

Pending Committee Approval
Law Rules and Ethics Committee
November 8, 2021
Minutes

1. Attendance

Committee Members Present: (9): Martin Wolpoff, Chair, Dan Padernacht, Vice-Chair, Sylvia Alexander, Paul Ellis, Steve Froot, David Gellman, Lisa Daub, Rosemary Ginty, Omar Murray

Committee Members Absent (2): Kelli Buford, Louis Lopez

Guests (3): Aliyah Schneider (Bronx Times), Michael Hinman (Riverdale Press), Julie Reyes

2. Approval of October 2021 minutes

Approved unanimously

3. Chair's report

- a. Quorum Requirements – Chair noted a conflict in our bylaws that define quorum to be appointed members, but later notes that can committee community members (CCM) count to the quorum. Although the vote of CCMs are counted in vote tallies, CCMs do not count to the quorum. Chair had offered the suggested language for a bylaws amendment he had circulated. However, it was pointed out that he had offered an incorrect citation. The item was tabled until next month when the correct section could be circulated and discussed.
- b. Chair announced that the Governor had signed two legislative bills which amended the Open Meetings Law (OML). One deals specifically with the MTA, The other requires Community Boards, and other public bodies, to make public documents to be considered at least 24 hours in advance of meetings. Please find the following: A) the initial State press release, B) a copy of the inquiry the Chair sent to the Committee on Open Meetings (COOG) and C) COOG's Advisory Opinion.

A) *Making Documents Available Prior to Open Meetings (S.1150-A/A.1228-*

This legislation makes documents to be discussed at open meetings available to the public at least 24 hours in advance of the meeting. The Open Meetings Law is intended to empower the public through the accessibility of meetings of public bodies. The law requires them to make available to the public relevant documents, such as any proposed rule, regulation, or resolution. However, the current law only requires documents to be made available prior to meetings "as determined by the agency or department." This standard has resulted in some government bodies failing to make materials available in advance of meetings, reducing transparency. This legislation requires any proposed resolution, law, rule, regulation, policy, or amendment to be made available upon request and to be posted to the body's website at least 24 hours in advance of their discussion at an open meeting, giving the public access to these important documents in advance.

- B) I am in possession of the press release concerning the Governor's signing of two amendments to the Open Meetings Law. What is of concern to Community Board 8, Bronx, and my committee, is how to interpret the amendment concerning the 24-hour public notice for resolutions to be discussed at any of our public meetings.

While we fully understand and support the purpose and intent of OML and the amendments, several questions immediately come to mind concerning one of them. I request some clarification if possible.

What are the constraints if a resolution arises during a public meeting?

What are the constraints if a resolution, either pre-posted or arising during a public meeting, requires wordsmithing prior to the next meeting or presentation for approval at the full Board meeting?

We have committee meetings on almost all calendar days, with the Executive committee meeting on the first Wednesday and the full Board meeting on the second Tuesday. Our practice is for all prepared resolutions to be brought before the Exec that can play wordsmith, recommend the resolution move forward to the full Board, or recommend that the resolution go back to committee. On some occasions, a committee, including mine, meets a day before the Exec or full Board. A proposed resolution previously posted which is acted upon the night or two nights before the Exec or full Board may require amending or rewriting with additional or modified content. Thus, the 24-hour posting may not be available. Can the resolution be considered or must it be recycled, even if there is a sense of urgency or a State/City clock requiring a timely response?

On the other hand, if the posted resolution requires reworking, and the time does not permit for 24-hour notice of the amended resolution, can a new resolution, regardless of its length, be made from the floor?

Thank you for your assistance.

- C) This is in response to your November 4th inquiry regarding the amendment to Section 103(e) of the Open Meetings Law, which requires public bodies to make records scheduled to be discussed at the meeting available, “to the extent practicable at least twenty-four hours prior to the meeting during which the records will be discussed.”

The bill maintains the existing “to the extent practicable” language, which makes any mandate (such as posting 24 hours before a meeting) therein subject to that practicability limitation. In other words, if circumstances, such as the need for ‘wordsmithing’ as noted in your message, prevent posting the document twenty-four hours prior to the meeting, the law accommodates this through the “to extent practicable” language.

We hope this is helpful.

Jake Forken
Excelsior Fellow

4. Discussion of a resolution concerning midterm elections

Standard procedure has been that when a vacancy arises midterm for an officer or committee chair, the office advises the full board and invites self-nominations. At some point the office announces who has self-nominated. The election for the successor must take place at the second full board meeting following the notice of vacancy. The question was that, in the absence of a fixed calendar, public announcements of self-nominees could “chill” further interest from others. Prior to the meeting, chair offered a suggestion for amending the bylaws. The committee felt that the change should be in the

Ethical Guidance Manual. Not the bylaws and that Board members be given 10 days following the announcement to self-nominate before such nominee(s) are publicized. Chair will bring new wording to the next meeting. There was a general sense that we found a “cure” for an illness that doesn’t exist.

5. Open Meetings Law

Committee reviewed OML and pointed out several areas for which the Board needs to tighten its practices.

- A. Knowing that community input may be essential for a committee to evaluate a pending issue, the Board needs to establish consistent rules for public participation at committee and public meetings; including sign-ups, raised hands, time allotted both for all speakers and individual speakers, fixed time limits for meetings, etc. Chair will draft something for the next meeting.
- B. We need to establish protocols for the term “wordsmithing.”
 - a. First, if “practicable,” the public needs to be made aware of a pending resolution at least 24 hours prior to consideration of a resolution. If the committee adopts, reworks or substitutes the resolution, a vote, of at least a majority, must be taken.
 - b. If the resolution requires reworking, the chair, or a designee, may solicit input from committee members for input, but may not convene a meeting of the majority of committee members which would constitute a “public meeting” requiring public notice and attendance.
 - c. If, as a result of discussion at the executive committee or other unanticipated event, the resolution is changed so that it no longer reflects what the committee voted for, a committee chair can withdraw the resolution for further committee review, or offer the new resolution from the floor as a personal resolution requiring a second.
- C. We reviewed how, when and under what conditions a committee may go into executive session,

6. **Bylaws concerning special committee memberships** This item was to be discussed time permitting. It was laid over to the December meeting

7. **Meeting adjourned 8:58 Pm**

8. **Next Meeting – December 13, 2021**

Respectfully submitted.

Martin Wolpoff,
Chair

Note: On the day after the Committee meeting, the Board received a communication from COOG. It addresses getting out Committee, full Board and Executive session minutes. It also addresses the Legislation signed by the Governor extending the ability to hold Zoom meetings, but without a sunset date. These two issues will be discussed at the December meeting.

On October 19, 2021, the Governor signed into law Chapter 481 of the Laws of 2021 which amends § 103(e) of the Open Meetings Law to require that records to be discussed at a meeting be made available, to the extent practicable, upon request and posted online, at least 24-hours before the meeting. The obligation to make records available to the public upon request “prior to or at the meeting” and to post the records on the agency or public body website “prior to the meeting” has been in effect since February 2012. This amendment simply places a 24-hour minimum time frame for making those records available. On November 8, 2021, the Governor signed into law Chapter 587 of the Laws of 2021 which amends the Open Meetings Law to require agencies that maintain a website and use a high-speed internet connection to post meeting minutes on its website within two weeks of the date of the date of the meeting, or within

one week of an executive session. It further states: “unabridged video recordings or unabridged audio recordings or unabridged written transcripts may be deemed to be meeting minutes. Nothing in this section shall require the creation of minutes if the public body would not otherwise take them.”

Changes to Open Meetings Law can be found [here](#).