

MEMORANDUM FOR THE COMMISSIONERS
BASE CLOSURE AND REALIGNMENT COMMISSION

Subj: PROCEDURAL RULES OF THE 2005 DEFENSE BASE CLOSURE AND
REALIGNMENT COMMISSION

Encl: (1) Subject rules (proposed)

1. The enclosed procedural rules have been modified from the rules used by prior BRACs to include the most recent statutory changes, specifically the seven vote requirement to 1) consider adding an installation to the Secretary's list of installations recommended for closure or realignment and 2) actually place a proposed installation on the list to the President. The rules will at the direction of the Chairman be presented for adoption by the Commission at the administrative meeting to be conducted at the conclusion of the Thursday morning hearing.

2. The rules are brief and straightforward. This memorandum discusses several key points about them.

a. Quorums

For hearings held to receive public comment, a quorum shall consist of one or more members designated by the Chairman.

When the Commission meets to consider:

- the recommendations of the Secretary of Defense
- the Commission's report to the President, or
- a revised list of recommendations for closures and realignments (except "additions" discussed below)

a quorum shall consist of a majority of members serving at that time.

Discussion

One or more Commissioners can hold a hearing, but at least five (5) of nine (9) Commissioners must be present for the Commission to consider and act on any closure or realignment recommendation, except for "additions." An "addition" to the Secretary's list is the closure of an installation not recommended by the Secretary for such action or the realignment of an installation that would result in a reduction in the force structure of that installation that was not recommended by the Secretary. In such cases, a quorum shall consist of seven (7) of the members then serving.

b. Voting

The rules require that when the Commission meets to consider:

- the recommendations of the Secretary of Defense

- the Commission's report to the President, or
- a revised list of recommendations for closures and realignments

Once a quorum has been established, "a vote shall be required of the Commission to dispense with any of the above responsibilities or to ratify any actions of the Commission."

The rules continue to provide that any action taken by the Commission concerning these three areas of the Commission responsibilities "will be by a majority vote of the Commission serving at that time." (Except as discussed above for "additions.")

The rules allow for any other issues that may arise during Commission meetings or hearings to be resolved by a "simple majority of Commissioners present."

The rules allow for Commissioner to vote in person or by proxy. (See discussion on proxies below.)

Discussion

The votes of a majority of the Commissioners are required to make any changes to the Secretary's list, except "additions," for which seven (7) votes are required. A tie vote on a motion to drop an installation from the Secretary's list or otherwise change his recommendations means that the motion would fail, and the Secretary's recommendations would prevail.

c. Proxies

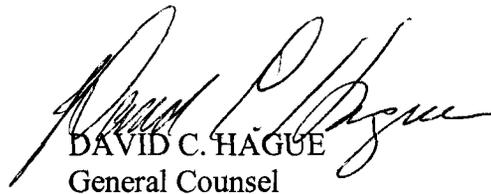
The rules allow proxy voting.

Under Rule 9, a Commissioner may designate another member to vote and otherwise act for the first member when he or she will be absent. However, the absent Commissioner must "issue a written proxy stating the specific or limited purposes for which the proxy can be exercised." Rule 9 also provides that "Where the margin of decision would be supplied by proxy vote, the proxy shall be considered invalid and the matter under consideration shall be considered to have failed."

Discussion

The rule on proxy voting allows a Commissioner who might be ill or for other compelling reasons unable to attend a meeting to cast a vote. There is no indication in BRAC records that proxy votes have ever been cast.

Blanket proxies are not allowed. The rule requires "a written proxy stating the specific or limited purpose for which the proxy can be exercised." An absent Commissioner cannot give to another Commissioner the ability to vote a proxy on an issue in any way the Commissioner determines appropriate at the time.


DAVID C. HAGUE
General Counsel

MEMORANDUM FOR THE CHAIRMAN

Via: DIRECTOR OF STAFF

Staff's Recommendation approval

Subj: BRAC RECUSAL PROCESS

1. The General Counsel is responsible for ensuring that all members of the Commission are free of financial and other conflicts of interest. The members' financial disclosure statements (SF 278) must be carefully reviewed and compared with the list of contracts at the bases under consideration for closure and realignment. Members must be asked about matters not revealed on the SF 278, including homes and other non-rental property. Since all members signed an ethics agreement prior to their confirmation, its provisions as they relate to the Secretary's list must be reviewed. The concluding paragraph of that agreement provides:

"Additionally, in order to avoid an appearance of loss of impartiality that could arise from my participation in or representation of a state, local, or private-sector BRAC-related entity, I will not participate in any particular matter affecting that state, local or private-sector BRAC-related entity, or its geographic region, unless I am authorized to participate by BRAC's designated agency ethics official. This recusal will bar my participation in any particular matter regarding facilities whose forces, missions, or installations may be transferred to, as well as from, the geographic region of that state, local, or private-sector BRAC-related entity."

2. In prior BRAC rounds several members recused themselves from the consideration of certain installations. Other members were granted waivers of the statutory constraints because of the nature and breadth of their holdings. Still others were required to divest certain holdings, and at least one member resigned because he was unwilling to divest himself of certain interests.

3. In a letter dated February 22, 1993, the BRAC Commission Chairman provided the following information regarding operation of the recusal process:

"When it is determined by the Commission's General Counsel that a Commissioner has a potential conflict of interest and the recommended remedial measure is recusal in regards to a base, to avoid a conflict of interest or perception of a conflict, the Commission will adopt the following policy: the Commissioners shall be prohibited from participation in any and all discussions, debate and actions regarding the base in question. Additionally, Commissioners will not participate in any discussions, debate or actions involving bases that are being considered as substitutes to the first base in question. The prohibition regarding substitute bases will take effect the moment the additional base(s) is/are being considered as substitute(s) to the original base"

4. I recommend BRAC 2005 operate under similar constraints with regard to members who are deemed unqualified or recuse themselves from consideration of particular bases.

Gregory J. Perigo
APPROVED

David C. Hague
DAVID C. HAGUE
General Counsel
5/14/05
DCH

3/8/05

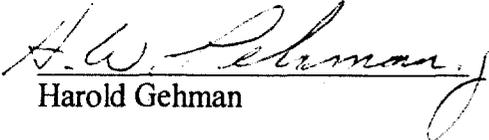
This ethics agreement reflects my understanding of, and agreement to follow, the following rules regarding my membership on the Base Realignment and Closure Commission (BRAC), if confirmed for such membership.

As required by 18 U.S.C. § 208(a), I will not participate personally and substantially in any particular matter that has a direct and predictable effect on my financial interests or those of any other person whose interests are imputed to me, unless I first obtain a written waiver, pursuant to section 208(b)(1), or qualify for a regulatory exemption, pursuant to section 208(b)(2). I understand that the interests of the following persons are imputed to me: my spouse, minor children, or any general partner; any organization in which I serve as officer, director, trustee, general partner or employee; and any person or organization with which I am negotiating or have an arrangement concerning prospective employment.

Also, under 5 C.F.R. § 2635.502, I will not participate in any particular matter involving specific parties if a person or entity with whom I have a covered relationship is, or represents, a party, unless I am authorized to participate. Under the ethics rules, a Federal employee has a covered relationship with:

- Persons or entities with whom the employee has or seeks a business, contractual or other financial relationship that involves other than a routine consumer transaction;
- Members of the employee's household and relatives with whom the employee has a close personal relationship;
- Persons or entities for whom the employee's spouse, parent or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;
- Persons or entities for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or,
- Organizations, other than a political party, in which the employee is an active participant.

Additionally, in order to avoid an appearance of loss of impartiality that could arise from my participation in or representation of a state, local, or private-sector BRAC-related entity, I will not participate in any particular matter affecting that state, local or private-sector BRAC-related entity, or its geographic region, unless I am authorized to participate by BRAC's designated agency ethics official. This recusal will bar my participation in any particular matter regarding facilities whose forces, missions, or installations may be transferred to, as well as from, the geographic region of that state, local, or private sector BRAC-related entity.


Harold Gehman

MEMORANDUM FOR THE CHAIRMAN

Via: DIRECTOR OF STAFF

John J. [unclear]

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[Handwritten signature]
DAVID C. HAGUE
General Counsel
5/14/05
135, 16

3/8/05

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- Members of the employee's household and relatives with whom the employee has a close personal relationship;
- Persons or entities for whom the employee's spouse, parent or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee;
- Persons or entities for whom the employee has, within the last year, served as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or,
- Organizations, other than a political party, in which the employee is an active participant.

Additionally, in order to avoid an appearance of loss of impartiality that could arise from my participation in or representation of a state, local, or private-sector BRAC-related entity, I will not participate in any particular matter affecting that state, local or private-sector BRAC-related entity, or its geographic region, unless I am authorized to participate by BRAC's designated agency ethics official. This recusal will bar my participation in any particular matter regarding facilities whose forces, missions, or installations may be transferred to, as well as from, the geographic region of that state, local, or private sector BRAC-related entity.

5/11

Director -

Re our conversation.

All commissioners
signed this agreement.

R.H.

from the desk of...

Charles Battaglia

5/14/05

David, in order to establish a decision record on all policy matters going to the Chairman, we should add an approval line/date at the bottom or other appropriate location on your memos.

Do we have the names now of the Commissioners and the areas of recusal?

Charly

BRAC/GC/dch
May 11, 2005



MEMORANDUM FOR RECORD

Subj: DEFINITION OF SUBSTANTIAL DEVIATION

1. The Defense Base Closure and Realignment Act of 1990 as amended provides in Section 2903d(2)(B):

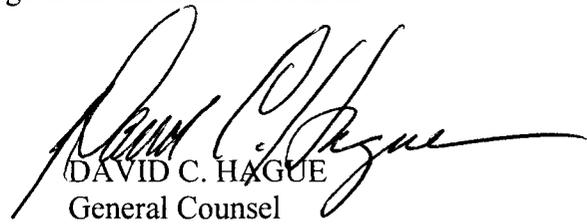
“ . . . in making its recommendations, the Commission may make changes in any of the recommendations made by the Secretary [of Defense] if the Commission determines that the Secretary **deviated substantially** from the force-structure plan and final criteria . . . in making recommendations.”

2. The following definition of substantial deviation was developed by the Review and Analysis staff and General Counsel of past BRACs and will be useful to the commissioners and others charged with determining when the Secretary substantially deviated from the force-structure plan and final criteria in making his recommendations.

The Secretary deviated substantially from the force-structure plan and final criteria in making his recommendations when:

Data used for evaluating specific installations against the force-structure plan or one or more of the final selection criteria are so inaccurate that application of valid data causes a change in an installation's status.

Methodology is so flawed, or was applied so inconsistently, that the force-structure plan or one or more of the final selection criteria were effectively not considered and correcting the flawed methodology or applying the methodology consistently causes a change in an installation's status.



DAVID C. HAGUE
General Counsel

BRAC/GC/dch
May 11, 2005

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Data used for evaluating specific installations against the force-structure plan or one or more of the final selection criteria are so inaccurate that application of valid data causes a change in an installation's status.

Methodology is so flawed, or was applied so inconsistently, that the force-structure plan or one or more of the final selection criteria were effectively not considered and correcting the flawed methodology or applying the methodology consistently causes a change in an installation's status.

~~David~~
ref. meet w/ the
Chairman on this

Charlie
5/11/05

17 February 1993

MEMORANDUM FOR RECORD

SUBJECT: DEFINITION OF SUBSTANTIAL DEVIATION

The Review & Analysis staff reviewed the definition of substantial deviation used by the 1991 Commission and recommended that, even though the definition is sound, it be revised solely for clarity purposes as follows:

Previous Definition

- Data used for evaluating Force Structure or one or more of the criteria are so inaccurate as to have caused a change in an installation's status from a decision based on valid data.
- Methodology is so flawed, or was applied so inconsistently, that Force Structure or one or more criteria were effectively not considered, resulting in a change in an installation's status.

Recommended Definition

- Data used for evaluating specific installations against the Force-Structure Plan or one or more of the selection criteria are so inaccurate that application of valid data causes a change in an installation's status.
- Methodology is so flawed, or was applied so inconsistently, that the Force Structure Plan or one or more of the selection criteria were effectively not considered and correcting the flawed methodology or applying the methodology consistently causes a change in an installation's status.

The recommended definition:

1. Corrects the first part of the previous definition to show that the Commission uses the data for evaluating specific installations against the Force Structure Plan or one or more of the selection criteria rather than using data for evaluating force structure or one or more criteria.

2. Clarifies the second part of the definition to show that correcting the flawed methodology or applying the methodology consistently causes a change in an installation's status.

Substantially the same definitions of substantial deviation developed and used in prior BRACO.

- the Commission's report to the President, or
- a revised list of recommendations for closures and realignments

Once a quorum has been established, "a vote shall be required of the Commission to dispense with any of the above responsibilities or to ratify any actions of the Commission."

The rules continue to provide that any action taken by the Commission concerning these three areas of the Commission responsibilities "will be by a majority vote of the Commission serving at that time." (Except as discussed above for "additions.")

The rules allow for any other issues that may arise during Commission meetings or hearings to be resolved by a "simple majority of Commissioners present."

The rules allow for Commissioner to vote in person or by proxy. (See discussion on proxies below.)

Discussion

The votes of a majority of the Commissioners are required to make any changes to the Secretary's list, except "additions," for which seven (7) votes are required. A tie vote on a motion to drop an installation from the Secretary's list or otherwise change his recommendations means that the motion would fail, and the Secretary's recommendations would prevail.

c. Proxies

The rules allow proxy voting.

Under Rule 9, a Commissioner may designate a proxy for the first member when he or she will be absent "issue a written proxy stating the specific or limit exercised." Rule 9 also provides that "Where the proxy vote, the proxy shall be considered invalid considered to have failed."

*Memo provided to
Commissioners 5/19*

Director 5/23/05

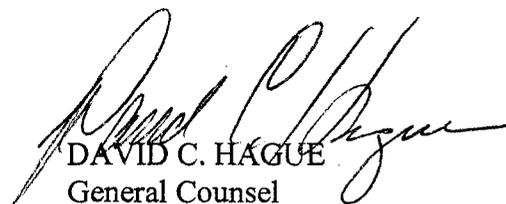
Chairman

ct

Discussion

The rule on proxy voting allows a Commissioner compelling reasons unable to attend a meeting to records that proxy votes have ever been cast.

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DAVID C. HAGUE
General Counsel

Hague, David, CIV, WSO-BRAC

To: Battaglia, Charles, CIV, WSO-BRAC
Subject: RE: Recusal policy

From: Battaglia, Charles, CIV, WSO-BRAC
Sent: Monday, June 13, 2005 2:54 PM
To: Hague, David, CIV, WSO-BRAC
Subject: RE: Recusal policy

I appreciate your articulation of the differences between visits and deliberations. Nonetheless, we seem to have modified our position since the public enunciation on May 19. Even Admiral Gehman has been of the view that his recusal included base visits. Also, we advised Commissioner Bilbray that his planned visit to Hawthorne NV was inappropriate because of his recusal.

I do not have a problem with the exception suggested for Commissioner Coyle's joining the visits to Corona and Venture County in view of the intra-state nature of the recommendation.

Under your formulation, the four recused Commissioners may have been allowed to visit bases at which their presence had been requested and/or planned. Before deciding whether a more liberal interpretation of the recusal agreement is in the best interest of the Commission and its stated position of impartiality, I will want to consider the impact on those bases not visited and the time constraints if they were to be revisited by recused Commissioners. Please take a look back on those facilities not visited so that I may consider providing the Community and the Commissioners the option of such a visit.

From: Hague, David, CIV, WSO-BRAC
Sent: Monday, June 13, 2005 12:31 PM
To: Battaglia, Charles, CIV, WSO-BRAC
Subject: FW: Recusal policy

Charlie,

Here is a short review of the recusal situation.

Commissioners Bilbray, Coyle, Gehman, and Hansen recused themselves from substantial participation in BRAC recommendations that involved their home states. I believe all understood this to cover both gains and losses. The general understanding of the commissioners concerned was that they would not deliberate or vote on recommendations that would move forces to their state, or remove forces from their state.

Two events have occurred since the initial recusals that create a need for closer interpretation of what the recusals meant. First, we cancelled a base visit by ADM Gehman to a naval activity in Texas because he (and we) belatedly realized that a substantial chunk of the operations DoD had recommended for realignment out of that location were slated for a destination in Virginia. Senator Hutchinson stated that she believed it would be appropriate for him to conduct the visit even though part of the activity was recommended for removal from her state to his state.

The second event was that Commissioner Coyle realized that one of the activities at an installation in California was recommended for realignment to another location in California - there would be no net gain or loss for the state. Commissioner Coyle pointed out, quite correctly, that the reason for his recusal, that he might be seen to favor his state over another, simply did not exist under those facts.

There are several reasons for sending a commissioner who cannot deliberate or vote on the

installation he/she is visiting, apart from acceding to the wishes of a Senator (although being responsive to Congressional delegations is a worthy reason in itself). The public needs to see as many commissioners visiting as many sites as possible. Where a commissioner is recused from deliberating or voting on a certain proposal, there is still substantial utility in their participation in a base visit or regional hearing. They won't deliberate or vote while there. The other commissioner (or commissioners) and staff will also gather data, so there is no real possibility that the recused commissioner could be seen as filtering the Commission's view of an installation or activity. Even where a commissioner is recused, that realignment action may tangentially effect another facially unrelated action, so the Commissioner's intimate knowledge of that action might be indispensable to reasoned action on the other. We're short on time and commissioners - we need to maximize what the commissioners see (and how much they're seen) in a short period of time.

These adjustments to the understanding of the recusals' effect are a net positive.

David

Decision Memorandum for the Chairman

From: Charlie Battaglia 

Subject: Policy Issue on Recusals from Regional Hearings

Date: June 13, 2005

1. Issue. Should commissioners be allowed to participate in regional hearings if they are recused from deliberating and voting in August on recommendations that would be discussed at the regional hearings?

2. Background. While I had thought that this matter was resolved, as staff digs deeper into the recommendations and the data provided, we are finding direct and indirect gainers and losers on recommendations that affect several commissioners who have recusal issues, mainly Gehman, Bilbray and Coyle. An example of a direct gain/loss would be the aircraft from one base being directly realigned to another base in the home state of a commissioner who has recused himself from substantial participation in BRAC recommendations that involve his home state. An example of an indirect gain/loss would be the aircraft being realigned from one base to a second base and then other aircraft from the second base being realigned to a third base in the home state of a commissioner who has recused himself as described above. This occurs often and in more complex forms, e.g., four and five indirect realignments.

3. Alternatives.

a. Make greatest reasonable effort to minimize the number of direct and indirect conflicts but permit conflicted commissioners as necessary to participate in regional hearings.

b. Allow commissioner participation in regional hearings so long as he is not recused from participation in direct gains or losses affecting his home state that will likely be addressed by the states represented at the regional hearing.

c. Allow commissioner participation in regional hearings so long as he is not recused from participation in direct or indirect losses to his home state that will likely be addressed by the states represented at the regional hearing.

4. Recommendations. General Counsel David Hague recommends alternative 3a. He believes participation by conflicted commissioners in non-deliberative, non-voting proceedings, while avoidable if possible, is nevertheless acceptable. It allows maximum opportunity for commissioners to see and be seen by the public and to be exposed to as many force-structure issues as possible. I have taken a stricter view in keeping with our desire to be purer than Caesar's wife and propose alternative 3b. It would allow commissioner participation so long as he has no recusal hanging on direct gains/losses to his state. Having said that, I should now point out that we have evaluated that with the current lineup for our 15 regional hearings, we have at least eight hearings in which conflicted commissioners are scheduled to participate. The lineup can be changed, except for the first two hearings which are taking place this week. At Fairbanks, Commissioner Bilbray is conflicted because Nellis gains directly from Elmendorf and Eielson. At Portland, Commissioners Bilbray, Coyle, and Hansen are conflicted because aircraft at

Mountain Home AFB are recommended for direct movement to Nellis, Fresno, and Hill AFBs respectively.

I have no problem with alternative 3c. I can live with 3a, but we will likely receive public criticism. We can defend 3a by stating that such commissioners, even though they will not deliberate or vote on gains and losses in question, add significant value to the BRAC process. If you decide on 3a, I would suggest that the chairperson for each regional hearing state in his/her opening remarks that one or more of the commissioners here today may have to recuse themselves from voting on recommendations affecting bases being considered at the hearing. The appropriate language is attached.

On June 13, 2005, Frank
Civello, who is traveling
with Chairman Principi
through Alaska, relayed
that the Chairman
approved Alternative 3a.
OC/Boagles

ADDENDUM TO CHAIRMAN'S OPENING STATEMENT AT REGIONAL HEARINGS*

To avoid even the appearance of lack of impartiality and enhance the public's confidence in the BRAC process, four of our nine commissions have recused themselves from participating in deliberation and voting on matters directly relating to installations in their home states. Those commissioners continue, however, to attend regional hearings even if unable to deliberate and vote on all of the installations discussed at the hearings. Their direct exposure to as much information and as many concerned citizens as possible is vitally important to the completion of our task of open, fair, and comprehensive consideration of the eight final selection criteria, force-structure plan, and worldwide infrastructure inventory.

*Insert after paragraph 7, which ends with "... the methodology and assumptions behind them."

This addendum could include the names of the conflicted commissioner(s). In Portland, it will be awkward, since three of the four commissioners are conflicted. If the commissioner(s) is/are identified in the remarks that could be included as follows:

To avoid even the appearance of lack of impartiality and enhance the public's confidence in the BRAC process, four of our nine commissions have recused themselves from participating in deliberation and voting on matters directly relating to installations in their home states. Commissioner Bilbray, who is present today, has recused himself with regard to Elmendorf and Eielson because the Secretary of Defense has recommended that aircraft from those locations be moved to Nellis Air Force Base in Nevada, his home state that he has served for many years in public office. Commissioner Bilbray and the other three commissioners will attend regional hearings even though unable to deliberate and vote on all of the installations discussed at the hearings. Their direct exposure to as much information and as many concerned citizens as possible is vitally important to the completion of our task of open, fair, and comprehensive consideration of the eight final selection criteria, force-structure plan, and worldwide infrastructure inventory.

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Via: DIRECTOR OF STAFF

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DAVID C. HAGUE
General Counsel

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BASE CLOSURE AND REALIGNMENT COMMISSION

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a quorum shall consist of a majority of members serving at that time.

Discussion

One or more Commissioners can hold a hearing, but at least five (5) of nine (9) Commissioners must be present for the Commission to consider and act on any closure or realignment recommendation, except for "additions." An "addition" to the Secretary's list is the closure of an installation not recommended by the Secretary for such action or the realignment of an installation that would result in a reduction in the force structure of that installation that was not recommended by the Secretary. In such cases, a quorum shall consist of seven (7) of the members then serving.

b. Voting

The rules require that when the Commission meets to consider:

- the recommendations of the Secretary of Defense

- the Commission's report to the President, or
- a revised list of recommendations for closures and realignments

Once a quorum has been established, "a vote shall be required of the Commission to dispense with any of the above responsibilities or to ratify any actions of the Commission."

The rules continue to provide that any action taken by the Commission concerning these three areas of the Commission responsibilities "will be by a majority vote of the Commission serving at that time." (Except as discussed above for "additions.")

The rules allow for any other issues that may arise during Commission meetings or hearings to be resolved by a "simple majority of Commissioners present."

The rules allow for Commissioner to vote in person or by proxy. (See discussion on proxies below.)

Discussion

The votes of a majority of the Commissioners are required to make any changes to the Secretary's list, except "additions," for which seven (7) votes are required. A tie vote on a motion to drop an installation from the Secretary's list or otherwise change his recommendations means that the motion would fail, and the Secretary's recommendations would prevail.

c. Proxies

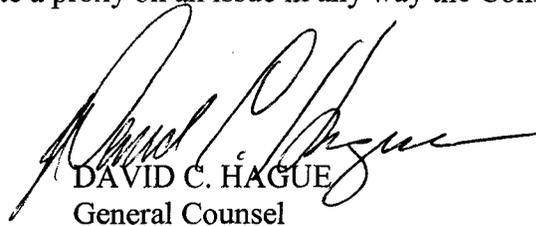
The rules allow proxy voting.

Under Rule 9, a Commissioner may designate another member to vote and otherwise act for the first member when he or she will be absent. However, the absent Commissioner must "issue a written proxy stating the specific or limited purposes for which the proxy can be exercised." Rule 9 also provides that "Where the margin of decision would be supplied by proxy vote, the proxy shall be considered invalid and the matter under consideration shall be considered to have failed."

Discussion

The rule on proxy voting allows a Commissioner who might be ill or for other compelling reasons unable to attend a meeting to cast a vote. There is no indication in BRAC records that proxy votes have ever been cast.

Blanket proxies are not allowed. The rule requires "a written proxy stating the specific or limited purpose for which the proxy can be exercised." An absent Commissioner cannot give to another Commissioner the ability to vote a proxy on an issue in any way the Commissioner determines appropriate at the time.


DAVID C. HAGUE
General Counsel

Procedural Rules of the 2005 Defense Base Closure and Realignment Commission

Rule 1. The Defense Base Closure and Realignment Commission (“Commission”) was established by the Defense Base Closure and Realignment Act of 1990, Part A of Title XXIX of Public Law 101-510, as amended by Title XXX of the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, and further amended by Section 2822, Subtitle C, Title XXVIII, Division B, of Public Law 108-136 (“Act”). The Commission’s operations shall comply with that Act, as amended, and with these Procedural Rules.

Rule 2. The Commission’s meetings, other than meetings in which classified information is to be discussed, shall be open to the public. In other respects, the Commission shall comply with the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2, and the Federal Advisory Committee Management Final Rule, 41 Code of Federal Regulations Parts 101-6 and 102-3.

Rule 3. The Commission shall meet only during calendar years 2005 and 2006.

Rule 4. The Commission shall meet at the call of the Chairman or the request of a majority of the Commissioners serving at that time.

Rule 5. When the Commission meets to consider (a) the recommendations of the Secretary of Defense (“Secretary”) submitted to the Commission in accordance with the Act, (b) the Commission’s report to the President in accordance with the Act, or (c) a revised list of recommendations in accordance with the Act, a quorum shall consist of a majority of the members then serving. When the Commission meets to consider the closure of an installation not recommended by the Secretary for such action, or to consider the realignment of an installation that would result in a reduction in the force structure at that installation that was not recommended by the Secretary, a quorum shall consist of seven of the members then serving. When the Commission meets to conduct public hearings to receive public comment on the recommendations of the Secretary or the proceedings of the Commission, a quorum shall consist of one or more members designated by the Chairman.

Rule 6. When the Commission meets to consider (a) the recommendations of the Secretary submitted to the Commission in accordance with the Act, (b) the Commission’s report to the President in accordance with the Act, or (c) a revised list of recommendations in accordance with the Act, and a quorum is present, a vote shall be required of the Commission to dispense with any of the above responsibilities or to ratify any acts of the Commission. The adoption of any action taken by the Commission with regard to (a) the recommendations of the Secretary submitted to the Commission in accordance with the Act, (b) the Commission’s report to the President in accordance with the Act, or (c) a revised list of recommendations in accordance with the Act, will be by a majority of the members serving at that time. In the event of a tie vote on the adoption of any such action, the motion fails for lack of a majority. The adoption of any action taken by the Commission with regard to the closure of an installation not recommended by the Secretary for such action, or to consider the realignment of an installation that would

result in a reduction in the force structure at that installation that was not recommended by the Secretary, will be by seven of the members then serving. The resolution of all other issues arising in the normal course of Commission meetings or hearings shall be by a simple majority of Commissioners present. The Commissioners shall vote in person, except when a proxy is exercised under Rule 9.

Rule 7. The Chairman shall preside at meetings and public hearings of the Commission when he is present. In the Chairman's absence, he or she shall designate another member of the Commission to preside.

Rule 8. The Chairman, or in his absence, the presiding Commissioner, shall have the authority to ensure the orderly conduct of the Commission's business. This power includes, without limitation, recognizing members of the public to speak, imposing reasonable limitations on the length of time a speaker may hold the floor, determining the order in which members of the Commission may question witnesses, conducting votes of members of the Commission, and designating Commissioners for the conduct of public hearings.

Rule 9. One Commissioner may designate another Commissioner to vote and otherwise act for the first member when he or she will be absent, but only where the first Commissioner has previously issued a written proxy to the second stating the specific, limited purpose for which the proxy is to be exercised. Where the margin of decision would be supplied by a proxy vote, the proxy shall be considered invalid and the matter under consideration shall be considered to have failed.

Rule 10. These rules may be amended by a majority vote of the Commissioners serving at the time.

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