

Pending Committee Approval
Law, Rules and Ethics
January 10, 2022
Minutes

1. Attendance:

Present (11): Martin Wolpoff, Chair, Dan Padernacht, Vice-Chair, Sylvia Alexander, Kelli Buford, Lisa Daub, Paul Ellis, Steve Froot, David Gellman, Rosemary Ginty, Omar Murray

Absent (0):

Guest (3): Margaret Della (Community Board 8 member, Karen Argenti, Araceli F. Link

2. Approval of minutes

Correction – Add Guests Camelia Tepelus (Community Board 8 member) and Tania O. to attendance

3. Chair's report

- a. Louis Lopez has resigned from the committee and the Board
- b. OML Sunsets on 1/15/2022. Awaiting legislative action
- c. Resolution for Community Board

Although in November and December, the committee discussed amending the Ethical Guidance Manual to include procedures for filling midterm vacancies in officer or chair position, there was never a recorded vote. The following wording was offered to the Exec Committee last week and, hopefully, will be presented to the full Board tomorrow night.

WHEREAS the LRE committee seeks to establish a protocol for filling midterm vacancies caused by the death, resignation or termination of a Board officer or committee chair and

WHEREAS LRE seeks to minimize the possibility of a chilling effect caused by the premature announcement of the names of Board members interested in seeking to fill such vacancy,

THEREFORE, BE IT RESOLVED that Community Board No. 8, Bronx approves the following language to be included in the Board's Ethical Guidance Manual:

Upon the vacancy of any Officer or elected Committee Chair position as the result of death, resignation or termination, the expression of interest by any community board member in seeking election to the position will not be made public before 10 days after the effective date of such vacancy. Expressions of interest may be submitted at any time up to the time of the election to fill such vacancy. A vote to fill such vacancy shall be taken not later than at the second regular meeting following the creation of the vacancy. At the election to fill the vacancy, all nominations will be made from the floor.

Vote: In favor (9): Martin Wolpoff, Dan Padernacht, Sylvia Alexander, Kelli Buford, Lisa Daub, Paul Ellis, Steve Froot, David Gellman, Omar Murray

Against (0):

Abstention (1): Rosemary Ginty

D. Is 10-day notice a requirement? – Chair pointed out that resolution does not require Board chair to make any announcement.

E. Public notice of resolutions

Chair sought to clarify that OML requires 24-hour notice of resolutions, “if practicable.” This comes into conflict with the need to obtain community input. Thus, if a resolution is presented in bare bones or there is notification that a resolution will probably emerge from committee deliberation, that should be sufficient provision of public notice. Absence of public notice doesn’t prevent a committee from developing a resolution from the floor.

- F. Chair apologized for any confusion created by the intent to give the Education Committee authorization concerning resolution on behalf of the Community Board. Wording passed by full Board at December meeting:

Be it Resolved, that the Education committee be authorized to speak on behalf of the Board on the matter of the School Construction building on the Visitation site at its committee meeting on December 21st. and that all Board members in attendance may participate and vote.

The ELCA committee met, had a quorum of committee members, and was attended by several other Board members who participated in the discussion and from whom a poll was taken. The committee fine-tuned a resolution, took a vote and forwarded the resolution to the SCA. A discussion ensued as to whether a Board vote would be required.

- G. Establishing Rules for public participation at Committee/Board Meetings – committee discussed the need for rules and the question of the necessity for such rules to be uniformly applied. The item was laid over with the request the committee members offer suggestions. It was also felt that, in addition to rules, there needs to be a set of overriding principals.

- i. Conditions under which members of the public may speak
 1. Conditions under which non-committee Board members may speak
 2. Time limits for debate in total or on specific items
 3. Establish a schedule of order categories for speakers
 4. When can elected officials be invited to speak?
 5. Establish time limits for categories of speakers
 6. Can speakers be limited to specific items?
 7. Can time limits be modified or ended

H. COIB –

- A. Information from the COIB - Two COIB dispositions were discussed
- B. Lynch v. NYC Civilian Complaint Review Bd

Sergio Villaverde forwarded to the chair a report on the PBA’s lawsuit filed with COIB challenging the Civilian Complaint Review Board’s new rules concerning its operations. The PBA complained that, for several months, prior to the public notice of a hearing and the enactment, the CCRB ended its public sessions by going into executive session without disclosing the purpose for secrecy or offering any minutes of discussions. The LRE Chair highlighted several quotes, among them:

- “Among other things, the court determined that while petitioners have established a series of Open Meeting Law violations based upon respondents’ negligent failure to properly describe their reasons for entering an executive session at the close of most meetings, petitioners failed to show any intentionally deceitful conduct on the part of respondents:
- “An unintentional failure to fully comply with the notice provisions required by this article shall not alone be grounds for invalidating any action taken at a meeting of a public body. The provisions of this article shall not affect the validity of the authorization, acquisition, execution or disposition of a bond issue or notes.
- Not all breaches of Public Officers Law §103(a) automatically trigger sanctions.”

- “Petitioners must also show good cause for relief, which turns on factors such as whether there is "obvious prejudice to plaintiffs as a result of defendants' intentional and deceitful conduct,"
- Said affidavit further established that at the January 13, 2021 executive session, that a few comments were made about the rule making process but that there was no discussion of the language of the rules.
- "to discuss a matter exempted from the Open Meetings Law, a public body need not follow the procedure imposed by §105(1) that relates to entry into an executive session."
- "Petitioners have not established any intentionally deceitful conduct on the part of Respondents. Petitioners specifically have not established prejudice to the Petitioners. LRE chair pondered how CB 8 seeks to adhere to the letter of the OML, If COOG were the adjudicating this matter, would the quotations cited been upheld.

I. New York City Council Spreadsheet- nothing yet posted

J. Old Business – None

K. New Business – None

L. Meeting adjourned 8:56 P.M. Next meeting – February 14, 2022

Respectfully submitted,
Martin Wolpoff. Chair