

Write This Down: The Basics of Conducting Meetings and Taking Minutes

The NYS Tug Hill Commission's
2025 Local Government Conference

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SPECIAL MEETING SCENARIO

A village trustee wants to hold a special meeting of the board of trustees, but the mayor refuses to schedule the meeting. Can the board of trustees conduct a special meeting without the mayor's approval? Can the board conduct a meeting if the mayor is unable to attend?



MANDATED BY STATE LAW The NYS Open Meetings Law Four Basic Requirements



MANDATED BY STATE LAW The NYS Open Meetings Law

1. **Notice** - Date, Time, Location, Name of Public Body
2. Opportunity for **Public to Attend & Observe** in Person
3. **Access to Records** - Proposed Local Laws, Resolutions, Policies + **FOI**able Records
4. Production of **Minutes**



MINUTES

What's Required by NYS Law?

- Each Member's Votes Must Be Recorded (OML § 106 & FOIL § 87(3)(a))
- Record Abstentions
- Record Absences
- Determine Whether a Matter Has Passed By Counting the "Yes" Votes - General Construction Law § 41)



MINUTES

What's Required by NYS Law?

- Public Body Only Takes Action by a **Majority of Fully-Constituted Board**
 - 7 Member Board: Only Takes Action If at Least 4 Yes Votes
 - 5 Member Board: Only Takes Action If at Least 3 Yes Votes



MANDATED BY STATE LAW

Voting

- Quorum
 - 50% of Public Body + 1
 - **Fully-Constituted Board**
 - General Construction Law § 41



MANDATED BY STATE LAW

Voting

- Takes Action
 - Majority Vote of **FULLY-CONSTITUTED** Board
 - Vacancies, Absences, Abstentions Do NOT Affect Majority Number
 - General Construction Law § 41



MANDATED BY STATE LAW

Voting

- Prohibition Against Binding Future/Successor Boards



PRESIDING OFFICER SCENARIO #1

The town supervisor, as presiding officer of the town board, declared that a motion that passed by a majority vote of the board was outside of the board's authority (an *ultra vires* act) and thus was invalid. What legal significance does this declaration have, if any?



BOARD MEMBER POWERS

Presiding Officer

- But See *People ex rel. Hayes v. Brush*, 110 A.D. 720, 722 (App. Div. 1906)
 - City Mayor Served as Common Council Presiding Officer, *ex officio*
 - Mayor Refused to Put Motion Before Council on Grounds that It Contemplated an *ultra vires* Action by the Common Council



BOARD MEMBER POWERS

Presiding Officer

- But See *People ex rel. Hayes v. Brush*, 110 A.D. 720, 722 (App. Div. 1906)
 - “None will dispute the general power of a presiding officer at the objection of a member of the body, or *sua sponte*, to pass upon the **question of the order of a motion under the rules of the body**, subject to its review upon appeal from his decision”



BOARD MEMBER POWERS

Presiding Officer

- But See *People ex rel. Hayes v. Brush*, 110 A.D. 720, 722 (App. Div. 1906)
 - “presiding officer could not declare the motion out of order and refuse to put it to a vote, on the ground that it contemplated action *ultra vires* the body”



PRESIDING OFFICER SCENARIO #2

The planning board chair declares that one of the other planning board members has a prohibited conflict of interest in an application before the board and has ruled that the member must abstain from deliberating and voting on the matter. Does the chair have this power?



MANDATED BY FEDERAL LAW

ADA

- Reasonable Accommodations
- Alternatives Acceptable to Provide Accessibility
- ADA Guide for Small Towns - www.ada.gov/smtown.htm
- https://www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm#a35149



A LOT IS NOT ADDRESSED BY STATE LAW

- Compelling Attendance of Members
- Agenda
- Presiding Officer Powers
- Scheduling Meetings - Regular & Special
- Public Comment/Participation
- Decorum



A LOT IS NOT ADDRESSED BY STATE LAW

**That is Why Locally-Adopted
Meeting Procedures are
Important!**



MEETING ATTENDANCE SCENARIO #1

A ZBA member has been diagnosed with cancer, has not attended the last five meetings of the ZBA and is not going to be able to attend meetings for the foreseeable future. What are the options for dealing with this situation?



MEETING ATTENDANCE SCENARIO #2

A recently elected member of the board of trustees attended the first meeting of the board seven months ago, but has not attended any other meeting since then. Can she be compelled to attend the meetings? Can she be removed from office?



MEETING PROCEDURES

Compelling Attendance of Members

- **State Law - Does Not Mandate Attendance**
- **Village Law § 4-412(2) Authorizes Boards to Compel Trustees to Attend Meetings**
- **Cities . . . ?**
- **Towns . . . ?**



MEETING PROCEDURES

Compelling Attendance of Members

- Is Failing to Attend Meetings a Violation of Oath of Office?
- Is Failing to Attend Meetings Grounds Remove Villages Officials Pursuant To Public Officers Law § 36?
- Removal of City Official?



MEETING PROCEDURES

Compelling Attendance of Members

- Alternative to Compelling Attendance or Removal from Office . . .

Tie Compensation to Attendance



MEETING AGENDAS SCENARIO #1

After a meeting has been scheduled and noticed, the supervisor wants to add something to the agenda the day of the meeting? A board member objects on the grounds that the agenda item should have been included in the meeting notice and thus cannot be added to the meeting.



MEETING AGENDAS SCENARIO #2

A council member wants to add an agenda item to the upcoming meeting of the city council, but the council president is refusing to have it added to the agenda.



MEETING PROCEDURES

Agenda

- First, What is an Agenda?



MEETING PROCEDURES

Agenda

- State Law Says . . . Almost Nothing
- OML Does NOT Mention “Agenda” At All. Not Even Once.
- New Website Requirement
 - General Municipal Law § 300
 - Must Post Agenda & Minutes As Required by the OML



MEETING PROCEDURES

Agenda

- Not Required to Have an Agenda
- Highly Recommended to Help Run Organized Meetings
- Should be Addressed in Rules of Procedure



MEETING PROCEDURES

Agenda

- Issues to be Address in Meeting Rules
 1. Who Prepares the Agenda
 2. How & When Items Can Be Added & Removed from the Agenda



MEETING PROCEDURES

Presiding Officer

- State Law Says . . . Very Little
 - Village Law § 4-400 - Mayor Presides a Meetings of Board of Trustees
 - Cities - Council President or Mayor Presides?



MEETING PROCEDURES

Presiding Officer

- Conflicts of Interest
 - Presiding Officer **Does Not Have Authority** to Make Determination Regarding a Member's Eligibility to Vote
 - Ensure Disclosure When Required (See GML § 809)



SPECIAL MEETINGS SCENARIO

A trustee wants to schedule a special meeting of the board, but the mayor is refusing to do so. Can the trustee schedule a special meeting notwithstanding the mayor's opposition?



MEETING PROCEDURES

Scheduling Meetings

- Regular Meetings - When
- Calling Special Meetings - Who & How
 - Who May Call? Mayor, Council President, Council Member or Trustee
 - When? 24/48 Hours in Advance, Provision for Emergencies
 - How Must Members be Notified?



PUBLIC COMMENT SCENARIO #1

The city council limits public comment to the specific items that are on the agenda. During discussion of a proposed zoning amendment, a member of the public starts commenting on the city's budget. The council president turns off the speaker's microphone.



PUBLIC COMMENT SCENARIO #2

A village board of trustees establishes a one minute time limit for comments on the budget. The first two speakers are allowed to speak for more than five minutes each. The third speaker, critical of the proposed salary increases for the village trustees is cutoff after one minute.



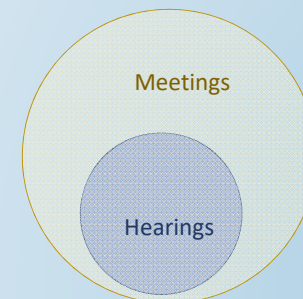
MEETING PROCEDURES

Public Participation

- Public Does **NOT** Have a Right to Participate at Meetings of a Public Body
- If You Allow Public to Participate, You Must Not Discriminate



MEETINGS V. HEARINGS



MEETINGS V. HEARINGS

Meetings	Hearings
Physical Convening of a Quorum of Public Body for the Purpose of Conducting Business	There are Public Hearings , & Public Hearings , & Public Hearings Refer to the Statute that Mandates the Public Hearing

MEETINGS V. HEARINGS

Meetings	Hearings
<ul style="list-style-type: none"> Notice to News Media (Email or Faxed) & Posted on Bulletin Board & Website ADVERTISEMENT IS NOT REQUIRED 	Generally, Official Notice Via Paid Advertisement is Required , Refer to Statute Requiring Public Hearing

MEETINGS V. HEARINGS

Meetings	Hearings
<ul style="list-style-type: none"> Public Comment is NOT Required, Although the Public Body May Allow for Public Comment 	Public Hearing Held Specifically for Public Comment on the Particular Matter

MEETING PROCEDURES

Public Participation

- Public Has a **Right to Photograph, Record Audio, & Videotape** Every Meeting So Long as It is Done in **Non-Disruptive** Manner
- Public Body May Adopt Rules Governing Location of Equipment & Use of Recording Equipment

MEETING PROCEDURES

Potential Public Participation Rules

1. Limit to Public Comment Period or Upon Majority Vote
2. Speakers Must Step to the Front of the Room (Microphone?)



MEETING PROCEDURES

Potential Public Participation Rules

3. Ask Speakers to Give Their Name, Address, & Organization
4. Impose Reasonable Time Limit Based Upon Number of Speakers
May Limit A Speaker Who Repeats the Same Comments Over and Over and Over . . .



MEETING PROCEDURES

Potential Public Participation Rules

5. Speakers May Not Yield Remaining Time
6. Board/Council Members May, With the Permission of the Presiding Officer, Interrupt Speaker, But Only for Purpose of Clarification



MEETING PROCEDURES

Potential Public Participation Rules

7. Speakers Must Observe the Commonly Accepted Rules of Courtesy, Decorum, Dignity & Good Taste
May Eject Someone From a Meeting Who is Causing a Serious Disturbance
8. Written Communications Are Always Accepted



DECORUM SCENARIO

Council meeting rules require comments to be short, to the point, respectful and courteous, & free of rude, personal, or slanderous remarks. Resident was critical of council during open comment, alleging that they were violating the OML and spending like drunken sailors. Council President stated that the resident is slandering the council & ends the public comment period, at which the point the resident calls the CP a Hitler. The CP tells the resident to leave the meeting or she will be removed.



CHALLENGES WITH DECORUM RULES

Barron v. Kolenda, 491 Mass. 408 (2023)

- “[T]he town expressly provided a place for public comment: the meeting of the board. The town also set the time, after the conclusion of the regular meeting, as was the town's right. Barron presented her grievances at the established time and place. The town nonetheless then sought to control the content of the public comment, which directly implicates and restricts the exercise of the art. 19 right of the people to request ‘redress of the wrongs done them, and of the grievances they suffer.’”



CHALLENGES WITH DECORUM RULES

Barron v. Kolenda, 491 Mass. 408 (2023)

- “The content sought to be prohibited -- discourteous, rude, disrespectful, or personal speech about government officials and governmental actions -- is clearly protected by art. 19, and thus the prohibition is impermissible. In sum, the town's civility code is contradicted by the letter and purpose of art. 19.”



CHALLENGES WITH DECORUM RULES

Barron v. Kolenda, 491 Mass. 408 (2023)

- Massachusetts Law
- Interpreting the Massachusetts Constitution
- Not Binding in New York



MEETING PROCEDURES

A Special Word About Decorum

- Post Rules of Decorum
- Recite/Note Rules of Decorum at Beginning of Public Comment/Public Hearing
- Adopt a Two or Three Strikes Rule
- Be Consistent in Application of Rules and Strikes



MEETING PROCEDURES

Availability of Records

1. (a) Records Subject to Disclosure Under FOIL & (b) Any Proposed Resolution, Law, Rule, Regulation, or Policy Scheduled to Be Discussed, Must Be Made Available, Upon Request, to Extent Practicable, Prior to/at Meeting
2. FOIL Fees May Be Applied



MEETING PROCEDURES

Availability of Records

3. If City/Village Maintains a Regularly & Routinely Updated Website, the Records Must Be Posted on the Website to the Extent Practicable
4. Cities/Villages are Not Required to Expend Additional Moneys to Implement These Requirements

