

November 15, 2005

Hon. Fran P. Mainella  
Director, National Park Service  
U.S. Department of the Interior  
1849 C St., N.W.  
Washington, D.C. 20240

Re: Federal Advisory Committee Act

Dear Ms. Mainella:

The purpose of this letter is to call your attention to a disturbing situation involving an apparent violation of the Federal Advisory Committee Act, 5 USC App. Sec. 1 et seq., hereinafter referred to as "FACA." Specifically, it appears that the National Park Service has violated procedural and substantive provisions of FACA in its participation with the Georgetown Waterfront Commission in the development of the design, boundaries, and contents of the Georgetown Waterfront Park.

Section 3 of FACA provides: "The term 'advisory committee' means any committee, board, commission, council, conference, panel, task force, or other similar group . . . established or utilized by one or more agencies, in the interest of obtaining advice or recommendations for . . . one or more agencies or officers of the Federal Government. . . ." The National Park Service is such an "agency."

Based on my review of this matter, the principal purpose of the meetings of the Georgetown Waterfront Commission is to seek consensus on the design, boundaries, and contents of the Georgetown Waterfront Park. As of this date, there have been some forty-eight (48) or more meetings of the Commission over the last ten years. The Commission is essentially an NPS-controlled forum, the participants of which are in the most part a select group of the same Georgetown residents. In this connection, the Commission is asked to render advice and recommendations as a group and not as a collection of individuals. More important, however, John Parsons and Sally Blumenthal, officers of the Park Service, actually run the meetings and guide the discussion toward the position currently held by the Park Service on such issues as the design, boundaries, and contents of the Georgetown Waterfront Park as well as the boundaries of the non-motorized boathouse zone and the controversial Georgetown University boathouse. By this method of control, these officers are also seeking political legitimacy for these proposals.

To recapitulate, the NPS-controlled Georgetown Waterfront Commission is a consensus-based organization. As I have previously asserted, the Georgetown Waterfront Park should not be treated by the Park Service as the private preserve of a small, self-appointed, non-representative group of Georgetown residents. Indeed, the Park Service and the Commission have developed over the years such a symbiotic relationship so as to suggest collusion.

For the reasons advanced above, the National Park Service should have obtained a charter for the Georgetown Waterfront Commission in compliance with the terms and requirements of FACA. By avoiding the oversight that a charter would require of any advice or recommendations that the Commission has provided to the Park Service, clearly the entire process is tainted. The checks and balances that a charter would provide are absent from this relationship between the Park Service and the Commission. The failure to obtain a charter constitutes a violation of FACA which should result in the negation of the plan proposed by the Park Service for the Georgetown Waterfront Park. If my analysis of FACA and the applicable facts of this case are correct, the only way to remedy this situation is to return to square one and start all over.

Because of the contents of this letter, may I respectfully suggest that you pass it along to the Solicitor. In any event, I would very much appreciate a response. Of course, if you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely yours,

Robert B. Norris