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COMMUNITY GOVERNMENT MANUAL
for use in establishing
local self-government in relocation centers

COLORADO RIVER
WAR RELOCATION PROJECT

OCT 15 1942

PARKER, ARIZONA

WAR RELOCATION AUTHORITY
1942

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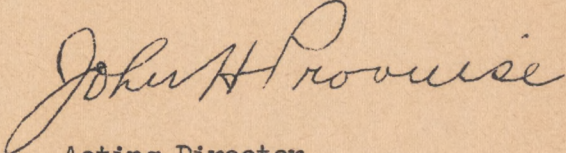
October 1, 1942

FOREWARD

This Manual has been prepared to assist the Project Director and the residents in carrying out the provisions of the Director's Memorandum of June 5 and Administrative Instruction No. 34 issued August 24, 1942. The Manual has been divided into three major parts, namely:

- I. Temporary Community Government
- II. Plan for Permanent Government
- III. Operation of the Community Council

The material included is designed to suggest possible methods to be followed in the establishment and operation of community government. If it provides a stimulus for the development of democratic government techniques at the various centers, it will have achieved its purpose.


Acting Director

Evans

COLORADO RIVER
WAR RELOCATION PROJE

OCT 20 1942

PARKER, ARIZONA

October 14, 1942

COMMUNITY GOVERNMENT MANUAL

CORRECTION

NOTE: A revised Table of Contents is attached for the
Community Government Manual issued October 1. Please
destroy the original page containing the Table of Con-
tents and insert this revised Table in the Manual.

Table of Contents

	Page
Part I. Temporary Community Government	
A. Establishment of a Temporary Community Council	1
B. The Functions of the Temporary Community Council	9
C. The Judicial Commission	9
D. The Executive Committee	10
Part II. Plan for Permanent Government	
A. Commission on Permanent Organization	11
B. The Council	13
C. Elections and Office Holding	15
D. Judicial Commission	16
E. Arbitration Commission	17
F. Procedure for Approval	18
G. Limitations	18
Part III. Operations of the Community Council	
A. Use of Committees	19
B. Use of Non-council Members on Committee	20
C. Selection of Committee Members	20
D. Legislative Responsibilities	22
E. Resolutions	22
F. Public Hearings	22
G. Financial Procedures	23
H. Council Records and Publicity	23
I. Distinction between Block Manager or Administrative Agents and Councilmen	23

Table of Contents

	Page
Part I. Temporary Community Government	
A. Establishment of a Temporary Community Council	4
B. The Functions of the Temporary Community Council	12
C. The Judicial Commission	12
D. The Executive Committee	13
Part II. Plan for Permanent Government	
A. Commission on Permanent Organization	14
B. The Council	16
C. Elections and Office Holding	18
D. Judicial Commission	19
E. Arbitration Commission	20
F. Procedure for Approval	21
G. Limitations	21
Part III. Operations of the Community Council	
A. Use of Committees	22
B. Use of Non-council Members on Committee	23
C. Selection of Committee Members	23
D. Legislative Responsibilities	24
E. Resolutions	24
F. Public Hearings	24
G. Financial Procedures	26
H. Council Records and Publicity	26
I. Distinction between Block Manager or Administrative Agents and Councilmen	26

PART I

TEMPORARY COMMUNITY GOVERNMENT

A. Establishment of a Temporary Community Council

The memorandum issued by the Director of the War Relocation Authority on June 5 provides for the establishment of a temporary advisory group to work with the Project Director. This memorandum provides that the voters of each block shall elect a representative to a Temporary Community Council. All persons eighteen years of age or over (under Administrative Instruction No. 34) are eligible to vote, but only citizens of the United States are eligible to hold office.

The memorandum also states that the Council shall elect officers, adopt by-laws, appoint an Executive and a Judicial Committee and such other committees as may be desirable. It is the Projects Director's responsibility to announce the date of the elections and establish suitable regulations for the nomination, method of voting, etc.

The regulations developed by one project which has a Temporary Council in operations may be helpful in this regard. The notices and forms (with minor modifications and additions) used on that project for the election of members to the Temporary Community Council and the oath of office administered to members follow:

NOTICE OF ELECTION

An election for Block Representatives to the Temporary Community Council of _____ will be held on _____, between 7 A.M. and 7 P.M.

This Council will represent the residents of _____ until a permanent Council is elected.

All persons eighteen years of age or over may vote.

Ballots will be given each qualified person applying at the polling booth in the office of the Block Manager during the hours set for voting. Voting will be by secret ballot.

For further details see the election regulations.

Project Director

REGULATIONS FOR ELECTION OF BLOCK REPRESENTATIVES TO
TEMPORARY COMMUNITY COUNCIL OF _____

1. Qualifications for Voters

All persons 18 years of age or over shall be qualified to vote. A list of the eligible voters for each block shall be compiled by the Block Manager and such other persons as the Project Director may direct.

2. Temporary Community Council

The Temporary Community Council shall consist of one representative from each block, who shall serve until a permanent Council shall be elected.

3. Qualifications for Block Representatives

Each Block Representative shall be a citizen of the United States, over 21 years of age, and a resident of the block which he represents, and shall not during his incumbency in office be eligible to hold an appointive office in the Project Area. He will be eligible for regular work assignment.

4. Nominations

- a. The voters in each block shall nominate for the office of Block Representative not less than two persons from their block. Nomination shall be made in open meeting attended by all the voters in the block. Adequate notice of such meeting shall be given by announcement in dining halls and posting on bulletin boards. It shall be the responsibility of the Block Manager to give notice of such meeting and to preside at the session when nominations are made. The names of such nominees shall be filed with the Project Director not less than 15 days before election day.
- b. Any qualified person may also be nominated for the office of Block Representative by a petition signed by not less than 10 eligible voters. This petition shall be filed not less than 10 days before election day.

5. Ballot

- a. Ballots for the election will be prepared under the supervision of the Project Director.
- b. The order of the names on each ballot shall be determined by lot.
- c. Ballots shall be in the following form:

Place a cross (X) in the box
opposite the name of one candidate

Joe Takaki - - - - -

George Nakamura - - - - -

Jack Watanabe - - - - -

- - - - -

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

- d. Names of the candidates shall be posted at the polling place in the order in which they appear on the ballot. Provision will also be made to assist persons who do not read English or who need assistance in marking their ballot.

6. Voting

- a. Each Block Manager shall construct in his office a polling booth, properly screened to insure secrecy.
- b. The polls shall be open on election day from 7 A.M. to 7 P.M.
- c. Each qualified voter shall receive a ballot from the Election Board at the polls, which he shall mark in the polling booth.
- d. The voter shall fold his ballot and deposit it in a voting box which shall be provided in each polling place.
- e. Each candidate may remain at the polls on election day or have one representative present.

7. Election Board

- a. An election board shall be appointed for each block consisting of one person appointed by the Block Manager and one person appointed by the Project Director. At least one member of the board must remain at the polls during election hours. The duties of the election board shall be as follows:
- (1) Supervise voting
 - (2) Check votes against list of eligible voters
 - (3) Count ballots and certify the count
 - (4) Place votes in sealed envelope
 - (5) Deliver sealed envelope to teller

8. Collection of Ballots and Ballot Boxes

- a. An Election Supervisor shall collect sealed envelopes containing counted ballots, and the ballot boxes, and give a receipt for same to each election board. He shall deliver these articles at once to the Project Director who shall hold them for 30 days.
9. The person receiving the highest number of votes shall be declared elected. In case of a tie vote the determination of the one elected may be by lot under the supervision of the Project Director.

10. Notice of Election

Notice of the date of election shall be posted in the Block Manager's office, mess halls, and other convenient places.

11. Date of Election

The first election shall be held on _____.

12. Future Election

Elections shall be held in each block as soon as it has received substantially its full quota of inhabitants. The method of procedure set forth in these regulations shall govern election of these Block Representatives.

Project Director

NOTICE OF NOMINATION

This is to certify that at a meeting of the voters in Block _____
held on _____, 1942, the following were nominated for
the office of Block Representative for Block _____ to the Temporary
Community Council of _____.

	Name	Address
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

Block Manager

1942

I accepted nomination as candidate for the office of Block Represen-
tative for Block _____ to the Temporary Community Council of _____.

Signature of Candidate

Date of Acceptance

NOMINATION PETITION
BLOCK REPRESENTATIVES OF TEMPORARY COMMUNITY COUNCIL
OF _____

We residents of Block _____ nominate _____
of Block _____ Apt. No. _____ for the office of Block Representative
to the Temporary Community Council of _____

	Signature	Address
1.	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____
5.	_____	_____
6.	_____	_____
7.	_____	_____
8.	_____	_____
9.	_____	_____
10.	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____

September 1, 1942

Block _____

Mr. _____
Project Director

We certify that the following votes were properly
cast for the designated candidates for Block Representa-
tives:

James Kobayashi _____
Henry Doi _____
Roy Sakai _____

Void ballots _____
Unused ballots _____

Total _____

Election Board

.

Date _____

Received from _____

_____ Ballots

Block _____

_____ Block Manager

OATH OF OFFICE

I do solemnly swear (or affirm) that I will uphold, preserve, and obey the Constitution and laws of the United States, and that I will faithfully execute my duties as a member of the Temporary Community Council of _____ and will act for the best interests of its residents.

B. The Functions of the Temporary Community Council

The function of the Temporary Council is to advise with and make recommendations to the Project Director. Primarily, it is an interim group that fills the need for a point of contact between the administration and the residents. Through its recommendations, the Temporary Council has great possibilities for advancing the cause of responsible, intelligent internal government. It can concern itself with many problems that will be beneficial to the community and to the cause of administration.

It is important that the tone and direction of the Temporary Council be set in its first meetings. One of the early requirements of the Temporary Council should be the adoption of rules of parliamentary procedure to govern its deliberations. For this purpose a committee on rules of procedure might be appointed. Dignified, orderly procedure is essential to the proper functioning of the Temporary Council.

A second major consideration of the Temporary Council should be to inform itself of the organization and operation of the project. This can be achieved by two principal methods. One method is to invite staff members to appear before the Temporary Council and explain the operation of their divisions or departments and answer questions. A second method which appears to have greater merit is for the Temporary Council to divide itself into a number of committees. Each committee would have a specific field of interest and would be charged with the responsibility of informing itself on the problems and organization of its field of inquiry. The committee chairmen would then report for the committee to the entire Temporary Council.

If thought desirable, a directory of members of the Temporary Council may be prepared for use in the formation of committees. If this practice is followed, a variant of the form INFORMATION FOR COMMUNITY COUNCIL DIRECTORY in Part III of this Manual (See p. 23) may be employed.

The Temporary Council should also have the right to appoint non-members to its committees and thus achieve an even wider participation and interest in community affairs.

C. The Judicial Commission

The Temporary Council should appoint a Temporary Judicial Commission. The number of members on this committee is discretionary but there should probably be not fewer than three nor more than nine. These may be elected by the Temporary Council or appointed by the chairman. The members need not be Council members.

The Temporary Judicial Commission is primarily for the purpose of advising and cooperating with the Project Director in dealing with problems of law and order. He may delegate to this Commission the right to investigate and make recommendations for disciplinary action if he so chooses.

D. The Executive Committee

It is anticipated that the Temporary Community Council may be too unwieldy a group for effective action. The device of having an Executive Committee work with the Project Director should solve this problem.

The Executive Committee might be selected in the following ways:

- a. Appointment by the chairman
- b. Nomination and election from the Temporary Council
- c. Division of the project into sub-divisions with the Block Representatives from each electing one of their group.

Town Hall

Some available building should be reserved at appropriate times for Council use. The building should be equipped with suitable furnishings for the conduct of business and for keeping records. If the Council appoints a permanent secretary, his or her office should be located in this building.

PLAN FOR PERMANENT GOVERNMENT

Administrative Instruction No. 34 makes it the responsibility of the Project Director, not later than 30 days after 75 percent of the residence units are occupied, to provide for the selection of an organization commission to prepare a permanent plan of community government. It will be noted that only the time at which the Commission on Permanent Organization is to be selected is provided in this instruction. The number of members on the Commission and the method of their selection are left to the Project Director. In determining these questions it may be advisable for the Project Director to consult with and secure the advice of the Temporary Council.

A. Commission On Permanent Organization

The following suggestions are offered for the assistance of the Project Director in the selection and organization of the commission:

1. Size of Organization Commission

The work of this Commission is of such nature that it would be advisable as a general principle for the number of members to be between nine and twenty-five. If it appears advisable to give each block representation in the Commission, this might be done where the number of blocks will not make for a body so large as to be ineffective. Since the Project Director has sole responsibility in this matter, he may fix the number of members as he sees fit, but the advisability of having a Commission with a membership of more than twenty-five should be seriously questioned.

2. Method of Selection

The following methods of selection of the Commission may be considered:

- a. Appointment by the presiding officer of the Temporary Council
- b. Appointment by the Temporary Council
- c. Election by the voters
 1. By blocks, if the resulting number of members will not be too great to permit effective work by the commission.
 2. By groups of blocks, as one for every two blocks, or one for every four blocks.
 3. At large.
- d. Appointment by the Project Director
 1. From a list or panel submitted by the Temporary Council
 2. If block representation is used, then the selection might be from a list of three submitted by the voters residing in each block
 3. Entirely on his own initiative
- e. A combination of the above methods might be used, some members being selected by one method (as appointment by the Temporary Council) and others by another method (as appointment by the Project Director)

In determining the method of selection to be used, it should be pointed out that two other elections are required; one to secure the approval of the plan by the voters, and the other to elect members of the permanent Community Council. If the members of the Commission are elected, this will mean three elections within a comparatively short period of time. This should be one of the factors considered by the Project Director in determining the method of selection.

It would seem to be desirable to avoid having more than one representative from some blocks and none from others. If the system of appointment by the Temporary Council or the chairman of that body is used, then the Project Director may wish to indicate some such limitation.

The distinction between the work of the Temporary Council and the Commission should be kept clear. Their function and work are entirely different. With this in view, it is suggested that the advisability of having at least some non-Council members on the Commission be seriously considered.

If the Project Director decides upon election by the voters as the proper method for selecting members of the Commission, then the method of nomination and election, including the selection of election officials, should be determined by him. For suggested methods of procedure in holding such an election, see the preceding section of this Manual, pp.2-8.

3. Organization of the Commission

It is suggested that after the members of the Commission have been selected, the first meeting should be called by the Project Director at which he or his representative should preside. At this time he might outline the work to be done by the Commission, their powers and limitations under Administrative Instruction No. 34. He would then proceed to the election of officers - a chairman, vice-chairman, secretary, sergeant at arms, and any others which may seem desirable.

One project has devised an oath to be administered to members of the Commission. If it is decided that an oath of office is desirable, the form suggested in Part I of this Manual (see p. 10) for members of the Temporary Council might be used.

4. Selection of Committees

At the first meeting of the Commission some steps should be taken to provide for the appointment of committees. The Project Director or the newly elected chairman of the Commission might point out the desirability of working through committees and indicate wherein this procedure is more effective than attempting to discuss matters before they have had committee consideration. Committees to work in the following fields should be useful: committee on committees; committee on rules; community council; elections; judicial commission; arbitration commission; committee on phraseology and style.

The Project Director might suggest at the first meeting of the Commission that a committee on committees be selected to determine what committees should be established, the size of each committee, and possibly

the membership. If this procedure is followed, it would appear advisable to adopt a resolution at the first meeting making the chairman of the Commission an ex-officio member of this committee. It may be considered advisable to carry over the appointment of this committee until the second meeting of the Commission.

It would be helpful in the appointment of committees if at the first meeting of the Commission blanks were prepared on which the members could indicate pertinent information including their committee preference. If this were done some indication of committees likely to be established should be given. The informational form suggested in Part III of this Manual for securing data concerning members of the Community Council which would be useful in making committee assignments might be used for this purpose.

If such information blanks are deemed useful they could be filled out at the first meeting of the Commission and turned over to the committee on committees for its use.

Consideration should be given to the desirability of using non-members of the Commission on committees. If thought desirable, this can be provided in the rules of the Commission. The use of non-members of the Commission might be required or it could be left on a permissable basis.

5. Drafting the Plan of Permanent Organization

When the Commission has been organized and officers elected, it becomes its responsibility to draft a permanent plan of organization. Assistance and advice should be given by the administrative staff of the project when requested. The following suggestions and questions are presented for the assistance and direction of the Commission in carrying out its work.

B. The Council

1. Number of Members on the Council and Method of Selection

Administrative Instruction No. 34 provides that there must be a representative legislative body to be known as the Community Council. The Council should be of such size that it will adequately represent the people and yet not be so large that it cannot effectively carry on its work. A Council of not less than nine nor more than twenty-five members would appear to be the most satisfactory size. Among the methods which may be considered for its election are:

- a. Election at large
- b. Election by blocks
- c. Election by groups of blocks or wards
- d. Election by proportional representation

2. Tenure of Office of Councilmen

The permanent plan should provide the tenure of office of members of the Community Council. If the Commission considers it desirable to have overlapping terms for members of the Council, so that there will not be a complete change at any one time, this should be provided for in the

permanent plan. It could be provided for by stating that at the first election one-half the members shall be elected for a given period (for example six months) and the others for another period (for example one year), and thereafter all shall be elected for the same period (in this case one year). In that way the term of one-half the members would expire each year.

3. Vacancies in Office

The permanent plan of organization should specify the method of filling vacancies in the office of councilman. Such vacancies might be filled by a special election, or by appointment by the Council or the presiding officer thereof. The question of filling vacancies where members of the Council leave the project to accept temporary work should be considered. This might be met by providing that a vacancy shall be deemed to exist when a member is absent from a stated number of consecutive Council meetings (for example, four, five, or six) and the chairman of the Council shall declare the office to be vacant.

4. Meetings of Community Council

The Commission's permanent plan may either specify the frequency and time of meeting or leave this to the Council. Provision should also be made for special meetings. Since it is difficult to determine accurately the amount of time which will be required by the Council to carry out its work, it would appear that the Commission's permanent plan should be flexible on this point and leave some discretion to the Council.

5. Council Procedure

The Commission's permanent plan of government may specify the rules of procedure to be followed by the Community Council or may merely provide its own rules of procedure. An alternate possibility would be to provide some rules in the permanent plan, with a general grant to the Council to establish others as may be needed.

Some fundamental rules of procedure for the Community Council which may be considered for inclusion in the permanent plan are:

- a. Roll Call. Requiring ayes and nays to be entered on the journal or permanent record of the Council in certain cases, as on the final passage of regulations.
- b. Quorum. Defining a quorum for the Community Council, as stating that a majority of all members elected to the Council shall constitute a quorum.
- c. Vote Necessary to Enact Regulations. The plan should state the vote necessary to enact regulations, such as a majority vote of the members present (that is, if a quorum is present) or a majority of the total membership of the Council.
- d. Open Meetings. Requiring meetings of the Community Council to be open to the public.

- e. Time in which Regulations Become Effective. The permanent plan might state when regulations are to become effective, such as upon passage, one week after enactment, etc. In the case of regulations carrying penalties, it would appear desirable to delay the time at which they become effective. If possible, some publicity should be given to the regulations during this period, as by publication in the newspaper or posting in the dining halls. Provision should be made for meeting emergency situations where action is needed immediately. This might be met by providing that emergency regulations may become effective immediately, provided they receive a 2/3 affirmative vote of the total membership of the Council.

6. Presiding Officer of Council

The permanent plan of organization should provide for the selection and powers of the presiding officer of the Council. If he is given special appointing power, as of committees, or if his power of voting is limited to cases of tie votes, this should be stated.

7. Functions of Council

The functions of the Community Council are defined in Administrative Instruction No. 34. It would appear advisable for these to be incorporated in the permanent plan. It might be well for the permanent plan specifically to authorize the Council to exercise such other functions as may be conferred upon it subsequently by the War Relocation Authority.

8. Removal of Council Members

The Commission should consider the advisability of providing in the permanent plan for the removal of members of the Council for neglect of duty or for other causes. Two methods which may be considered are removal by the Council or recall by the voters.

C. Elections and Office Holding

1. Nomination and Election

The nomination and election of members of the Council should be provided for in the permanent plan of organization. The questions to be considered here are:

a. Methods of nomination

1. Caucus or mass meeting of all the voters in the election district
2. Petition
3. Primary election

b. Elections

The permanent plan of organization must either provide or give to the Council the power to provide for the

preparation of ballots, the selection of election officers, etc.

c. Registration

Some provision should be made for the preparation of lists of qualified voters so that only those persons who are entitled to vote may do so. A system for the registration of voters might be provided for in the permanent plan of government, but it would seem advisable to authorize the Council to do this.

2. Determining Eligibility of Councilmen

While the qualifications of members of the Council are stated in Administrative Instruction No. 34, the method should be provided in the permanent plan for determining whether a particular individual meets these qualifications. This might be done by providing that:

The Community Council shall have the power to pass upon and determine whether any member elected has the qualifications stated in administrative Instruction No. 34.

3. Qualifications for Voting and Holding Office

The Commission has no discretion relative to qualifications for voting and holding office. These are defined in Administrative Instruction No. 34. It would be desirable, however, to incorporate these provisions, without change, in the permanent plan.

D. Judicial Commission

The Commission on permanent organization is authorized to provide for a Judicial Commission.

1. Size and Composition

The exact number of members of the Judicial Commission shall be fixed by the Commission on Permanent Organization; but the number must not be less than three. Other questions to be considered by the Commission on Permanent Organization are:

a. How shall the members of the Judicial Commission be selected?

1. Elected?
2. Appointed by chairman of Council?
3. Appointed by Council?
4. Preparation of a list of qualified persons by a Committee of the Council with appointment from this list by the chairman of the Council, the Council, or the Project Director?

b. Who shall be eligible for membership on the Judicial Commission?

1. Only evacuees?
2. Caucasian staff members?
3. Members of Council?

The work of the Judicial Commission in the field of law enforcement is entirely different from that of the Community Council. The latter is charged with the responsibility of making law, or the determination of policies. The Judicial Commission, on the other hand, does not make policies but applies policies to particular cases. In view of this distinction, the advisability of providing in the permanent plan that members of the Council shall be ineligible for membership on the Judicial Commission should be considered.

- c. Tenure of Office of Members of Judicial Commission.
- d. Vote necessary for a decision? Shall a defendant be acquitted or found guilty by a majority, unanimous vote or some other vote of the Judicial Commission.
- e. What provision shall be made for the presentation of cases before the Commission, as by a prosecuting attorney or other officer.
- f. What provision shall be made for representing defendants before the Judicial Commission, as by a public defender, or private counsel.
- g. Rules of Procedure. To what extent should rules of procedure for the Judicial Commission be provided in the permanent plan, by the Community Council, or left to determination by the Judicial Commission itself.

E. Arbitration Commission

The permanent plan of government should provide a method of arbitration for settling civil disputes between residents who voluntarily agree to submit their disputes to a commission set up for this purpose. Among the questions to be considered by the Arbitration Commission are the following:

1. Name of such Arbitration Commission

It is suggested that the name given such a commission be that used for this type of agency in the law of the state where the project is located.

2. Number of Members and Selection

The permanent plan should provide the number of members, their tenure, and method of selection.

3. Panel of Arbitrators

Should a panel of arbitrators be selected from which the arbitrators for a particular dispute are selected?

4. Disqualification of Members of Arbitration Commission

What provision should be made to disqualify members of the Arbitration Commission who are interested in a particular case, so that a panel can be selected to which persons will be willing to submit their dispute?

5. Provision should be made in the permanent plan as to:

- a. Procedure for bringing cases before the Arbitration Commission.
- b. Method of presenting cases to Arbitration Commission (whether attorneys may be used, etc.).
- c. Vote of Arbitration Commission necessary for an award; majority vote, unanimous vote, etc.

6. Agreement to be Made by Parties

An important question to be considered in providing a system of arbitration is the type of agreement to be made by the parties so that an award will be binding under state law. It would appear that the type of agreement should be left to determination by the Arbitration Commission rather than specified in the permanent plan. The permanent plan should specifically confer this power upon the Arbitration Commission. Assistance and advice will be given the Arbitration Commission by the Project Attorney in working out these details.

F. Procedure For Approval

When the Commission on Permanent Organization has completed its work, the proposed plan must be submitted to the Project Director who should satisfy himself that none of its provisions violates any regulations or instructions of the War Relocation Authority. If approved by him it is then submitted to the voters and must be approved by a majority vote of the qualified voters voting at a special election. The permanent plan should provide for the nomination, election, and assumption of office by councilmen following approval of the plan by the residents. This provision should include the number of days that shall elapse before the election is held and how soon the Council shall meet and assume the duties of office following election.

G. Limitations

There are certain limitations which Administrative Instruction No. 34 places upon the Commission on Permanent Organization. Thus the legislative body must be known as a Community Council, elections must be by secret ballot, a definite procedure must be followed in making expenditures of community funds, and the method of amendment of the approved plan of government is specified. For purposes of clarity it is suggested that these and other limitations be included in the permanent plan of government proposed by the Commission.

PART III

OPERATIONS OF THE COMMUNITY COUNCIL

After the permanent plan of organization has been adopted and a Community Council elected, the satisfactory functioning of community government in relocation projects will depend largely upon the manner on which the Council carries out its duties. The effectiveness of community government will depend upon the sincerity with which the Council assumes its responsibilities. The members of the Council must have a knowledge of the problems of the community, a desire to further the welfare of the residents, and must initiate procedures by which the Council can utilize its knowledge of community problems for the general welfare. The Council should seek to develop an interest on the part of the residents in community affairs, and secure not only participation in community government but a willingness on the part of all residents to assume responsibilities for community problems.

Members of the Council should be mindful that their office is not only an honor but a responsibility and a public trust. If they undertake their duties in that spirit, participation by the residents in the management of community affairs will be successful.

A. Use of Committees

It has been the experience of legislative bodies generally that their work is more orderly and effective when wide use is made of committees. The disadvantage of having matters discussed and debated before the Council without having adequate factual information is obvious. Previous study of a problem and the gathering of pertinent information by a committee, followed by a report and recommendation, tends to sounder action by the Council. For this reason it is suggested that the Council make extensive use of committees in carrying out its work, and that as a general practice matters be referred to committees for study, report, and recommendation. The final decision in all matters will remain with the Council; the use of committees merely enables the Council to be more effective and efficient in arriving at those decisions.

Both regular and special committees may be used. The designation of committees, both regular and special, will depend upon the subject matter brought before the Council. Among the regular committees which the Council might consider the desirability of establishing are: Committee on Committees, Rules and Procedure, Resolutions, Elections, Licensing, Law and Order, Judicial Commission, Arbitration Commission, Revenues and Expenditures (or a Committee on Finance to cover both revenues and expenditures).

There are many problems which are primarily administrative responsibilities of W.R.A. but which are of direct concern to the residents and the Council. They include health, education, housing, food, sanitation, employment, community enterprises,

community activities, public welfare, library and public safety. The use of committees to secure information on these problems is a useful device. The committee members should become in the course of time specialists in their fields and be available to make special investigations for Council purposes.

A problem which has arisen in some legislative bodies is that committees in effect take final action by failure to report. The advisability of adopting a Council rule requiring committees to report within a stated time (for example, two weeks) after a matter has been referred to them should be considered. This may also be met by adopting a rule that the Council may at any time by majority vote discharge a committee from further consideration of a matter referred to it and proceed to Council consideration.

B. Use of Non-Council Members on Committees

A wide participation in public affairs is a desirable goal in any community. While voting and participation in community elections is an essential step in any democratic community, the Council should seek to carry popular interest and participation beyond the mere casting of a ballot at elections. One way in which this may be secured is for the Council to make use of non-Council members on its committees. This would offer an effective means of permitting participation in community affairs by those persons who are not eligible for election to the Council.

Another means by which the Council may secure wider direct participation in Council affairs is by the establishment of advisory boards and commissions made up entirely of non-Council members. Persons who have shown ability or interest in a particular field might be appointed to a board or commission. Such a plan can lead not only to an increased interest in community affairs by a large number of residents, but will enable the Council to utilize the special abilities of many persons in solving community problems.

C. Selection of Committee Members

The desirability of preparing a directory of the Council membership was touched on in Part I of this Manual. This would be of value to the Project Director and Council and especially useful in making the best selection of Council members for committees. The directory would show the age, educational background, previous public service and present and former occupation of each member of the Council. This would serve as a guide to the appointing authority in making committee assignments. (See p. 21 for suggested form to be filled out by each member.)

A similar plan may be used in selecting non-members of the Council for membership on committees. Each Council member might prepare a list of the persons in his voting district he considered well qualified for committee work. He would also submit pertinent

INFORMATION FOR
COMMUNITY COUNCIL DIRECTORY

Name _____ Age _____ Sex _____

Present Address _____ City and State _____
Former Address _____ City and State _____

Educational Background:

High School _____

University _____

Degrees _____

Public Service _____
(Former participation in clubs, organizations, and
offices held)

Former occupation _____

Present Occupation _____

Interests: Check first and second preference.

Law and Order

Education

Public Relations

Public Health

Social Welfare

Food and Nutrition

Recreation

Work Projects

Community Enterprises

Labor Relations

Housing

Ground Improvements

Finance

Adult Education

data in support of his recommendation that these persons be appointed as non-Council members of committees. Such a list would enable the appointing authority to make assignments on a more intelligent basis.

D. Legislative Responsibilities.

Administrative Instruction No. 34 authorizes the Community Council to prescribe regulations and penalties for their violation. The Council should proceed at an early date to establish a code for law and order on the project. Useful guides in determining the content of such a code may be obtained by reference to existing municipal codes or by requesting the Project Attorney for such information. It would appear desirable also that there be incorporated with these community regulations at an early date regulations concerning safety, fire prevention, sanitation and health, and other matters which upon consultation with the Project Director are found to be essential to the successful operation of the project.

E. Resolutions

The Community Council is authorized by Administrative Instruction No. 34 to present to the Project Director resolutions on questions affecting the welfare of the residents. It is suggested that the Council can be most effective if it collects all facts relative to a particular question before making recommendations and that it make available to the administration the results of its study. Carefully considered suggestions based on a thorough analysis of a problem, with conclusions based on facts, will be more effective than mere expressions of opinion or complaint.

F. Public Hearings

Public interest in and discussion of questions affecting the general welfare of the community are desirable and should be encouraged. This can be secured in part by having Council meetings open to the public. A limited right of participation in the discussion may be granted by a Council rule. This might provide that non-Council members would be heard if request were made to the chairman of the Council prior to the meeting, and that any speaker be limited to five minutes. Council committees could also make use of public hearings to give non-Council members an opportunity to be heard on community problems.

A final method by which the Council could promote the discussion of community problems and determine the sentiment of the residents on public affairs might be through general meetings or forums sponsored by the Council. These might be held under the auspices and supervision of the committee in which the subject matter for discussion falls. If properly conducted, such meetings should serve as useful means of promoting the democratic process in relocation projects.

G. Financial Procedures

Administrative Instruction No. 34 provides a means by which the Community Council may secure money to be used by it to promote the general welfare. Expenditures for purposes other than to promote the general welfare of the residents will subject the Council to criticism and bring it into disrepute.

A problem in any legislative body is to provide procedures in the expenditure of public funds which will prevent irregularities, safeguard the funds, and assure expenditures only for purposes and in amounts approved by the popularly elected representatives. Administrative Instruction No. 34 provides some procedural checks on the expenditure of community funds. The Council may want to consider the desirability of adding others. Another problem to be considered by the Council is the custody of community funds.

Some of these questions may be provided for in the permanent plan of organization. Insofar as they are not covered in the permanent plan, the Council may want to adopt regulations on this subject. And it may want to supplement the limitations and procedures provided in Administrative Instruction No. 34, and in the permanent plan of organization.

H. Council Records and Publicity

Records of the proceedings of the Council should be kept by the secretary. These should be preserved as permanent records of the community government, along with committee reports and hearings. The details to be incorporated in these records must be left to the discretion of the secretary of the Council or of the committees. The record should be sufficiently detailed, however, to give a clear and accurate picture of what has transpired. Such records should always be open to public inspection.

It is desirable that as wide publicity as possible be given to the work of the Council. The members of the Council, and especially the chairman, should attempt to maintain such relations with the project newspaper that adequate publicity will be given to the Council work. Such publicity will be of value in increasing the interest of the residents in community affairs.

In the case of certain types of regulations enacted, an effort should be made to have the project newspaper report the action. Regulations carrying penalties should be fully reported; the advantage of informing the people of new regulations to guide their conduct and for the violation of which they are subject to penalties is obvious.

I. Distinction Between Block Managers or Administrative Agents and Councilmen

Several projects have established the position of Block Manager to assist and cooperate with the Project Director. The duties and responsibilities of Block Managers are different from those of Councilmen, and if these differences are kept in mind it will be useful in avoiding conflict and promoting the administration of community affairs. Both the Block

Manager and the Councilman should realize that they are interested in a common goal. This is the promotion of the general welfare. Each has a contribution to make in securing that goal, but it is made in an entirely different manner.

The Block Manager is an administrative employee, performing such administrative duties as are assigned to him by the Project Director. Among the duties which he performs in some of the projects are: Distributes information such as rules, regulations, and instructions issued by the Project Director to the residents in his block; collects and distributes mail; assists in housing problems including changes in residence, repairs, etc.; distributes supplies such as soap, brooms, and mops to the residents; assists residents in emergency cases such as serious illness.

The Councilman serves an entirely different function. As the representative of the residents he is interested in the determination of policies which affect the whole community. His selection is by the people and his responsibility is to them. Thus from the point of view of selection, duties, and responsibility, there is a clear line of demarcation between the Block Manager and the Councilman. If the Block Manager restricts his activities to serving as an agent of the administration, and the Councilman limits his activities to the determination of policies affecting the whole community, there can be no conflict of jurisdiction. Each should realize that he has a job to do and his aim should be to do it well. That is the greatest contribution he can make to successful community government and administration.



October 14, 1942

COMMUNITY GOVERNMENT MANUAL

CORRECTION

NOTE: A revised Table of Contents is attached for the Community Government Manual issued October 1. Please destroy the original page containing the Table of Contents and insert this revised Table in the Manual.

Table of Contents

	Page
Part I. Temporary Community Government	
A. Establishment of a Temporary Community Council	1
B. The Functions of the Temporary Community Council	9
C. The Judicial Commission	9
D. The Executive Committee	10
Part II. Plan for Permanent Government	
A. Commission on Permanent Organization	11
B. The Council	13
C. Elections and Office Holding	15
D. Judicial Commission	16
E. Arbitration Commission	17
F. Procedure for Approval	18
G. Limitations	18
Part III. Operations of the Community Council	
A. Use of Committees	19
B. Use of Non-council Members on Committee	20
C. Selection of Committee Members	20
D. Legislative Responsibilities	22
E. Resolutions	22
F. Public Hearings	22
G. Financial Procedures	23
H. Council Records and Publicity	23
I. Distinction between Block Manager or Administrative Agents and Councilmen	23

B

COMMUNITY CLERK'S MANUAL

Final Draft
October 30, 1942.

RECOMMENDATION OF THE ORGANIZATION COMMISSION

RE: COMMUNITY CLERK'S MANUAL

Herein is contained the Organization's Commission's recommendation for the compiling of all pertinent matter relative to the duties and responsibilities of the Community Clerk, into a "Community Clerk's Manual". It should be noted that the duties and functions provided in this Manual are derived from three sources: (1) from the Charter itself, (2) Manual on Judicial Commission, (3) Manual on Arbitration Commission. When any rules or ordinances are passed by the Community Council conferring powers or imposing any further duties upon the Community Clerk, this Manual will of necessity be enlarged. However, it is suggested that a Manual of the Community Clerk be compiled and kept up to date because the functions of the Community Clerk is very important, not only to the appointed Clerk, but to the various governmental agencies created by the Charter for the keeping of records and the performance of secretarial work, and to general public at large in order to be advised of the functions of the Community Clerk, so as to be able to take full advantages of the benefits conferred by the community government and utilize the services offered by the Office of the Community Clerk.

SUMMARY: DUTIES OF THE COMMUNITY CLERK

The Community Council is required by the Charter to appoint an officer of the Community who has the title of "Community Clerk" and has functions similar in nature to that of a City Clerk in an ordinary municipality. However, in this local situation, he does not have specifically enumerated duties, inasmuch as the Government is yet in its formative stages. Moreover, the War Relocation Authority regulations are silent in this regard, and hence, the functions delegated to the Community Clerk by the Charter are created functions to meet the peculiar needs of this particular local situation. There is no precedent established for the functions of the Community Clerk, and obviously it will be necessary to re-define his functions from time to time as occasion arises. Therefore, in the Charter, omissions are made as to a great many of the obvious duties of such an officer: it is left to the discretion of the Community Council to prescribe necessary rules and regulations for the functioning of this officer to meet the needs.

However, generally, the Community Clerk is in a position somewhat analogous to secretary for a corporation. The responsibility of keeping records, making provisions for due publicity of enactments by the Council, giving proper notices to various governmental agencies are provided. Moreover, here, he must fulfill an additional dual function, viz., that of Clerk of the Court for the Judicial Commission, and that of Clerk of the Commission for the Arbitration Commission. The duties are not totally defined in these capacities, but he is required by the Charter to perform "such other duties as may be required by the Judicial Commission" and by "the Arbitration Commission".

As to his broader duties, there are five major divisions: (1) to act as a keeper of the records for the Community Council, the Judicial Commission, the Arbitration Commission, and for the community at large; (2) to provide for the registration of electors; (3) to provide for elections, both regular and special; (4) to be responsible for the nominating of candidates; and (5) arrange for parties who desire to have civil cases tried by the regular state courts. In the performance of these duties, he is nevertheless bound to obey (1) the Charter which is paramount, (2) the Community Council which is the direct supervisor of the Clerk, (3) the two Commissions provided in the Charter.

More specifically, with regard to the above-mentioned duties, the Charter requires him to: (1) open the nominating convention, call the roll, and provide for the election of the Chairman of the Convention, (2) secure signatures of acceptance of candidacy of nominees, (3) collect all ballots in all elections, (4) provide for polling places. There are other mandatory duties required of him by the Charter, in which he exercises no degree of discretion, these being: (1) declare officers of the self-government elected upon ascertaining such persons has received a majority of the votes cast, (2) limit the number of candidates in run-off elections according to a precise formula, (3) file submissions to arbitration and final awards of arbitrators in the District Courts of Idaho upon application. To a greater of freedom of discretion is provided in the following duties required by the Charter: (1) provide by regulation the inspection of public records, and (2) provide for the change of addresses in registration, (3) strike registrations from the rolls in case of death, the permanent leave or the incapacitating disqualification of any person, (4) and determine whether a petition is insufficient.

He is to act also in the capacity of a public relations man for the community government, in that he is required to make publication of all ordinances, rules and regulations enacted by the Council. He would undoubtedly also be the logical source of great many press releases for the local paper. Specifically, he is required to give notices to specific persons or agencies of government: (1) notices of Council meetings, (2) notices to Block Delegates of the Nominating Convention, (3) notices to the community of elections, both regular and special, (4) notices to the Council of filing of petitions, (5) notices to Judicial Commission of cases to be heard, (6) notices to parties involved of date and time of hearings, (7) notices to the Arbitration Commission of cases to be arbitrated.

He is bound, not only by the Charter, but by the W.R.A. regulations to communicate certain things to the Project Director, viz.: (1) all ordinances passed by the Council, (2) all resolutions passed by the Council, (3) all decisions on criminal cases by the Judicial Commission, and (4) all amendments to the Charter.

A very limited power to delegate authority is provided in the Charter. He may (1) deputize registration clerks, and (2) deputize elections clerks. However, implied in the office he holds is the power to deputize sufficient personnel to fully perform the duties of his office. These implied powers would arise from the nature of his office, and are not provided by the Charter.

The Charter provides that he must authenticate, under his signature three types of documents: (1) ordinances and resolutions passed by the Council, (2) certification of all petitions, whether initiative, referendum or recall, (3) and the list of candidates for elective offices.

He is required to provide certain forms, which he may obtain, or prescribe as the Community Clerk: (1) Ballots, (2) Instructions to Voters, (3) Subpoenas, (4) Indictments, and (5) Submission to Arbitration. Undoubtedly, he is empowered to provide other forms not specifically provided for by the Charter.

As a keeper of the records, he is required by the Charter to keep on file certain public records, as well as whatever may be required by the Council, the Judicial Commission or the Arbitration Commission. These records mentioned in the Charter are: 1. Journal of meetings of the Council, (2) records of action taken by the Council, (3) record of ordinances, (4) records of the Judicial Commission, (5) files of registration, (6) Master list of Registrations, (7) Official Roll of Voters for each individual blocks, (8) challenges of registrations, (9) list of nominees, (10) petitions for initiative, referendum or recall, (11) challenges of the eligibility of nominees, (12) decisions of the Judicial Commission, (13) confidential files of the Arbitration Commission, (14) awards of arbitrations, and (15) such other records as may be required.

The duties of the Community Clerk, as may readily be seen, are wide and divergent, as well as being numerous. The above is but a skeleton of the duties imposed expressly by the Charter. For the purpose of ascertaining the exact details of such functions, the pertinent portions of the Charter and the Manuals on the Judicial Commission and the Arbitration Commission are hereafter incorporated into this manual.

CHARTER PROVISIONS: (Duties of the Community Clerk)

ARTICLE I. (Community Council)

Sec. 6. Community Council Records:

....Council shall cause accurate records of all meetings and action taken to be kept.....and such records shall be open for public inspection at all reasonable times under such regulations as the Community Clerk shall determine.

Sec. 8. Enactment of Ordinances:

(4)All ordinances and regulations passed by the Community Council shall be signed by theCommunity Clerk, and shall be immediately communicated to the Project Director for approval.

Sec. 11. Community Clerk:

The Community Council shall appoint an officer of the community who shall have the title of "Community Clerk" and who shall have the following duties and powers: to give notice of all Community Council meetings, to cause the publication of all ordinances, rules and regulations, to keep a journal of the proceedings of the Community Council, to authenticate by his signature and to record in full in a book kept for the purpose all ordinances and resolutions, and to perform such other duties as required by this Charter or by the Community Council.

ARTICLE III. (Judicial Commission)

Sec. 7.the Judicial Commission shall.... render a decision finding the defendant guilty or not guilty....
Such decision shall be at once communicated by the Clerk of the Court to the Project Director for review.

Sec. 9. Clerk of the Court:

The Community Clerk shall be Clerk of the Court and shall be responsible for all records of the Judicial Commission and shall perform such other duties as may be required of him by the Judicial Commission or this Charter.

ARTICLE V. (Nominations and Elections)

Sec. 4. Registration of Electors:

All qualified electors.. shall be registered.....

(1) Responsibility of Registration:

The Community Clerk shall be responsible for

the registration of all qualified electors of the community.

Cl. 2. Procedure of Registration:

(4) Registration Clerks: Registration shall be conducted by registration clerks deputized by the Community Clerk.

(5) Filing of Registrations:.....The Community Clerk shall compile an official master list of all registrations.

(7) Question of Validity of Registration: The validity of any registration shall be presumed unless questioned in a formal writing by any member of the community filed with the Community Clerk.

Cl. 3. Permanency of Registration:

All registration shall be permanent unless.... stricken from the records by the Community Clerk in the event of death, permanent leave from the project, or other incapacitating disqualification of any person. The action of the Community Clerk in this regard shall be subject to review by the Judicial Commission.

Cl. 4. Provision for Change of Registration:

Upon application to the Community Clerk and the presentation of valid reasons therefor, any person may secure a change of the place of his registration.

Sec. 5. Block Election of Delegates:

Cl. 3. Temporary Chairman: The temporary Chairman shall ascertain that every member....is a duly registered elector of that particular block by an examination of the Official Roll of Voters for his particular block, prepared and submitted by the Community Clerk on the day prior to such Block Meeting.

Cl. 6. Certification of Delegates:

The Temporary Chairman shall forthwith certify.... Block Delegates and their alternates to the Community Clerk.

Sec. 6. Nominating Convention:

Cl. 1. Notice of Meeting:

The Community Clerk, upon due authorization by the Community Council shall notify in writing all duly ~~withheld~~ elected delegates of the time, date and place of the convening of the nominating convention.

Cl. 2. Opening of Meeting:

The Community Clerk shall have the responsibility of calling the nominating convention to order, and shall call

the roll of block delegates, and shall provide for the election of a temporary chairman.

Cl. 4. Certification of Nominees:

The Chairman of the Convention shall certify... to the Community Clerk the nominees for the Community Council and the Advisory Board.

Cl. 5. Acceptance of Nomination:

The Community Clerk shall forthwith obtain the signatures of the nominees certified by the Nominating Convention, which signatures shall denote the acceptance of such persons of their candidacy for office.

Sec. 7. Nominations by Petition:

Cacandidates.....may be nominated by petition....
Such petitions shall be filed with the Community Clerk within one week following the nominating convention.

Sec. 8. Challenges of eligibility of Nominees:

Any persons questioning the eligibility of any nominee ... shall file a formal challenge of the eligibility of such person with the Community Clerk, stating his reasons therefor.

Sec. 9. Elections:

Cl. 5. Run-Off Elections:

All candidates receiving a majority of the votes cast by the qualified electors of the community shall be declared elected by the Community Clerk; in the event that the full membership of the Community Council not be elected in the first regular election, as soon as this fact is determined by the Community Clerk, there shall be a special run-off election.... The Community Clerk shall provide ballots for election of the remaining unelected membership of the Community Council upon the basis of exactly twice the number of positions remaining to be filled in the Community Council, eliminating from such ballots the names of nominees which received the lowest number of votes until the above condition is fulfilled.

Cl. 6. Provision for Polling Places:

The Community Clerk, under the direction of the Community Council shall provide for the ballots, polling places, instructions to voters, instructions to election clerks, proper notices of elections and the collection of ballots.

Cl. 8. Election Clerks.

The Community Clerk, under proper authorization from the Community Council, shall deputize necessary election clerks to conduct the election.

ARTICLE VI. INITIATIVE AND REFERENDUM:

Sec. 2. Power of Referendum:

..... Within ~~twenty days~~ thirty days after the enactment by the Council of any ordinance, a petition signed by 10% of the qualified electors may be filed with the Community Clerk requesting that any such ordinance be either repealed or submitted to a vote of the electors.

Sec. 4. Filing, Examination and Certification of Petitions:

All petition papers shall be assembled and filed with the Community Clerk as one instrument. Within 10 days after a petition is filed, the Community Clerk shall determine whether each paper of the petition has a proper statement of the circulator and whether the petition is signed by a sufficient number of qualified electors. The Community Clerk shall declare any petition paper entirely invalid which does not have attached thereto the certification signed by the circulator thereof..... The Community Clerk shall determine that every person signing such petition is a duly registered qualified elector, and strike such names as are not duly registered qualified electors, and shall, after completing his examination of the petition, certify the result to the Council at its next regular meeting. If he shall certify that the petition is insufficient, he shall set forth in his certificate the particulars in which it is defective, and shall at once notify the committee of petitioners of his findings.

Sec. 5. Amendment of Petitions:

Any petition may be amended at any time within 10 days after the notification of insufficiency has been sent by the Community Clerk, by filing a supplementary petition... The Community Clerk shall, within 5 days after such amendment is filed, make examination of the amended petition, and if the petition be still insufficient, he shall file his certificate to that effect in his office.

Sec. 6. Consideration by Community Council:

~~xxxxxxx~~ Whenever the Community Council receives a certified initiative or referendum petition, or a petition for recall, from the Community Clerk..... Council shall provide for public hearing... and take final action within 14 days after date on which such ordinance was submitted to the Community Council by the Community Clerk.

Sec. 8. Availability of List of Qualified Electors:

If any organization or group requests it for the purpose of circulating a petition or descriptive matter relative to the ordinance to be voted upon, or for any other legitimate purpose, the Community Clerk shall either permit such organization or group to copy the names and addresses of the qualified electors or furnish it with a list thereof.

ARTICLE VII. AMENDMENT

Sec. 3. All amendments ratified by the people shall be immediately communicated by the Community Clerk to the Project Director for review and approval.

EXCERPTS FROM THE
MANUAL ON JUDICIAL COMMISSION

Altho the Charter does not specifically provide for some of the duties enumerated in the Judicial Manual, it was felt that the essential portions of the recommended manual would be adopted, and that in order to gain a clearer picture of the functions of the Community Clerk, excerpts from the Judicial Manual.

PART IV. OUTLINE PLAN OF OPERATION:

B. Composition of:

5. Officers:

- c. The Community Clerk shall act as the Clerk of the Court.

II. Powers and Functions of the Judicial Commission:

D. Validity of Acts of Community Council or Officers.

- 2. Express power to review acts by the Community clerk with regard to registration of elector.

III. General Rules:

B. Decisions:

- 2. Dissent has right to file minority opinion with Clerk of the Court.

D. Subpoenas:

- 1. Of witnesses: Upon proper application and upon authorization by the Chairman of the Judicial Commission, the Clerk of the Court shall issue subpoenas in the name of the Community, requesting attendance of witnesses in all judicial hearing.
- 2. Of public records (of community) Upon proper application and upon authorization by the Chairman of the Judicial Commission, the Clerk of the Court shall issue subpoenas in the name of the Community, requiring the production of public records in all judicial hearings.

IV. Cases of violation of law and order regulations:

A. Institution of proceedings:

- 1. Indictments to be filed: In cases of violation of law and order regulations, any complaining officer or per or persons may file with the Clerk of the Court, an indictment on forms provided by the Clerk.

B. Time of Hearing:

1. If case to be formally heard: The Chairman of the Commission.... shall notify the Clerk of the Court of the day, time and place of formal hearing.
2. Notification of parties involved: The Clerk of the Court shall forthwith notify in writing all parties involved, including the complaining officer or person or persons.
3. Time allowed Defendant: Such date of hearing must allow the defendant at least 10 days period from the date of notification of the defendant by the Clerk of the Court.

E. Decisions of the Judicial Commissions:

2. Opinions to be written and filed: Both the majority and minority opinions shall be written and filed with the Clerk of the Court.
3. Communication of Decision to Project Director: The Clerk of the Court shall forthwith communicate the decision of the majority to the Project Director.

V. Interpretation of Ordinances or Charter:

B. Opinions:

2. Within a reasonable time after such hearings, the Judicial Commission shall submit written opinions, filed with the Clerk of the Court.

VI. Validity of Registration or Eligibility of Nominees:

A. Institution of Hearings:

1. Upon filing of formal application for hearing with the Clerk of the Court, the Judicial Commission shall proceed to hear cases involving the validity of registrations or the eligibility of nominees.

VIII Validity of Acts of Community Council or Officers:

The Judicial Commission shall be further empowered to render judgments upon the validity of the acts of the Community Council or Officers of the community self-government, upon proper application to the Clerk of the Court, and after due notice and public hearing.

EXCERPTS FROM THE "MANUAL ON ARBITRATION COMMISSION"

PART III. OUTLINE PLAN OF OPERATION.

2. Membership:

The Community Clerk shall be the Clerk of the Commission.

5. Procedure:

- a. Parties desirous of having a case arbitrated shall notify the Community Clerk of their desire to have an arbitration of their controversy.
- b. The Community Clerk shall make available to such parties a complete list of the members of the Arbitration Commission, and shall notify the Chairman of the Arbitration Commission that such a case, involving certain parties, is tentatively agreed to be arbitrated.....
- c. A formal "Submission to Arbitration", on forms provided by the Community Clerk shall be filed with office of the Community Clerk.....
- d. Within 10 days of the filing of the "Submission to Arbitration", the parties shall notify the Community Clerk of their selection of arbitrators, either from the panel, or from the community at large.
- e. The parties.....shall set a definite time, date and place of meeting for arbitration, and the details above shall be filed with the Community Clerk.
- h. The final award shall be filed with the Community Clerk, and after the expiration of 7 days the parties to the arbitration may direct the Community Clerk to file the award with the District Court for the County of Jerome, State of Idaho.

6. Recourse to State and Local Courts:

Where civil matters are involved, and the parties are unwilling, or cannot arbitrate, the Community Clerk shall, upon application by the parties involved, make necessary arrangements with the Administration to enable such parties to take advantage of the regular state and local courts.

. o o o .

George Tani
10-28-42.

E 2.510

"MANUAL ON JUDICIAL COMMISSION"

CCM: 2

B

Tentative Final Draft
October 27th, 1942

RECOMMENDATION OF THE
ORGANIZATION COMMISSION

Re: "MANUAL ON JUDICIAL COMMISSION"

It is recommended by the Organization Commission for Community Government to the first Community Council that a "Manual on Judicial Commission", as provided for in the Charter, be prescribed and promulgated by the Community Council. It is suggested by the Organization Commission, that some of the following materials and a plan of operation, similar to the plan offered herein, be incorporated in the " Manual on Judicial Commission". Further, it is suggested that the technical details of operation should be prescribed by the members of the Judicial Commission, and adopted by the Community Council.

"MANUAL ON JUDICIAL COMMISSION"

Promulgated by the Community Council

Dated:

FOREWARD

This manual has been prepared to clarify the functions and the powers of the Judicial Commission and to set forth the details of operation of the Judicial Commission. The materials incorporated herein are pertinent portions of the War Relocation Authority regulations which provide for the establishment of the Judicial Commission, the Charter provisions which create the Judicial Commission, a codification of offenses and penalties, and a detail procedural plan of operation.

Signed: President
 Community Council

TABLE OF CONTENTS

	Page
PART I. WAR RELOCATION AUTHORITY REGULATIONS:	
1. Administrative Instruction No. 34.....	4
2. Community Government Manual.....	4
3. Opinion of Solicitor No 32.....	5
PART II. CHARTER PROVISIONS:	
1. Article III, Judicial Commission.....	6
2. Other Pertinent Sections, Art. V.	8
PART III. CODE OF OFFENSES AND PENALTIES:	
(Ordinances of Community Council on Law and Order) (To be compiled)	9
PART IV. OUTLINE PLAN OF OPERATION:	
I. Organization of Judicial Commission.....	11
A. Authorization of Establishment.....	
B. Composition of	
II. Powers and Functions.....	12
A. Violation of Law and Order	
B. Interpretation of Ordinances	
C. Validity of Registration or Nominees	
D. Validity of Acts of Community Council	
III. General Rules.....	13
A. Hearings	
B. Decisions	
C. Appeals	
D. Subpoenas	
IV. Violation of Law and Order Regulations.....	14
A. Institution of Proceedings	
B. Time of Hearing	
C. Hearing of Cases	
D. Rights of Defendant	
E. Decisions	
IV. Interpretation of Ordinances.....	16
A. Institution of Hearings	
B. Opinions	

VI.	Validity of Registration or Eligibility of Nominees..	16
	A. Institution of Hearings	
	B. Decisions.	
VII.	Validity of Acts of Community Council.....	17
	General Statement	

PART I

WAR RELOCATION AUTHORITY

REGULATION

The War Relocation Authority regulations provide for the establishment of a Judicial Commission to hear all cases of misdemeanors to enforce the law and order regulations of the Community Council. Direct authorization for the establishing and an explanation of the functions and status of such Judicial Commission is contained in the following excerpts from the W.R.A. regulations:

1. Excerpts from Administrative Instruction No. 34

"A. The plan of government shall provide for a Judicial Committee or Commission of not less than three members which shall hear cases and apply penalties for violation of law and order regulations prescribed by the Community Council."

2. Excerpts from Community Government Manual, 6-1362-BU-COS-WP

"The Commission on permanent organization is authorized to provide for a Judicial Commission....."

"The work of the Judicial Commission in the field of law enforcement is entirely different from that of the Community Council. The latter is charged with the responsibility of making law, or the determination of policies. The Judicial Commission, on the other hand, does not make policies but applies policies to particular cases. In view of this distinction, the advisability of providing in the permanent plan that members of the Council shall be ineligible for membership on the Judicial Commission should be considered."

3. Excerpts from Opinion of the Solicitor, No. 32:

"As far as legality under the due process clause is concerned, the Judicial Commission's work is the key activity in the whole system of evacuee self-government.....

"To begin with, it must be borne in mind that the Commission is not a part of the hierarchy of state or federal courts.....it is not a court at all. Nor is it engaged in the enforcement of criminal law. It is engaged only in the enforcement of the administrative regulations, largely disciplinary in purpose, and in that capacity, it is merely serving as an aid to an administrative official, the Project Director.....

"There can be no question of the legal power of the administrative official to enforce disciplinary regulations in such situations, particularly when authority to do so is conferred in a governing statute or executive order, as is the case with the War Relocation Authority. The only question that could possibly be raised would be as to the sufficiency of official control over the Judicial Commission in its performance of the functions administratively assigned to it.

"For one thing, the Judicial Commission is empowered to deal only with minor disciplinary matters. It can deal only with alleged violations of law and order regulations prescribed by the Community Council, and the Council is expressly denied the power to prescribe regulations to govern disciplinary breaches serious enough to constitute felonies under the laws of the state in which the project is located. As to such serious breaches of order, the Project Director is required to deliver the offender over to state and local officials for prosecution. It is characteristic of disciplinary systems in schools and other public institutions that major offenses are referred to the regular agencies of law enforcement, and that only minor offenses are handled within the institution....."

PART II
CHARTER PROVISIONS

The limitation of the powers of the Judicial Commission is expressly set forth in the Charter, as well as providing for the details of establishment, membership, tenure of office, recall, procedure, and communication to the Project Director for review. The following Charter provisions prescribe the powers and functions of the Judicial Commission:

1. ARTICLE III, JUDICIAL COMMISSION:

Sec. 1. Creation of Judicial Commission:

The Judicial power of the community self-government shall be vested in a Judicial Commission, and in such inferior offices as the Community Council may from time to time establish.

Sec. 2. Appointment of Judicial Commission:

Members of the Judicial Commission shall be appointed by the Community Council, with the consultation of the Advisory Board, from a list of qualified persons recommended by a special committee of the Community Council, or from the Community at large; and in addition thereto, the Community Council shall appoint an official Interpreter for the Judicial Commission.

Sec. 3. Membership and Hearing of Cases:

There shall be at least five persons appointed to the Judicial Commission, at least three of whom shall sit in the hearing of all cases brought before the commission.

Sec. 4. Tenure of Office:

Members of the Judicial Commission shall hold office during good behavior, until recalled as herein provided.

Sec. 5. Recall:

A recall of a member of the Judicial Commission shall be initiated by a petition of the people containing the signatures of at least ten per centum (10%) of the duly registered, qualified electors of the community, and the recall shall become final upon the affirmative vote of two-thirds ($\frac{2}{3}$) of the total votes cast by the duly registered, qualified electors voting at a special election. The petition papers shall conform to the requirements of the pertinent

sections enumerating the requirements and procedure of filing petitions in Article VI.

Sec. 6. Powers:

The Judicial Commission shall hear all cases and apply penalties for the violation of law and order regulations prescribed by the Community Council, shall render opinions as to the interpretations of ordinances and legislation passed by the Community Council and of sections of this Charter upon application by a duly authorized officer or member of the Community Self-Government, and shall pass upon the validity of registration or the eligibility of nominees upon proper application.

Sec. 7. Procedure: Violation of Law and Order Regulations:

After due notice and appropriate hearing, the Judicial Commission shall, upon two-thirds (2/3) majority, render a decision finding the defendant either guilty or not guilty, and stating the penalty to be applied. Such decision shall at once be communicated by the Clerk of the Court to the Project Director for review. If the Project Director shall have taken no action by the expiration of twenty-four hours, after the Judicial Commission's decision has been submitted to him, such decision shall become final. The Project Director may affirm the decision and order the penalty to be carried out, or may remand the case to the Judicial Commission with his recommendations. Where the Project Director has remanded a case within the required twenty-four hours, he may submit his recommendations within a reasonable time thereafter. Upon such remand, the Commission shall further consider the case and enter such judgment as may seem appropriate. Such judgment shall also be subject to review by the Project Director in accordance with the provisions of this section.

Sec. 8. Rights of Defendant: Presentation of Cases:

The defendant, in all cases heard by the Judicial Commission, for violation of law and order regulations, shall have an opportunity to be heard, the right to be represented before the commission, and shall not be convicted unless upon the testimony of at least one witness to an overt act, or a confession in open court. Further, the Community Council shall establish or prescribe an agency where the defendant shall have ready access to assistance with regard to his case. The Community Council shall prescribe for the presentation of cases by an officer of the court.

Sec. 9. Clerk of the Court:

The Community Clerk shall be the Clerk of the Court, and shall be responsible for all records of the Judicial Commission and shall perform such other duties as may be required of him by the Judicial Commission of this Charter.

Sec. 10. Code of Offenses and Punishment; Manual on Judicial Commission.

The Community Council shall prescribe by ordinance a separate code of offenses and prescribe the punishment and penalties therefor. Further, the Community Council shall prescribe such other procedural rules and regulations as may be necessary or

proper, and shall cause to be compiled in a "Manual on Judicial Commission" all ordinances, rules and regulations, including pertinent portions of this Charter, pertaining to the Judicial Commission.

2. ARTICLE V, NOMINATIONS AND ELECTIONS

Section 4. Registration of Electors:

Clause 2. Procedure of Registration:

- (7) Question of Validity of Registration: The validity of any registration shall be presumed unless questioned in formal writing by any member of the community filed with the Community Clerk. In case of question, the validity of any registration shall be determined by the Judicial Commission.

Section 8. Challenges of Eligibility of Nominees:

Any person questioning the eligibility of any nominee for any public office shall file a formal challenge of the eligibility of such person with the Community Clerk, and stating in writing his reasons therefor. Within three days of such formal challenge the Judicial Commission shall determine the validity of such challenge, and the decision of the Judicial Commission in this regard shall be final.

PART III

CODE OF OFFENSES AND PENALTIES

(***Note: Necessary pages to be inserted incorporating the codification of offenses and penalties as prescribed by ordinance by the Community Council.)

(Codification of Offenses and Penalties to be inserted)

PART IV
OUTLINE PLAN OF OPERATION

The fundamental rules of procedure and the basic limitations of power, provided for by the Charter and the War Relocation Authority regulations, conformity with which is mandatory, for the functioning of the Judicial Commission are herein contained in outline form for a total comprehension of the plan of operation of this Commission. The technical procedural matters, particularly with regard to matters of precise detail, shall be left to the discretion of the Judicial Commission, but other broad supplementary rules of the operation of the Commission, not in conflict with the basic requirements of the Charter or the W.R.A. regulations, are herein and shall be hereafter promulgated, upon the recommendations of the Judicial Commission.

I. ORGANIZATION OF JUDICIAL COMMISSION:

A. Authorization for Establishment:

1. Administrative Instruction No. 34, supra
2. Manual on Community Government, 6-1362-BU-COS-WP, supra
3. Opinion of the Solicitor, No. 32, supra.

B. Composition of:

1. Membership: 5 Judicial Commissioners
2. Selection:

Appointed by the Community Council
With Consultation of Advisory Board

Selected from: list of qualified persons recommended
by special committee of Council
or from community at large.

3. Tenure of Office:

Indefinite term during good behavior, until recalled.

4. Recall:

- a. Initiated by petition of 10% of electors
- b. Recalled by 2/3 vote of electors

5. Officers:

a. Chairman of the Judicial Commission:

Chosen by Judicial Commission, and acts as the titular head of the Judicial Commission

b. Official Interpreter:

Appointed by Community Council, and acts on application of any person with authorization of Chairman of Judicial Commission

c. Clerk of the Court:

Community Clerk acts as Clerk of the Court.

d. Officers of the Court:

Appointed by Community Council, with recommendation of Judicial Commission; will present cases before the Judicial Commission.

II. POWERS AND FUNCTIONS OF JUDICIAL COMMISSION

A. Violation of Law and Order Regulations:

- 1. Power to find defendant guilty or not guilty
- 2. Power to prescribe punishments within limits set by Community Council.
- 3. Limitation of Power--decisions subject to review by Project Director.

B. Interpretation of Ordinance or Charter:

- 1. Power to render opinions with regard to matters of interpretation.
- 2. Application by duly authorized officer of Community Self-Government.

C. Validity of Registrations and Eligibility of Nominees:

1. Power to decide validity of registrations.
2. Power to decide eligibility of nominees.

D. Validity of Acts of Community Council or Officers:

1. Implied power to hold acts of the Community Council or other officers of the government invalid as contrary to the Charter or W.R.A. regulations.
2. Express power to review acts by the Community Clerk with regard to registration of electors.

III. GENERAL RULES:

A. Hearings of Judicial Commission:

1. Number of Commissioners to hear Cases:

- a. Not less than three
- b. Method of rotation to be worked out by Judicial Commission

2. Hearings to be heard by Commissioners en banc, and not tried by jury.

3. Hearings to be public.

B. Decisions:

1. Two-thirds majority sufficient to render decisions.

2. Dissent has right to file minority opinion with Clerk of the Court.

C. Appeals:

1. All decisions involving criminal cases shall be subject to review by the Project Director.

2. In all other cases enumerated above, the decision of the Judicial Commission to be final.

D. Subpoenas:

1. Of witnesses: Upon proper application and upon authorization by the Chairman of the Judicial Commission, the Clerk of the Court shall issue subpoenas in the name of the Community, requesting the attendance of witnesses in all judicial hearings.

2. Of public records: Upon proper application and upon authorization by the Chairman of the Judicial Commission, the Clerk of the Court shall issue subpoenas in the name of the Community, requiring the production of public records in all judicial hearings.

IV. CASES OF VIOLATION OF LAW AND ORDER REGULATIONS:

A. Institution of proceedings:

1. Indictments to be filed: In cases of violation of law and order regulations, any complaining officer or person or persons may file with the Clerk of the Court, an Indictment on forms provided by the Clerk.
2. Commission to decide whether sufficient ground for hearing: The Judicial Commission in an informal meeting shall determine whether or not the case should be docketed for a formal hearing.

B. Time of Hearing:

1. If case to be formally heard: The Chairman of the Commission, after consultation with the members of the Commission, shall notify the Clerk of the Court of the day, time and place of the formal hearing.
2. Notification of parties involved: The Clerk of the Court shall forthwith notify in writing all parties involved, including the complaining officer or person or persons.
3. Time allowed Defendant: Such date of hearing must allow the defendant at least 10 days period from the date of notification of the defendant by the Clerk of the Court.

C. Hearing of Cases:

1. Commissioners en banc to hear case: At least three commissioners sitting en banc, selected according to the decision of the Commission, shall hear all criminal cases. No trial by jury shall be had.
2. Interpreter: Upon request of the party involved as defendant, the Chairman of the Commission must require the presence of the Official Interpreter.
3. Witnesses: The defendant shall be entitled to produce as many witnesses as he desires, provided their testimony is pertinent, material, germane, competent

to the hearing.

4. Presentation of Cases: The Chairman of the Commission, upon authorization by the Community Council, shall appoint in each individual case, an officer of the court, who may be the complainant, to present the case before the Commission.
5. Rules of Evidence: The Judicial Commission shall pass on the admissibility of evidence and the introduction of the testimony of witnesses.

D. Rights of the Defendant:

1. Prior to the time of hearing, the defendant shall have access to assistance from a representative of the Legal Aid Department, Social Service Department, or not more than three personal representatives or advisors, other than the members of his immediate family.
2. Opportunity to be heard: The defendant shall have an opportunity to be heard, and the privilege of giving the final closing argument, either in person or by his representative, before the case is taken under advisement by the Judicial Commission for decision.
3. Right to be represented: The defendant shall have the right to be represented at the hearing of the Judicial Commission, and such representative may act in the same capacity as the defendant in the protection of the rights of the defendant.
4. Witness to Crime Required: The defendant shall not be convicted unless upon the testimony of at least one witness to an overt act in violation of the law and order regulations, or a confession in open court.

E. Decisions of the Judicial Commission:

1. Vote Necessary to Convict: Two-thirds majority shall be required to either convict or acquit the defendant and prescribe the penalty applicable in any criminal case.
2. Opinions to be written and filed: Both the majority and minority dissenting opinions shall be written and filed with the Clerk of the Court.
3. Communication of Decision to Project Director: The Clerk of the Court shall forthwith communicate the decision of the majority to the Project Director, who shall within twenty-four hours affirm the decision or remand the case.

4. If remanded: If the case is remanded by the Project Director, his recommendations may be filed at any reasonable time thereafter. The Judicial Commission shall reconsider the case, and may provide for a new hearing. The Judicial Commission shall render a new decision upon such remand with or without regard to the recommendations of the Project Director, and such decision shall be subject to the provisions set forth above.
5. If the case is not remanded by the Project Director within twenty-four hours, the decision shall become final.

V.. INTERPRETATION OF ORDINANCE OR CHARTER:

A. Institution of Hearings:

1. Upon formal application by any member of the community, and upon approval by the Judicial Commission sitting in an informal meeting, matters of interpretation of ordinances or of the Charter may be brought for a hearing before the Judicial Commission.
2. Any member of the Community Council, or any officer of the Community Self-Government expressly authorized by the Community Council, may bring matters of interpretation of ordinances or of the Charter for a hearing before the Judicial Commission.

B. Opinions:

1. The Judicial Commission shall proceed to hold public hearings, if deemed necessary, including the hearing of expert testimony subpoenaed by the Judicial Commission, to determine the circumstances involved.
2. Within a reasonable time after such hearings, the Judicial Commission shall submit written opinions, filed with the Clerk of the Court.

VI. VALIDITY OF REGISTRATIONS OR ELIGIBILITY OF NOMINEES:

A. Institution of Hearings:

1. Upon filing of formal applications for hearings with the Clerk of the Court, the Judicial Commission shall proceed to hear cases involving the validity of registrations or the eligibility of nominees.
2. Hearings: The complainant, the party challenged, or any member of the Judicial Commission may request

the introduction of testimony and evidence.

B. Decision:

1. The decision of the Judicial Commission shall be handed down within 72 hours after such case has been submitted to the Judicial Commission for hearing.
2. The decision of the Judicial Commission in this matter shall be final, and the action ordered by the Judicial Commission shall be forthwith carried out by the officers of the Community Self-Government.

VII. VALIDITY OF ACTS OF COMMUNITY COUNCIL OR OFFICERS:

The Judicial Commission shall be further empowered to render judgments upon the validity of the acts of the Community Council or Officers of the Community Self-Government, upon proper application to the Clerk of the Court, and after due notice and public hearing.