


COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS AND FACILITIES
ROBERT C. WHITE, JR., CHAIR

MEMORANDUM

TO: Chairman Phil Mendelson
FROM: Councilmember Robert C. White Jr.
Chair, Committee on Government Operations and Facilities
DATE: October 28, 2021
RE: Requests for the Legislative Meeting on November 2, 2021



I request that the following measures be agendized for the Legislative Meeting on November 2, 2021:

Emergency and Temporary Measures

- **Inspector General Oversight Consistency Emergency Declaration Resolution of 2021**
- **Inspector General Oversight Consistency Emergency Amendment Act of 2021**
- **Inspector General Oversight Consistency Temporary Amendment Act of 2021**

The Office of the Inspector General was initially established with the authority to have access to all books, accounts, records, reports, findings relating to contracts and procurement, and all other papers, things, or property belonging to or in use by any department or agency under the direct supervision of the Mayor necessary to facilitate the Inspector General's work.

The Office of the Inspector General Powers and Duties Amendment Act of 1999, effective April 5, 2000 (D.C. Law 13-71; D.C. Official Code 1-301.115a) further expanded the authority of the Office of the Inspector General to include the ability to initiate audits and investigations of all District government agencies, including independent agencies.

Later in 1999, the Council passed the District of Columbia Housing Authority Act of 1999, effective May 9, 2000 (D.C. Law 13-105; D.C. Official Code 1-301.115a), which permitted the Inspector General to undertake reviews and investigations of the District of Columbia Housing Authority ("Authority"), and make determinations or render opinions, but specifically "as requested by the Council".

The legislative record of the 1999 act does not include substantive comment on the requirement for an investigation of the Authority to be proceeded by a request of the Council or the potential conflict with recently passed legislation expanding the authority of the Inspector General to independent agencies.

The unique requirement to have a request by the Council for investigations of the Authority puts at risk the confidentiality and independence of the Inspector General's work, including the ability to set the scope of the Office's investigations.

The Office of the Inspector General identified the need for an investigation of the Authority in September 2021, but undertaking that investigation required a request by the Council.

Members of the Council's Committee on Housing and Executive Administration recently sent a series of letters to the Inspector General requesting investigations of varying scope into the operations of the Authority, highlighting the implementation challenges associated with the existing statute.

Inspector General Daniel W. Lucas, through a letter dated October 25, 2021, noted that the statutory framework presented "an inherent conflict with our statutory requirement to conduct independent investigations" and requested a change to the statute to remove the requirement of a Council request prior to initiating an investigation of the Authority.

Emergency and temporary legislation is necessary to ensure the Inspector General can proceed with any investigation that may be necessary into the operations of the Authority now or into the future.

- **Analyzing Additional Emergency Procurement Activity Emergency Declaration Resolution of 2021**
- **Analyzing Additional Emergency Procurement Activity Emergency Amendment Act of 2021**
- **Analyzing Additional Emergency Procurement Activity Temporary Amendment Act of 2021**

During the COVID-19 pandemic, the Mayor has invoked the District of Columbia Public Emergency Act of 1980 to enter into contracts and procure supplies to support the DC government's response to the pandemic without completing all procedures that would otherwise be required. In the interest of transparency in contracting, the Council has made various changes in recent months. Among other things, we have required the Office of Contracting and Procurement to complete a detailed report on public health emergency procurement activities, and we have set an expiration date of November 5, 2021, for COVID-19-related emergency procurement authority.

The attached measures would clarify the legislative language associated with the existing November 5th cutoff date. They would also ensure that emergency procurement activities that have taken place since the end of the public health emergency are subject to substantially the same detailed reporting requirements as those we have already mandated. Emergency and temporary legislation is necessary given the upcoming termination of additional emergency procurement authority.

- **Advisory Neighborhood Commission Pandemic Election Procedures Extension Clarification Emergency Declaration Resolution of 2021**
- **Advisory Neighborhood Commission Pandemic Election Procedures Extension Clarification Emergency Amendment Act of 2021**

On October 19, 2021, the Council passed the Advisory Neighborhood Commissions Pandemic Election Procedures Emergency Amendment Act of 2021 (D.C. Act 24-0179) to extend the authorization of pandemic election procedures to fill vacancies on Advisory Neighborhood Commissions and to reflect the reduced role of the Board of Elections in those procedures.

Subsequently, after consultation with the Office of the Attorney General and the Office of the General Counsel, it has become necessary to clarify the roles of the affected Advisory Neighborhood Commission and the Office of Advisory Neighborhood Commissions in filling vacancies to better conform procedures to pre-pandemic legislation. Specifically, these amendments clarify that the Office of Advisory Neighborhood Commissions operates in a supporting role for the Advisory Neighborhood Commissions themselves.

Emergency legislation is necessary to ensure the role of the Office of Advisory Neighborhood Commissions is clarified in advance of upcoming elections.

Amendment

- **Amendment to B24-0438, the Advisory Neighborhood Commission Pandemic Election Procedures Temporary Amendment Act of 2021**

This amendment is necessary to ensure the above referenced clarification to the Advisory Neighborhood Commission Pandemic Election Procedures Extension Emergency Amendment Act of 2021 also applies to the accompanying temporary legislation on the agenda.

Congressional Review Emergency

- **Advisory Neighborhood Commissions Humanitarian Relief Extension Congressional Review Emergency Declaration Resolution of 2021**
- **Advisory Neighborhood Commissions Humanitarian Relief Extension Congressional Review Emergency Amendment Act of 2021**

In August 2021, the Council enacted legislation to amend the Coronavirus Support Temporary Amendment Act of 2021 to extend the authority of Advisory Neighborhood Commissions to approve grants for the purpose of providing humanitarian relief during the public emergency.

The Advisory Neighborhood Commissions Humanitarian Relief Extension Emergency Amendment Act of 2021, effective August 23, 2021 (D.C. Act 24-0161; 68 DCR 0843), expires on November 21, 2021. The Advisory Neighborhood Commissions Humanitarian Relief Extension Temporary Amendment Act of 2021 was transmitted to the Mayor on October 18, 2021, and is not expected to become law before the emergency legislation expires.

It is important that the provisions of the emergency legislation continue in effect, without interruption, until the temporary legislation takes effect.

Emergency Contract Legislation at the Request of the Executive

- **Modification Nos. 3 and 6 to Contract No. DCAM-19-CS-RFP-0062 with Smoot Construction Company of Washington, DC Approval and Payment Authorization Emergency Declaration Resolution of 2021**

- **Modification Nos. 3 and 6 to Contract No. DCAM-19-CS-RFP-0062 with Smoot Construction Company of Washington, DC Approval and Payment Authorization Emergency Act of 2021**

In July 2020, the Council passively approved a contract for the renovation of Franklin Park in the downtown neighborhood of Ward 2. Under that contract, Smoot Construction Company of Washington, DC, a certified business entity, has performed construction management at-risk services including tree canopy restoration, regrading, repaving, and upgrades to the historic fountain. At our March 2, 2021, Legislative Meeting, the Council approved emergency modifications at the request of the executive that increased the contract Guaranteed Maximum Price (GMP) to cover the construction of a new café pavilion near the south edge of the park.

The proposed legislation authorizes two further modifications. Modification #3 was executed on June 1, 2021, and increased the GMP by \$996,765 to fund metal fabrication, wood roofing and metal panels, painting, flooring, rough carpentry, landscaping, and other work. Because modification #3 on its own increased the GMP by less than \$1 million, Council approval was not required at that time. Subsequent modifications, #4 and #5, did not change the contract price and therefore did not require Council approval either. Work on the park grounds is largely complete, a ribbon-cutting ceremony for the improvements to the grounds has taken place, and the grounds are open to the public.

Now the executive wishes to execute modification #6 and raise the GMP by an additional \$199,920 so that the Contractor can modify the east wall and doorway of the new pavilion structure. The east wall faces onto a patio and currently has a normal doorway. After construction was already underway, the Downtown Business Improvement District, which will be responsible for supporting some programming at the park, requested that DPR change course and create an accordion-style doorway. The BID reportedly anticipates that allowing most of the east wall to fold aside and transform the pavilion into a semi-open-air space when desired will allow for a greater range of community programming.

Because modification #6, when taken together with the amounts already spent under #3, will increase the GMP by more than \$1 million, new Council approval is necessary. The new GMP is still within the capital budget for the Franklin Park renovation project. The proposed modifications will not delay the substantial completion dates currently laid out in the contract (September 17 for most of the park and December 30 for the café pavilion). Emergency legislation is necessary to provide the new pavilion doorway before work on the project is concluded.

Ceremonial Resolutions

- **Veterans Day Recognition Resolution of 2021**

This resolution would recognize November 11, 2021, as Veterans Day in the District of Columbia and honor our veterans for their dedication and sacrifice on behalf of DC and the nation.

- **Human Rights Day Recognition Resolution of 2021**

Human Rights Day is celebrated each December 10, the anniversary of the United Nations General Assembly's adoption of the Universal Declaration of Human Rights. This resolution would recognize December 10, 2021, as Human Rights Day in the District of Columbia and reaffirm the Council's commitment to protecting human rights.

- **Transgender Day of Remembrance Recognition Resolution of 2021**

November 20 is the annual Transgender Day of Remembrance, when we mourn those transgender people lost to violence and center the importance of protecting and supporting our transgender neighbors. This resolution commemorates the day, honors the memory of transgender people lost to violence and oppression in our region, and recommits the Council to the cause of transgender liberation.

Please contact Shawn Hilgendorf, Committee Director, at (202) 724-8077, or shilgendorf@dccouncil.us if you have any questions.