission's October, November, and December meetings approving the disbursements during that time period.

Committee on Public Services, Report on "Advisory Neighborhood Commission Amendment Act of 2001" (June 27, 2001) at 1. The amended section 16(j)(1), which appears in the current ANC Act, provided the clarification intended by Council, by requiring that minutes of all of the meetings at which expenditures are approved during the quarterly period accompany the quarterly report.

Sincerely,

PETER J. NICKLES
Acting Attorney General

By:

SHEILA KAPLAN
Assistant Attorney General
Legal Counsel Division

cc: Gottlieb Simon

(AL-08-661)