





MUNICIPALITY OF ANCHORAGE
OFFICE OF THE MUNICIPAL ATTORNEY

MEMORANDUM

DATE: MAY 14, 2013
TO: DARREL HESS, OMBUDSMAN
THRU: DENNIS WHEELER, MUNICIPAL ATTORNEY 
FROM: QUINCY HANSELL, ASSISTANT MUNICIPAL ATTORNEY 
SUBJECT: OMBUDSMAN/ASSEMBLY OVERSIGHT OF COMMUNITY COUNCILS
MATTER NO 13-1393

QUESTIONS: You requested we address the following questions:

- (1) Does the Municipal Ombudsman have any jurisdiction over Community Councils when it comes to citizen complaints/concerns regarding those items that are mandated by AMC 2.40, including open meetings, open membership, following Robert's Rules of Order, etc.?
- (2) Does the Assembly (or their designee) have any jurisdiction over Community Councils when it comes to citizen complaints/concerns regarding those items that are mandated by AMC 2.40, including open meetings, open membership, following Robert's Rules of Order, etc.?
- (3) If the Ombudsman and/or Assembly (or designee) can inquire into citizen complaints/concerns regarding certain aspects of community councils, could the Ombudsman, or Assembly (or their designee) put an offending council on notice to correct the action or potentially repeal the ordinance when established/recognized that council, effectively disbanding it?

BRIEF ANSWERS: Subject to the following Background and Discussion, our Brief Answers are:

- (1) No.

- (2) Yes, the Assembly has limited powers related to establishing, recognizing, and drawing boundaries for community councils.
- (3) Yes, the Assembly could provide notice to a community council about offensive practices. If the community council did not take corrective action, the council's status as a community council could be at jeopardy, depending on the infraction.

BACKGROUND: AMC Chapter 2.40, Community Councils, outlines the process and requirements for community councils to be established/recognized by the Anchorage Assembly. Community councils are voluntary community organizations and are not part of government. However, they are recognized in the Charter and in Municipal Code.

DISCUSSION: Per AMC Chapter 2.40, Community Councils, neither the Ombudsman nor the Assembly have jurisdiction over the activities of community councils. Anchorage Municipal Code does not provide a mechanism, i.e. an administrative hearing, for the Ombudsman or the Assembly to directly challenge the activities of Community Councils. The Ombudsman's jurisdiction is limited by code to investigations of administrative acts of agents of the Municipality.¹ Community Councils and their Federation are private, non-profit entities and not Municipal agencies. Since they are independent, non-governmental entities, the Municipality neither governs, supervises, nor controls their activities or that of their members and staff, except to the very limited degree called for under AMC 2.40, and according to the terms of their grant from the Municipality.

As a result of this autonomy, the Municipality also does not share any responsibility or liability for the actions or positions of Community Councils, the Federation or their members. Increased involvement in the operations, management and actions of Community Councils, their Federation, or members and staff, beyond mere financial assistance and the provisions of the Code, presents a potential for responsibility and/or liability the Municipality should seek to avoid.

AMC 2.40 does give the Assembly limited powers of establishing, defining, and recognizing community councils. Under AMC 2.40.030B, the Assembly may recognize, by ordinance, any community council. The provision goes on to say,

To qualify for and maintain recognition, an association must establish that it:

¹ AMC 2.60.110.

1. Meets the definition of a community council as set forth in subsection A of this section;
2. Has a policy and practice of open membership and meetings which encourages participation of persons from all segments of the community;
3. Does not charge dues, or require other financial contribution as a condition of membership or participation, in excess of \$15.00 per member per year; however, the council may waive the required dues in individual instances if the council determines that a hardship exists; a community council may receive gifts, grants, contributions, or in-kind donations from members or others to meet the costs of its operations;
4. Is, in the opinion of the Assembly, representative of the residents in the district;
5. Has held at least two meetings in the district which resulted in a determination to seek recognition as a community council. Such meetings must have been subsequent to public notice through publication, school distribution and other means adequate to inform most, if not all, district residents of the meeting; and
6. Has adopted by-laws governing the organization, operation, and proceedings of the community council. These by-laws shall be presented to the Assembly prior to recognition and shall provide for:
 - a) Definition of the boundaries of the community council as set forth in AMC 2.40.040 D and AMC 2.40.090.
 - b) Definition of membership consistent with A of this section.
 - c) Regular meetings of the council at periodic intervals, at least two times in a calendar year, but preferably once each calendar quarter.
 - d) The election of officers and, if desired, an executive committee or like body to conduct the business of the council between meetings.
 - e) The duties and responsibilities of officers, their removal or replacement when a vacancy occurs, and criteria for eligibility to hold an office with the council.
 - f) Minutes shall be taken at all meetings.

- g) The management of the council's finances including regular status reports and an annual report to the council members on the council's finances or a compilation of treasurer's reports.
- h) The dissolution of the council, and for the disposition of the council's property upon dissolution.
- i) That the latest edition of Robert's Rules of Order, Revised, shall apply in all instances, matters, and proceedings not covered by the by-laws.
- j) Procedures for amending the by-laws.
- k) Membership lists are used only for council business.

Your request asked whether the Ombudsman or Assembly had any jurisdiction over Community Councils when it comes to enforcement of these requirements, specifically the open meetings, open membership, and application of Robert's Rules of Order requirements. Because AMC 2.40.030B states that Community Councils must abide by certain requirements in order to "qualify for and maintain recognition", it follows that the Assembly must have the ability to review whether or not the Community Councils are meeting the requirements needed for recognition as a Community Council. However, that process is not described in code.

Because AMC dictates that the Assembly must determine whether a Community Council qualifies for and should maintain recognition, the Assembly also has the ability to contact the Community Councils and inquire about citizen complaints. If the Assembly is unable to work with the Community Councils to resolve the issues recognized through citizen complaints, the Assembly has the authority to retract recognition of a Community Council. Once again, however, that process is not described in code.

CONCLUSION: Neither the Municipal Ombudsman or the Assembly have direct jurisdiction over the activities of the Community Councils. However, Anchorage Municipal Code dictates that the Assembly is responsible for recognizing Community Councils and that Community Councils must abide by code in order to maintain recognition. Accordingly, the Assembly may inquire into citizen complaints regarding the Community Councils, and if the issues cannot be resolved, the Assembly may retract the Community Council's recognition.