

Pending Committee Approval
Law, Rules and Ethics Committee
Minutes
June 12, 2023

1. Meeting called to order 7:03 pm

2. Welcome to committee members and guests.

Attendance – Present (3): Sylvia Alexander, David Gellman, Martin Wolpoff (Chair)

Absent (1): Steve Froot

Guests (2): Bob Bender, Omar Murray

3. Approval of amended minutes

- a. Error in transmitting section from EGM
- b. Editorial suggestions – Steve Froot

Approved (3): Sylvia Alexander, David Gellman, Martin Wolpoff

Against (0):

4. Chairs Report

- a. It is understood that the Mayor’s Executive Order permitting on-line meetings is set to expire. The June Board meeting will be held at the College of Mt. Saint Vincent. As a result, the Board’s “Procedures” for hybrid meetings will be going into effect. Looking forward to the meeting Notice.
- b. Introducing items under “New Business” – If returned to this chair position at the June officer/chairs elections, a new rule will be imposed calling for any “New Business” requested to be added to the agenda will be allowed based on three criteria:
 - i. The chair is advised in advance so that any necessary preparations can be made.
 - ii. The item to be introduced is intended for future discussion.
 - iii. The item has a sense of urgency that requires immediate action.

c. Ethical Guidance Manual

- i. Ethical Guidance Manual (EGM): The committee took up from last month’s concerns about possible conflict within the EGM or the inability to carry out its requirements. Specifically, (EGM) Part II, Section 4:
The Committee is available on an open or confidential basis, for information or advice to any appointed Board member, or any community committee member upon approval of the Chair. The Committee is obliged to inform the Board of official reports, decisions and advice provided for guidance of Community Boards. The Committee maintains a reference file of such information for the benefit of Board and community members.

ii. Possible Contradictions

1. “on an open or confidential basis”?
2. “information or advice to any appointed Board member, or any community committee member upon approval of the Chair.”
3. “The Committee maintains a reference file of such information for the benefit of Board and community members”.

III. Concerns raised by Dr. Tepelus:

1. Whether or not this EGM provision conflicts with prior or current practice
2. If in conflict with prior or current practices, how to amend the provision
3. If in conflict with prior or current practice, how to change the practice.
4. Personal attacks on chair’s qualifications to serve.

iv. The chair offered the following response:

Whether publicly announced or not, the chair has been approached by Board members concerning a wide range of inquiries (Can I vote?, parliamentary procedures, past practices, interpretation of bylaws, establishing “Procedures” for hybrid meetings, public announcement session for meetings when there is an anticipated executive session, policies for naming streets and/or parts of parks for individuals or buildings, amendments to the bylaws or the Ethical Guidance Manual, etc.). The chair does not maintain a folder of inquiries or responses. Not all items required a committee decision. The chair is not aware of any CB 8 repository maintained by his predecessors. If this refers to Findings and/or Settlements from COIB that are discussed at LRE meetings when issued from COIB, the full history is available from our minutes or the COIB

website. In all cases, the chair has offered his best judgement, brought the issue to the committee and then the Board **AND**, when appropriate, has recommended contacting COIB. Quoted directly from COIB documents: "**COIB is the independent, non-mayoral City agency charged with interpreting, administering, and enforcing the City's Conflicts of Interest Law, Annual Disclosure Law, Lobbyist Gift Law, Affiliated Not-for-Profits Law, and Legal Defense Trusts Law.**"

If the committee is requested to take up a controversial issue and/or needs to convene an ethics or disciplinary committee, it is done so **AFTER** there is a formal request **IN WRITING**. In the issue that prompted this discussion, no Board member or community committee member filed a written complaint. Members of the public with concerns were advised to contact COIB directly. Again, in this instance, the person about whom there was concern, founded or not, was advised to contact COIB directly. I recall an incident this year when I rose to advise a Board member that he/she had a conflict and needed to declare "Present not eligible to vote." What I have not done, and perhaps should have, was call out members who I felt were crossing the line on civility. Note: The committee has shared with the Board a statement on civility.

- v. Discussion
 - 1. Whether or not this EGM provision conflicts with prior or current practice.
 - 2. If in conflict with prior or current practices, how to amend the provision.
 - 3. If in conflict with prior or current practice, how to change the practice.
- vi. Committee decided that the EGM should remain untouched, the chair has the prerogative to keep an inquiry confidential or open for committee/Board decision making, all Findings and/or Settlements from COIB are discussed at LRE meetings in the months they become available while all Findings and/or Settlements are catalogued on the COIB website.

d. **FYI - The Budget Committee**

On Wed, Jun 7, 2023, at 8:29 PM EDT, J.R. emailed:

Article VI
Committees

Sec. 7 – The following provisions shall apply to specific committees:

1. *Budget Committee –*

The membership of the Budget Committee shall be limited to the elected Chairperson of the committee, those officers of the Board designated by the Board Chairperson to sit on the committee, and the Chairpersons of the following committees: Aging; Economic Development; Education, Libraries and Cultural Affairs; Environment and Sanitation; Health, Hospitals and Social Services; Housing; Parks and Recreation; Public Safety; Traffic and Transportation; and Youth Services. Membership on the Budget Committee, other than that of the elected Chairperson, shall not constitute committee participation for the purpose of fulfilling an Appointed Member's obligation to serve on two committees.

Email response to J.R. from chair

Thank you for the reference.

I think Rosemary was correct when she pointed out that the Exec, working with the chairs of the board, along with the board chair and budget chair make up the budget committee, with the input from the DM.

What troubles me is the seeming underlying belief that we control a pile of monies that we distribute. In fact, this wish list is superseded by the mayor's overall directions to his commissioners and the commissioners' own priorities. An item may appear over and over as the same top ten items, but if the agency doesn't want the item, it will be ignored 10 times. And, if an item is listed as number 101, and the agency wants to go for it then it shall make the budget. This was always a political document to express our community's priorities for public consumption. David's point that it reflects support for the needs across the whole of the community is valid.

- e. Statement for anticipated Executive Sessions – The issue of whether a public notice of a meeting can anticipate going into executive session was discussed. At issue was the holding of Exec Sessions when the sole purpose was for interviews of candidates for employment. COOG was adamant in its position that one cannot enter an Exec Session unless there is a public opening and public vote. However, there are AO's that suggest that a statement of an anticipated vote may be included. The chair shared the statement that was used and asked for comment. During the month he received two suggestions:

1. Statement that was used by the District Manager search committee: "Please see the attached and below notice for a meeting of the BxCB8 District Manager Search Committee. Kindly note that after the committee roll call is taken, a motion to go into executive session will be made. It is anticipated that the motion will pass. In that event the interview will be conducted in executive session and there will be no participation by members of the public or anyone other than the members of the committee."

2. Suggestion from Steve Froot - "Please see the attached and below notice for a meeting of the BxCB8 District Manager Search Committee. Kindly note that the Search Committee anticipates that after the committee roll call is taken, a motion to go into executive session will be introduced. In that event that the motion should pass, the interview will be conducted in executive session and there will be no participation by members of the public or anyone other than the members of the Search Committee."

3. Suggestion from David Gellman - "Kindly note that due to privacy and current employment considerations for the candidates, under the rules of the Open Meetings Law (OML) we typically go into Executive Session, and *After committee roll call is taken...."

With the belief and understanding that we will not need such a statement until some future time, it was suggested that the chair synthesize the three and offer a draft for the September meeting.

4. Community Board 8 Code of Conduct

The following memo was sent to the Members of LRE:

In anticipation of our meeting on Monday, I offer the following for our collective consideration. Those who were appointed/reappointed to the Board in this last go round have seen and signed a Code of Conduct issued by the Borough President. I have taken the liberty of making slight modifications so that it might be used as the CB 8 code. The major change is ensuring that it also focuses on members of the community who participate in our meetings (although this has never been a problem). For our meeting, I would like to discuss this draft or any other ideas any of you wish to put forward.

When/If we agree on a code, the question becomes where it should appear, any or all the following:

- 1. Become part of our meeting public notices*
- 2. Read before every meeting,*
- 3. Become part of the Ethical Guidance Manual and/or the Board's Procedures Manual*

While I hope to bring something to the June Board meeting, I don't think we should ask for a vote until September.

*See you on Monday,
Marty*

Draft Code modeled after the Code established by the Bronx Borough President

BRONX COMMUNITY BOARD 8 CODE OF CONDUCT

For all Community Board 8, Bronx meetings Board members and community participants shall always conduct themselves in a professional and courteous manner, whether in-person, virtually, or via social media. They shall treat their fellow Members, members of the public, and staff with respect and dignity, and avoid using language or exhibiting behavior that is disrespectful, discriminatory, or harassing.

Board Members and community participants may be removed from any meeting at any time for cause at the sole discretion of the community board chair or a committee chair at a committee meeting or hearing. Cause may include, but is not limited to, failure to adhere to this Code of Conduct.

It was agreed to consider the draft over the summer and then be able to share it with the executive board and then the full Board in September. The chair will make a general announcement at the June Board meeting.

1. Latest from COIB

FOR IMMEDIATE RELEASE: March 15, 2023

CONTACT: Jeffrey Tremblay at tremblay@coib.nyc.gov or (212) 437-0740

The New York City Conflicts of Interest Board (the "Board") announces two settlements.

Misuse of City Resources. In 2018, a Supervising Special Officer at the New York City Department of Citywide Administrative Services ("DCAS") was given a parking placard by the Queens Borough President's Office ("QBPO") to park her personal vehicle near Queens Borough Hall, where she was assigned to work. In January 2020, the Supervising Special Officer was assigned to work at 1 Centre Street in Manhattan, **and on at least two occasions she used the QBPO parking placard to park her personal vehicle near 1 Centre Street to avoid incurring parking fees. To resolve her misuse of a City resource, the Supervising Special Officer agreed to a three-way settlement with the Board and DCAS in which she would serve a DCAS-imposed eight-day suspension, valued at approximately \$1,975.** The disposition is attached as "COIB-DCAS Disposition."

Misuse of City Time. An Associate Housing Inspector for the New York City Department of Housing Preservation and Development ("HPD") moonlights as an Uber driver. **In March 2020, the Associate Housing Inspector completed two Uber rides at times he was required to be performing work for HPD. To resolve his misuse of City time, the Associate Housing Inspector agreed to a three-way settlement with the Board and HPD in which he would pay a \$250 fine to the Board and serve an HPD-imposed one-day suspension, valued at approximately \$269.** The disposition is attached as "COIB-HPD Disposition."

FOR IMMEDIATE RELEASE: May 26, 2023

CONTACT: Jeffrey Tremblay at tremblay@coib.nyc.gov or (212) 437-0740

The New York City Conflicts of Interest Board (the "Board") announces three joint settlements with the New York City Department of Education ("DOE").

Superior-Subordinate Financial Relationship. In 2017, a Payroll Secretary asked an Assistant Principal, who also had a real estate company, if he could perform work for the company under the Assistant Principal's real estate license. The Assistant Principal agreed. In February 2020, the Assistant Principal was promoted to Principal, in which role he supervised the Payroll Secretary. **In November 2020, the Principal paid the Payroll Secretary a \$10,000 commission for selling a house. City Charter § 2604(b)(14) prohibits public servants from entering into financial relationships with their superiors or subordinates. The Principal agreed to pay a \$1,500 fine to the Board, and the Payroll Secretary agreed to pay a \$1,000 fine to the Board.** The Dispositions are attached as "COIB-DOE Disposition 1" and "COIB-DOE Disposition 2."

Misuse of City Position. An Assistant Principal asked a subordinate teacher to co-sign a college loan for the Assistant Principal's daughter. When the teacher did not agree to do so, the Assistant Principal sent a text message to the teacher "begging" her to cosign the loan. The teacher again declined. **By asking a subordinate to co-sign a loan, the Assistant Principal attempted to use his City position for personal gain in violation of City Charter § 2604(b)(3). The Assistant Principal agreed to pay a \$1,250 fine to the Board.** The Disposition is attached as "COIB-DOE Disposition 3."

5. Spreadsheet – Had been distributed to LRE committee members and the members of the executive committee. The chair requested feedback on the perceived value of this exercise and how the spreadsheet might best serve the interests of the various committees.
6. Old Business – Appreciation expressed to Dan Padernacht for his service on this committee and congratulations on his marriage.
7. New Business - None
8. Meeting adjourned 8:20 pm - Next meeting – Sept 11, 2023 – In person?