November 14, 2023

Ms. Theresa Joyner, Chair
and Members of the City of Hudson Planning Board
City Hall **-Sent via email-**
520 Warren Street
Hudson, NY 12534

Re: Rebuttal to Privatera 11/1/23 Letter to Planning Board

Dear Ms. Joyner and Planning Board Members:

We are writing to express our concern over the November 1, 2023, letter to the Board from John Privatera, attorney for A. Colarusso and Sons', filed after the Public Comment Period. In his letter, Mr. Privatera attempts to discredit points made by Our Hudson Waterfront (OHW), the Valley Alliance (VA), and Grant & Lyons LLP and others. This letter is riddled with falsehoods and inaccuracies and it demands the following point-by-point rebuttal. Given that, we respectfully request that you accept this rebuttal, along with Mr. Privatera's letter, as part of the public hearing record.

In addition, we are concerned about the process that led to acceptance of this letter, which in effect allows the applicant, not the citizens of Hudson, to have the last word.

At the end of the public hearing on September 27, during a brief exchange between Mr. Privatera and the Board, we learned that Mr. Privatera was asked—in a side conversation with a Board Member—to submit a "final statement" after reviewing all letters submitted, *"including the letters we haven't seen yet."*

The problem with this is twofold. First, our understanding of Planning Board procedure is that nothing is to be discussed between Board and applicant outside of public hearing environment, with exception allowed for client/attorney privilege. Second, a review of the NYS DOS guidelines on public hearings (revised 2023 and attached) shows no provision for applicants to submit comments after public hearing has been closed. Nor does it seem appropriate for the applicant to introduce new arguments or claims without the public having the opportunity to address them. Our submission, then, is an effort to balance closing arguments in this proceeding.

Major Points

Mr. Privatera's letter contains numerous falsehoods and inaccuracies. Following are some of the most important examples.

Identification of subject as "Approval of the Truck Diversion Project" (Page 1)

As we've pointed out previously, this proposal should be accurately described as an application for a Conditional Use Permit (CUP) and site plan review for the haul road. As noted by VA in its August 8, 2023, letter to the Board, this language, promotional rather than descriptive, minimizes and spins the project, using the applicant's preferred lens of " minor improvements." In truth, this project is a major enlargement allowing much higher truck volume. Please refer to VA's August 8th letter for details.

Claim that Valley Alliance, Our Hudson Waterfront and Grant & Lyons LLP are "attempting to mislead the Planning Board for purposes of serving their own agenda…" (Page 2)

This comment could not be further from the truth—and it is insulting. All of our correspondence and findings have been carefully researched, considered, and provided to the Board as clear, factual information to assist in carefully reviewing the CUP and site plan applications. For example, information on truck volume provided to the Board in our August 24, 2023, letter came directly from the 2020 truck study prepared by Creighton Manning, engineer for Colarusso and Sons. As stated in VA's October 9, 2023, letter to you, in 2021 the Board determined the Colarusso project was out of step with other development and misaligned with the city's priorities. Further, the existing findings of the Board and your consultants have been the basis of hundreds of specific and heartfelt comments from citizens, organizations and attorneys during multiple public hearings and written comment periods over the past seven years.

Claim that "Colarusso's dock operation is an ongoing, allowable, and permitted use under the City Zoning Code and is not part of the Project application before the Planning Board for review. (Page 2)

This statement is patently false. Colarusso lost its temporary, grandfathered nonconforming use permit in 2017 under the LWRP (Local Waterfront Revitalization Plan), the cause being illegal work on the dock. The truth is that the company has operated without a permit of any kind for the past six years. The dock operation CUP and site plan review are currently on hold due to the pending lawsuit.

Claim that "the only question before the City Planning Board is whether there are any *additional conditions* to be imposed on the improvement of the haul road beyond those already offered by Colarusso" (Page 2)

This is also patently false. As communicated to the Board in VA's September 5, 2023, letter, there are six different reviews before the Planning Board:

- 1. Haul road conditional use permit (Hudson, unfinished)
- 2. Haul road site plan review (Hudson, unfinished)
- 3. Haul road SEQRA review of the haul road (Greenport, finished)
- 4. Dock conditional use permit(Hudson, unfinished)
- 5. Dock site plan review for the dock (Hudson, unfinished)
- 6. Dock SEQRA review (unfinished)

As VA stated, "of the six reviews, only one may be considered "over"— completed by Greenport, not Hudson, with no consideration for the specifics of the Hudson code. As VA noted, SEQRA is not the only environmental review that a project must undergo. Rather, it is a State add-on to local requirements, and DOES NOT eliminate or supersede the need for local code compliance. Thus, Greenport's SEQRA review does not supplant any of the other five reviews. It does not override your powers and duties to apply the Hudson code for each. Indeed, the DEC commissioner specifically noted that Greenport's status as lead agency for the haul road *"in no way limits the jurisdiction or responsibilities of the other involved and interested agencies - particularly the City Planning Board."*

Claim that the Project proposes to divert thousands of trucks each year from the City streets to a remote privately-owned haul road." And that "this will make City streets safer." (Page 2)

These comments narrowly acknowledge benefits to one area of the City (e.g., Columbia St and Green St) by removing some gravel trucks, but ignore negative impacts to other areas of the city where the trucks would be rerouted. Among other impacts, the proposed haul road will create dangerous crossings at two major entry/exit points to the City (Route 9G and Route 9), the Amtrak rail line, and at ingress/egress points to the City's waterfront area and nearby historic resources.

In addition, gravel trucks will NOT be fully removed from city streets, since Colarusso continues to assert a right to run trucks through the streets as needed, citing three common circumstances where this would occur: 1) When blasting on the east side of the quarry prevents passing truck traffic, 2) When haul road is flooded *(likely an increasing occurrence given haul road is in a flood plain)*, and 3*)* whenever market opportunities dictate.

Charge that there is no factual support that the project will increase truck traffic and claim that "the Town (of Greenport)... and their engineer fully examined the traffic impact of developing the haul road as two lanes, as well as the functioning of the culverts and found no environmental concerns in approving the Project." (Page 3-10)

As we clearly stated in our August 24, 2023, letter to the Board, the Greenport Planning Board's SEQR approval of the haul road was based on underestimated truck volume (20 trips per day, 2,000 truckloads/4,000 trips per year), and assumed that volume would not increase over time. However, these estimates and assumptions have already been proven false: Actual truck volumes have been much higher, almost tripling from 2015 to 2019 (5,460 in 2015 to 15,180 in 2019). And this, as reported by Creighton Manning, engineering firm for Colarusso, in "less than half the maximum potential operating days;" the room for growth is huge. In addition, as we've previously pointed out, the Greenport Planning Board sidestepped or underplayed potential issues raised by the city's consultant, Barton & Loguidice, in their 4/18/17 and 5/19/17 letters to the Greenport Board Chair.

While Colarusso has committed to a daily limit (142 truckloads/284 truck trips per day), it has not agreed to an annual limit. Per Creighton Manning truck studies, the company has typically operated at "less than half the maximum potential" days. This suggests the strong possibility that maximum days (250) will become the norm, not the outlier. The bottom line is that, in fact, Colarusso will increase its actual days of operation by running trucks up to 250 days per year, driving significantly higher volume than Hudson has experienced in prior years.

A final point here: As stated in our October 6, 2023, letter to the Board, profit margins are razor thin in the gravel business (per Colarusso, $2 per ton). This means that *growth* is the ONLY model that makes sense—and by growth, we mean massive growth. Our argument (and worry) is that with permits in place, gravel mining and transshipment will soar, either under the direction of Colarusso or through a sale to a larger company that has deeper pockets and zero allegiance to Hudson.

Re City's appeal of Greenport's Negative Declaration, the claim that "This fully litigated court decision and order is a final determination regarding the environmental impacts … and is binding on the City Planning Board. These issues are closed and cannot be re-examined or relitigated." (Pages 5-7)

This, again, is false. While Greenport, indeed, completed a SEQR review on the haul road, this in no way precludes the Hudson Planning Board's right and obligation to conduct the other reviews before it (see p. 2). Also, as stated in OHW and VA's October 9, 2023, letter to the Board, *"Your unique powers of review, including the ability to deny this permit, were supported by the 2016 ruling from DEC Commissioner Basil Seggos. Despite giving lead agency status to Greenport for the SEQRA review of the haul road only (not for the CUP), his decision affirmed that* in designating the Greenport Town Planning Board to serve as lead agency for the haul project, this decision in no way limits the jurisdiction or responsibilities of other involved and interested agencies – particularly the City Planning Board…"

Denial that the project will result in dust, increased visual impacts, and public access impacts and claim that "the Project only includes improvement of the privately-owned haul road, which is not adjacent to or near Basilica Hudson, the Amtrak Station, or Henry Hudson Park" (Page 6-8**)**

Claims that the project will have no impacts on Basilica Hudson, the Amtrak Station or Henry Hudson Park, and other interests are not only questionable, but narrowly focused on a portion of the haul road and fail to consider negative impacts on major highway crossings (Routes 9 and 9G), the Amtrak crossing, ingress/egress points to the City's waterfront area, and nearby historic resources.

Insistence that the Project is consistent with the City's Comprehensive Plan (page 7)

The Comprehensive Plan supports a greener waterfront—not increased industrial activity. Per the Plan's Project Summary (p. 58*): "Quality of life is a catchall term used to describe the non-economic amenities a community has to offer, including features like open space, cultural events, recreational opportunities and scenic views, among others. Increasingly, people are placing a higher value on these amenities and searching for places that are cleaner, greener, smaller, and offer high quality of life amenities. A better quality of life creates jobs. When a community is cleaner, safer, and more attractive to residents, it also becomes a better place to do business."*

Additionally, as stated in our August 24, 2023, letter to the Board: "The Board's November 18, 2021 **Environmental Assessment Form (EAF), Part 3**, offers a number of key observations and conclusions—among them, that "Multiple State decisions and policies support a greener waterfront*."*

It continues: " *The Hudson Vision Plan, Comprehensive Plan, the 2005 Secretary of State's Coastal Consistency determination on the St. Lawrence proposal, and Department of State guidance on the draft LWRP, call for the City to enact a plan that zones out incompatible, industrial uses at the Waterfront. Even the recent Downtown Revitalization Initiative (DRI) application, which recognizes the Applicant's dock operations, notes that 'Recent organic, entrepreneurial development of the BRIDGE District have primed Hudson for the inevitable next phase of its revitalization which includes re-imagining the waterfront for expanded public use and enjoyment."*

Regarding Colarusso's proposal, the Planning Board has noted that "*the Proposed Action has the potential to impact open spaces, namely, the South Bay. The South Bay, as well as the Private Road which passes through it, have been identified by the City's 1996 Vision Plan and 2002 Comprehensive Plan as a potential future open space and recreation resource. The Applicant has not adequately considered and addressed impacts to the future use of these areas as part of the Project."*

Further, **Barton & Loguidice 4/18/17 and 5/19/17 letters** to Greenport Planning Board found that Colarusso's proposal was inconsistent with both the City of Hudson Comprehensive Plan (2002) and its draft Local Waterfront Revitalization Plan – LWRP (2011). The Comprehensive Plan noted that *"increased barge operations may have a profound impact on the future redevelopment efforts of the City's waterfront."* The LWRP reaffirmed this sentiment, and recommended rezoning of the waterfront from industrial to a core riverfront district, stating: *"Modernization of the existing port operations, including any man-made modification to the road surface of the causeway, would be subject to the standards for Conditional Uses in the Core Riverfront (C-R) zoning district, all necessary city and state coastal consistency reviews and compliance with necessary environmental review."* B&L also stated *use of the South Bay causeway is not an acceptable long-term solution to accommodate transport to the dock unless satisfactory mitigation can be provided."*

The **Planning Board's EAF Part 3**, also noted that "*The Hudson Vision Plan, Comprehensive Plan, the 2005 Secretary of State's Coastal Consistency determination on the St. Lawrence proposal, and Department of State guidance on the draft LWRP call for the City to enact a plan that zones out incompatible, industrial uses at the Waterfront.*"

Denial that the Project is inconsistent with the City Zoning Code—that, based on SEQRA findings, the Columbia County Planning Board and the New York State Supreme Court " unanimously found that the Project complies with the City's Zoning Code."(pages 7-8)

As stated in VA's September 5, 2023, letter to the Board, the Planning Board is empowered under the LWRP to assess the entire project and its cumulative impacts on the City, since the whole operation (the road and the dock) have been rendered non-conforming and un-grandfathered.

Privatera's comment that City Code expressly states that the purpose of the C-R District is to 'encourage a mixture of compatible uses' and also expressly states that 'continuation [of the] private roads providing ingress and egress to or from [Colarusso's Dock] is one of those uses." (page 8)

The City Code does NOT support an intensification of truck traffic. For example:

- §325-17.1.D of the Zoning Law provides that "continued use of a dock operation is permitted as a conditional use, as such use existed as of the effective date of LL 5-2011."

- §325-1.A (6) of the Zoning Law provides for "Protection of limited areas for industrial use and the encouragement of a mix of uses in the local waterfront revitalization area boundary." Hudson Planning Board Environment Assessment Form (EAF) Part 3 (#17 Consistency with Community Plans, p. 21-22) states *"The Planning Board finds that the proposed intensification of the industrial use is in sharp contrast with the mixed-use development existing at the waterfront."*

Denial that the Project is inconsistent with the LWRP. (Page 9)

A massive industrial operation at the waterfront was not part of the goal of the LWRP 2011 zoning and Comprehensive Plan. **§325-35.2.B(8) (a)** of the LWRP directs the city to *"restore, revitalize and redevelop deteriorated and underutilized waterfront areas for commercial, industrial, cultural, recreational, and other compatible uses (Policies 1, 1A, 1B, 1C);"* The Planning Board, in its **EAF Part 3** noted, however, that "*the increased truck traffic, with its attendant impacts on dust, noise and vibration, will make it more difficult for mixed residential and commercial uses to move into the area in the future."*

The Board also found *" that the intensification of the use is inconsistent with the City's 1995-1996 Vision Plan, continuing with the 2000 Comprehensive Plan and LWRP, in which city residents have made clear their desire for a greener, more sustainable waterfront. Public access, recreational opportunities, habitat restoration, environmental quality, and appropriate commercial development are consistently listed as top priorities."*

Further, the Board noted that *"The LWRP sought to create 'a vision which will serve the City and the State long after those involved today are forgotten' (p. 338). Although the LWRP includes the continuation of uses at the deep port, it does not support a significant intensification of the use. The 2009 DGEIS for the LWRP was based on significantly less truck traffic, and seasonal use, and the zoning adopted pursuant to the LWRP specifically authorizes the use as it existed in 2011. The Hudson Vision Plan, Comprehensive Plan, the 2005 Secretary of State's Coastal Consistency determination on the St. Lawrence proposal, and Department of State guidance on the draft LWRP call for the City to enact a plan that zones out incompatible, industrial uses at the Waterfront."*

Privatera's claims the haul road is aligned with the "restore, revitalize and redevelop" provision because its purpose is to " *redevelop the deteriorated and underutilized causeway for continued commercial use"* (page 9) [underline emphasis added]

This is a major stretch. The LWRP provision applies to "waterfront" areas, not to Colarusso's "causeway."

Privatera also claims alignment with the LWRP directive to "protect and enhance historic resources. (Policy 23), writing: "*The Project as proposed will protect and enhance any historic resources with the City along the current truck route because it will remove trucks to the privately-owned haul road."* (page 10)

Again, this is a major stretch. While the proposed project will remove some gravel trucks from certain areas of the city, they will then be rerouted to another area of the city – near waterfront—where they will impact areas of ingress/egress between the haul road and waterfront and pass by historic resources. And again, even with a CUP in place, gravel trucks will still use City streets, as Colarusso continues to assert its right to use them as needed.

The Planning Board in its EAF Part 3 (Impacts on Historic and Archeological Resources, p. 11) reported that it had "*identified potential moderate-to-large impacts to buildings and districts listed on and eligible for listing on the National and State Register of Historic Places, finding that the Proposed Action would result in the introduction of visual elements which are out of character with the immediate vicinity of the Project site.... Since the 2009 DGEIS, additional historic resources have been studied and deemed eligible for listing on the State and National Registers of Historic Places."*

Privatera's comment Re Secretary of State's 2005 Decision (page 10)

In the runup to development of the LWRP, the New York Secretary of State, in his 2005 Decision on St. Lawrence Cement Plant's Permit (page 10), reviewed Hudson's Zoning Code and found that §325-1A (5) calls "Gradual elimination of nonconforming uses." The Hudson Planning Board, in its EAF Part 3 (#17 Consistency with Community Plans, p. 22) also notes that **"***The Hudson Vision Plan, Comprehensive Plan, the 2005 Secretary of State's Coastal Consistency determination on the St. Lawrence proposal, and Department of State guidance on the draft LWRP call for the City to enact a plan that zones out incompatible, industrial uses at the Waterfront. Wrote the Board:*

> *"In a 2005 Coastal Consistency Determination, Secretary of State Randy Daniels recommended that a new waterfront zone be created right away for the benefit of City and County residents. (p 10-11). Adopting language directly from pp. 85-88 of the Hudson Vision Plan, then Secretary of State Daniels' decision outlined the exact manner in which that rezoning should take place with an unusual degree of specificity. He noted: "Based on this review of Hudson's past planning and implementation activities, it is clear the City's waterfront has been and will continue to be transformed from a private industrial waterfront to a public waterfront for boating, tourism, commercial and other compatible uses."*

Privatera's denial that the Project will negatively impact the City's Waterfront (Page 11)

This is false. In addition to all of the above, we believe that considering the Haul Road outside the context of its purpose is classic segmentation, illegal under SEQRA, and a disservice to Hudson. Colarusso's haul road is interrelated with Colarusso's dock operation. The haul road has no purpose without the dock, the dock has no use to Colarusso without the haul road—and it is together that they will create negative impacts on the Waterfront and City as a whole.

In its September 5, 2023, letter to the Board, VA noted that *SEQRA requires that cumulative impacts be assessed—with no "segmentation" of review allowed by law. This means that even if a court has said that Greenport's SEQRA review of the haul road governs that application, the impacts of the activity on the road, South Bay and City streets still must be looked at cumulatively in the context of the dock review. To the clear extent that permitting the dock would immediately touch off local impacts from increased two-lane truck activity to reach the dock, that activity is a legitimate concern and required subject of the dock SEQR, since the haul road serves no purpose without the dock."*

Conclusion

We firmly believe that the Planning Board's responsibility is to weigh hard facts and potential outcomes, This is why we have worked so hard to provide information that is thoroughly researched and factual. Real numbers are critical because real numbers don't lie. And the numbers surrounding this application are telling us that intensification of industrial activity on the Waterfront has already begun. And approval of the conditional use permits for the haul road and the dock will make it worse—potentially much worse.

How many trucks, ultimately, will Colarusso run to the dock? Nobody really knows and the company resists limitations on annual truck volume. How many days in the year will the waterfront be inundated with gravel trucks—as many as 250? Again, no one knows and the

company won't say. How often will Colarusso hit or exceed its proposed maximum of 284 truck trips a day? The company claims that can't be regulated. It's up to the gravel market.

Given this, we believe it's best to keep in mind that Colarusso's growth/profit, not Hudson's welfare, is the real point of the haul road. Its primary purpose is not to get trucks off the streets, but to ramp up trucking and shipping from the dock, whether by Colarusso as it rapidly expands its client base down river, or by a larger company that buys the operation with permits in place--one with deeper pockets than Colarusso and zero allegiance to the City of Hudson.

Thank you for considering these points—and as ever, thank you for all your work as volunteers in service to our City.

Respectfully submitted,

Donna Streitz
David Konigsberg
Our Hudson Waterfront

Cc: w/ enclosure
Victoria Polidoro, Esq.
Linda Fenoff, Board Secretary

Attachment

Rebuttal to Privatera 11/1/23 Letter to Planning Board

NYSDOS - Conducting Public Meetings and Public Hearings

Division of Local
Government Services

Conducting Public Meetings and Public Hearings

JAMES A. COON LOCAL GOVERNMENT TECHNICAL SERIES

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"Democracy, like a precious jewel, shines most brilliantly in the light of an open government."[1]

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INTRODUCTION

Nearly all of a municipal board's work is performed in meetings or hearings that are open to the public. Such meetings are subject to several state and local procedural requirements, as well as the political climate of the locality. Taken together, these requirements can confuse, intimidate and stymie even the most experienced of boards. For this reason, it is the intent of this publication to educate and refresh municipal officials on several of the procedures governing public meetings and hearings. Only with a working knowledge of state procedural requirements will municipal officials be free to focus on the current issues and political needs of their communities.

The Division of Local Government Services wishes to express its gratitude to the New York State Committee on Open Government for their assistance in the preparation of this publication.

PART ONE: MEETINGS

THE OPEN MEETINGS LAW

> *It is essential to the maintenance of a democratic society that the public business be performed in an open and public manner and that the citizens of this state be fully aware of and able to observe the performance of public officials and attend and listen to the deliberations and decisions that go into the making of public policy. The people must be able to remain informed if they are to retain control over those who are their public servants. It is the only climate under which the commonweal will prosper and enable the governmental process to operate for the benefit of those who created it.*[2]

This legislative declaration clearly sets forth the intent of the Open Meetings Law (OML) and the State's idealistic goals for local government. The Open Meetings Law was designed to facilitate public observance of the workings of government and to prevent the deliberate exclusion of the public from being able to observe the governmental process. To local governments, the OML requires that they examine their processes in order to determine whether the public is actually, or even perceptually, being unduly excluded.

What is a Meeting? — The Open Meetings Law defines a "meeting" as "the official convening of a public body for the purpose of conducting public business."[3] A "public body" is "any entity, for which a quorum is required in order to conduct public business and which consists of two or more members, performing a governmental function for the state or for an agency or department thereof, or for a public corporation as defined in section sixty-six of the general construction law, or committee or subcommittee or other similar body consisting of members of such public body or an entity created or appointed to perform a necessary function in the decision-making process for which a quorum is required in order to conduct public business and which consists of two or more members. A necessary function in the decision-making process shall not include the provision of recommendations or guidance which is purely advisory and which does not require further action by the state or agency or department thereof or public corporation as defined in

section sixty-six of the general construction law."[4] The following entities, among others, are thus subject to the requirements of the OML: city councils, town boards, village boards of trustees, planning boards, zoning boards of appeals, volunteer fire companies, boards of fire commissioners, boards of trustees of volunteer fire companies, municipal water boards, school boards, as well as their committees and subcommittees. The comprehensive definitions of the OML essentially mean that any group organized to perform a governmental function must make all of its meetings open to the public and must give proper notice of such meetings.

The statute defines a "meeting," not by the nomenclature attached to it, but by the facts: any time a public body gathers for the purpose of conducting public business (regardless of whether the body *intends* to take any action) the proceeding must be convened open to the public. Characterizing meetings as "work sessions," or using similar wording, does not relieve the body of the need to comply with the OML. On the other hand, the OML does not apply to social gatherings or chance meetings, even where some item of public business may be mentioned in passing. It also does not apply whenever less than a quorum of the members of a public body get together, since no substantive public business may be done under those circumstances.

Who May Attend? — The Open Meetings Law requires that meetings held by public bodies must be "open to the general public,"[5] i.e., that the body must accord access (including media access) to every meeting. Where a public body uses videoconferencing to conduct a meeting, it must also provide for public access at any location from which any member of the body participates, unless a member is participating via videoconferencing due to "extraordinary circumstances."[6] It does not require the public body to offer the public an opportunity to be heard. The right to participate (that is, to speak) at a meeting may be limited to the members of the public body itself. A public body may, however, permit public participation and may provide rules for speakers to follow at meetings.[7] Also included among the OML's requirements is that "all reasonable efforts" be made to ensure that the meeting venue is accessible to the physically handicapped.[8]

The Open Meetings Law was amended in early 2022 to allow for the expanded use of videoconferencing by public bodies (until July 1, 2024) to conduct open meetings under extraordinary circumstances, regardless of a declaration of emergency.

The expanded use of videoconferencing allows for members to participate by videoconference in locations that do not allow for in-person physical attendance, but a quorum of the public body must be present together or separately in locations that do allow for in-person attendance.

Each public body that wishes to allow for remote attendance by its members at locations that do not allow for in-person physical attendance by the public is required to adopt a local law (governing boards of cities, towns, villages, and counties) or adopt a resolution (all other municipal public bodies) authorizing such remote attendance and must establish written procedures that set forth what they determine to be "extraordinary circumstances."

More information about this amendment to Open Meetings Law can be found on the website of the Committee on Open Government in a document noted in the "Further Reading" section of this publication.

Executive Sessions — An "executive session" is a portion of an open meeting during which the public may be excluded.[9] The public body's authority to conduct an executive session is limited to those purposes enumerated in the Open Meetings Law.[10] In summary, a public body may only go into executive session if the matters to be discussed:

- will imperil public safety if disclosed;
- may disclose the identity of a law enforcement agent or informer;
- relate to a current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
- relate to proposed, pending, or current litigation;
- relate to public employee collective-bargaining negotiations;
- involve the medical, financial, credit, or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal, or removal of a particular person or corporation;
- pertain to the preparation, grading, or administration of examinations; or
- relate to the proposed acquisition, sale, or lease of real property, or the proposed acquisition, sale, or exchange of securities, but only when publicity would substantially affect their value.

There are also instances where a public body may conduct business that is totally exempt from compliance with the Open Meetings law.[11] These exemptions include:

- judicial or quasi-judicial proceedings (except for proceedings of a zoning board of appeals);
- deliberations of political committees, conferences and caucuses; and
- any matter made confidential by federal or state law. (The Committee on Open Government has held that this latter exemption includes the attorney-client privilege: thus, a public body may meet with its attorney, for the purpose of soliciting and receiving legal advice, without the need to comply with the Open Meetings Law.[12])

It should be emphasized that the executive session, as well as the attorney-client privilege, are *privileges* of the public body. Unless another statute actually *requires* that a matter be discussed in private, the public body is under no obligation to exclude the public: it simply may do so at its option.

A public body may only go into executive session following the introduction, during an open meeting, of a resolution that is then approved by a majority of the fully-constituted body. This resolution must generally identify the area(s) of the subject(s) to be considered in the executive session.[13] As an example, a resolution might state "The Board resolves to enter into an executive session to discuss the qualifications of several candidates for the position of secretary to the Board." There is no need to include names, or to include greater specificity in such a resolution.

Where a public body makes an official decision or takes action during an executive session, it must record or summarize that action and must record the date and the vote taken in its minutes.[14] If no votes are

taken during an executive session, no minutes of the executive session need to be prepared. A public body may not, however, vote in executive session to appropriate public funds.[15]

When a public body lets citizens know when they are meeting and the issues to be addressed, it takes an important first step in establishing a climate of government based on respect for constituents' judgment. By facilitating public attendance at its meetings, the body can ensure the circulation of first-hand information about why it acted as it did and prevent the spread of misinformation. Although concerned citizens may not have been permitted to participate in the debate on a particular issue and may in fact not agree with the board's decision, they will nonetheless have had the opportunity to witness the decision-making process, and, it is hoped, to hear the true rationale behind the decision.

PREPARING A PUBLIC NOTICE

The Open Meetings Law requires that notice of the time and place of all meetings of a public body be given prior to every meeting. The notice must include reference to the date, time and location of the meeting.[16] If videoconferencing in "extraordinary circumstances" is used to conduct a meeting, the public notice for the meeting must inform the public that videoconferencing will be used, where the public can view and/or participate (if participation is permitted) in such meeting, where required documents and records will be posted or available, and identify the physical location for the meeting where the public can attend.[17] General considerations of due process indicate that the notice should also include the name of the public body. It is further recommended that the notice identify a contact person or office for the dispensing of additional information. Although the Open Meetings Law does not strictly require a notice to include an agenda for the meeting, many public bodies do include the agenda in their notices as a logical extension of informing the public in a succinct manner of what is planned for consideration at the noticed meeting.

In addition, since 2012, § 103(e) of the Open Meetings Law has required public bodies or agencies that host public bodies to make available to the public, within reasonable limitations, the records scheduled to be discussed during open meetings prior to the meetings. In 2021, § 103(e) of the Open Meetings Law was amended to require that copies of records be made available to the public at least 24 hours before a public meeting, to the extent practicable. Records may be available for a reasonable fee and/or by posting them online. (More information is available in a memorandum on the website of the Committee on Open Government, a link to which can be found in the "Further Reading" section of this publication.)

The length of time the notice must precede the meeting varies, depending on when the meeting is scheduled:

--Meetings scheduled a week or more in advance must be preceded by posted notice given to the public, and by direct notification given to the news media, not less than 72 hours prior to the meeting.[18]

--Meetings scheduled less than a week in advance must be preceded by the same forms of notice, to the extent practicable, prior to the meeting.[19]

If inadequate notice is given, the municipality risks the chance that an aggrieved person will challenge the validity of the meeting in court. This raises the possibility that any or all actions taken by the public body at the meeting may be invalidated.[20] While the OML recognizes a court's authority to invalidate the action of a public body that is taken in the absence of compliance with its terms, nonetheless the Law provides that an *unintentional* failure to comply cannot, in and of itself, become grounds for invalidation of an action.[21]

PLANNING A MEETING

Public meetings are more effective if they are planned properly and organized several days in advance. The following questions should be considered in advance when planning for meetings:

- Is a meeting necessary? Why meet?
- Who should be involved in the meeting?
- What subjects must be covered? Should other subjects be considered at this meeting?
- What resources will be necessary for conducting this meeting?
- What kind of ground rules will be needed?
- Is a public *hearing* required to discuss any of the subjects that must be covered?

ORGANIZING FOR THE MEETING

Time spent organizing in advance of meetings can improve the quality of the meeting and facilitate the proper conveyance of information to the public. Discussions at well-planned meetings are usually more focused, resulting in shorter meetings. In addition, fewer meetings may be needed to finish business because the right information and the right people are brought together the first time. The following are a few topics and questions to consider when organizing a meeting:

Preparing an Agenda — Making a list of topics for discussion, planning a specific amount of time for each item, and distributing the agenda before the day of the meeting helps board members to think about matters in advance.

Inviting Experts and Public Officials — Which outside experts need to be invited for assistance on the scheduled topics: an attorney; an engineer; a county or State planner? Should public officials from other units of government be invited to attend?

Preparing Background Information — What information must be prepared before the meeting? Who will prepare it for the board?

Distributing Information in Advance — Distribute needed information to members in advance of the meeting so they can become familiar with the matters they will need to decide.

Making Available Materials to be Discussed at the Meeting — Records to be discussed at a meeting must be made available to members of the public who request copies, to the extent practicable, at least 24 hours prior to the meeting. In municipalities with high-speed internet and

routinely updated websites, records to be discussed at a meeting must, to the extent practicable, be posted on the municipal website 24 hours prior to the meeting.[22]

Space for the Meeting — What kind of meeting space is required? Who will arrange for the facility, open and set it up in advance?

Special Equipment — Arrange for equipment such as microphones, amplifier/speaker systems, tape recorders, projectors, power cords, equipment stands, charts, markers, and other items to be available as needed. Where are the electrical outlets needed to operate power equipment?

Other Needs — Must someone be contacted in order to obtain permission to use the meeting space? Is it necessary to secure a key to open the room? Is anything else necessary?

Confirm that Members Will Attend — Contact members of the body to confirm they will attend the meeting.

Review Ground Rules — Members should each review the ground rules needed to run the meeting.[23] The board's rules of procedure (if there are any) should be checked and the procedures required therein should be followed during the meeting. Business will flow faster and more smoothly when all participants are familiar with the rules.

AT THE MEETING

Many of the steps outlined below are probably well known to the experienced board member but not to newer members. This section was designed to help the latter group become familiar with the order of a typical meeting.

Setting Up — The secretary, clerk, or someone designated for the purpose, should plan to arrive at the meeting place a few minutes ahead of time to open the room and to (re)arrange the furniture, set up special equipment, welcome experts, and greet members of the public.

Roll Call and Quorum — When the members of the body have arrived and the time has come to open the meeting, the chair should call the meeting to order. Roll call of the members is taken, and quorum is confirmed. Generally, the number of members necessary for a quorum is an absolute majority of the total membership, regardless of vacancies and absences.[24] If a quorum is not present, no official business can be conducted until more members arrive. Informal discussion can, however, legally take place, or the meeting can be adjourned (less than a quorum may adjourn).[25]

Minutes — Ideally, the task of taking minutes is permanently assigned to a secretary or clerk. In the absence of such a support person, the task may be assigned to a board member having sufficient skill. The chairperson, being responsible for conducting the meeting, should *not* take the minutes.

Opening Statement — If a quorum is present, the chair may make an opening statement, welcoming the public and any invited guests to the meeting, and explain the rules to be followed during the meeting.

Order of Business — The chair guides the meeting through the order of business. A typical order of business might be:

- reading of the minutes of the previous meeting[26]; amendment and approval;
- hearing the reports of standing committees;
- hearing of the reports of select committees;
- consideration of unfinished business;
- consideration of new business;
- approval of bills for payment;
- setting the time and place for the next meeting;
- setting the preliminary agenda for the next meeting; and
- adjournment.

Follow-up — After the meeting, minutes will need to be prepared. Depending on local procedural rules, perhaps a draft will be distributed for comments and corrections. An agenda should be set up for the next meeting. Assignments to get information or to follow up on action agreed to at the meeting should also be made. The cycle of giving notice and setting up the next meeting begins anew.

PART TWO: PUBLIC HEARINGS

HEARINGS REQUIRED BY LAW

New York law empowers all local governments to enact local laws governing many aspects of their property and affairs.[27] State law requires the adoption of local laws (as well as ordinances, in towns) be preceded by a public hearing.[28] In addition, many particular functions of public bodies--such as the adoption of a budget, or the issuance of a land use approval--must be preceded by a hearing. Where local officials require guidance on particular public hearing and notice requirements associated with municipal business, they should contact the municipal attorney for advice.

Section 20 of the Municipal Home Rule Law prescribes a five-day newspaper notice period for a public hearing on a local law. This period may, however, be shortened (to as short a period as three days) or lengthened, at the option of the local government, via the adoption of its own local law pertaining to notice.[29] As this notice period is long enough to meet the requirements of the OML, a single notice could suffice for both the hearing and the meeting itself, though it should be remembered that posted notice remains necessary to satisfy the OML.

What Are Public Hearings? — A public hearing is an official proceeding of a governmental body or officer, during which the public is accorded the right to be heard. It bears emphasizing that any hearing held by a public body will necessarily constitute "conducting public business" within the meaning of the Open Meetings Law. If the hearing is conducted by the public body, the public body must comply with the requirements of the OML as well as with the specific requirements found elsewhere that relate to the hearing itself. Many public hearings are required

by law on particular matters, such as those that must be held prior to adoption of a local law[30], or prior to a determination by a planning board on a subdivision plat application.[31] Many others need only be held at the option of a public body, because it may desire merely to gauge public opinion on a matter. Where a public hearing is required by law, the particular statute governing the subject matter usually sets forth the applicable procedural requirements (refer to other publications in this Technical Series for the particular requirements relating to public hearings held with regard to the subjects treated therein).

Contents of a Public Notice — While particular statutory requirements may vary, all notices of public hearings must, at a minimum, include:

- the date, time and place of the hearing;
- if videoconferencing, inform the public that videoconferencing will be used and include directions for how the public can view and participate , using remote technology or in person, in real time; and
- a brief statement of its purpose (e.g., "hearing on proposed Local Law No. 1 of 2008", or "hearing on a proposed Special Use Permit for a home occupation at 24 Elm Street").

While usually not legally required, it may be helpful also to include with such notice:

- the name and contact information for a person or office that can provide additional information about the hearing;
- information as to where a copy of any relevant documents can be accessed;
- information on how individuals or groups may testify at the hearing; and
- a suggestion or request that persons testifying at the hearing provide written copies of their testimony.

CONDUCTING A PUBLIC HEARING

The following is a list of steps and suggestions to help in preparing for a public hearing.

1. Determine Hearing and Notice Requirements — The board should consult with its attorney in order to determine what hearing and notice requirements must be satisfied, as well as the possible necessity of sending special notices to specific individuals, other municipalities, boards or other levels of government affected by the proposed action.

2. Adopt a Resolution — If the matter concerns the adoption of local legislation, the governing body should adopt a resolution proposing the law, ordinance, rule or regulation in question. The resolution should appear in the minutes of a meeting, and should state the date, time, place and subject of the hearing. The board should also instruct the clerk to prepare and place the required public notice.

3. Give Public and Special Notice — Legal notice of the hearing should be published in the official newspaper, if there is one, or in a newspaper having general circulation within the municipality, as required by law. A public notice should be posted on the official bulletin board or signboard, and in other places as required by law. It is advisable that the clerk file an affidavit of publication after publishing the notice, in order to prove that the request for publication was

made. The news media should be notified, and special notice should be given to individuals and governmental bodies as may be specially required. (Remember, the notice and access provisions of the Open Meetings Law--including posted notice--will also apply to any convening of a public body at which it intends to hold a hearing.)

4. Collect Information — The board should designate a contact person (perhaps the clerk of the board) for the collection of further information about the public hearing. That person collects information, maps, records, and other items for public examination prior to the hearing.

5. Utilize the Municipal Attorney — The municipal attorney should be consulted as to whether an official transcript of the proceedings is required. If so, the board should arrange for a court stenographer to record and transcribe the official proceedings. If the board determines that the hearing will require the services of the municipal attorney, then it should arrange for the attorney to attend the hearing. If special legal procedures must be followed at the hearing, the board may want to request that the municipal attorney tutor the chair in advance.

6. Determine the Need for Expert Witnesses — A determination should be made by the board as to the need for having expert witnesses attend and give testimony at the hearing. If expert witnesses are needed, then appropriate arrangements to secure their services should be made.

7. Arranging For Space and Equipment — Space, furnishings and equipment needs should be assessed as soon as possible, and arrangements made according to the following needs:

- amount of space;
- number of chairs and tables;
- lectern for the witnesses to testify from (having a single location for the witnesses is important if the hearing is being recorded);
- special equipment, such as microphones, amplifiers, loudspeakers, power cords, easels, chart paper, computer and audiovisual equipment, and recording devices; and
- water pitchers and cups located conveniently for witnesses and board members.

8. Hearing Procedures — Hearing procedures are important for the smooth procession of witnesses and testimony. The chair should familiarize himself or herself with any applicable legal procedures and any locally-required procedures, as well as any special "ground rules" established for the event. It is also useful for the board to consider in advance:

- the legal time constraints on making a decision;
- how the information collected at the hearing will be used in reaching a decision; and
- when the board will meet to make its actual decision.

9. Registration of Persons Wishing to Testify — The clerk should record the names of those persons wishing to testify at the hearing. Participants should be invited to sign in as they enter the hearing room. This is especially useful where a record is desired of individuals and groups who are interested in testifying. Witnesses should be arranged to testify according to a pre-determined order. It is recommended that expert witnesses and public officials testify first, then persons rep-

resenting organizations, followed by individuals. (An alternative system would follow a first-come, first-served order, using a sign-in roster.)

10. Opening the Hearing — After the hearing is called to order, the chair should welcome the public to the hearing and should introduce the members of the board. An opening presentation should be made by or on behalf of the board, stating what the board hopes to gain from listening to the public and what the next step in the process will be. The chair should note that the resolution of the board authorizing the public hearing and the affidavit of publication of the official notice have been entered into the record. While it is unnecessary to read such documents aloud, the chair or the board may wish to have the clerk briefly summarize their contents for the audience. The chair (or alternatively, the board's attorney) should clearly state the rules of procedure to be followed by the board at the hearing. These rules should include reference to, and the rationale behind, the order in which witnesses will be called. Such explanation will help the public to understand and accept the procedure.

11. Accepting Testimony — In addition to accepting oral testimony of witnesses, the board may also want to accept written comments. If written comments will be accepted, the board should notify the public as to how many copies will be needed for the board, and if deemed necessary, for distribution to the media and others present at the hearing.

If the board anticipates a large number of witnesses wishing to testify, it may want to limit the time for each witness' testimony. Limiting statements to 3-5 minutes encourages witnesses to be focused and direct and permits more people to testify. Lengthier comments can be accepted in written form after the hearing is closed. Provisions may be made so that extra time may be given, should the board consider it necessary.

The chair should call the witnesses in the determined order and invite them to present written copies of their testimony to the board. When a witness testifies, it is the chair's responsibility to prevent the witness from straying too far from the subject, and to remind the witness to speak clearly or to speak into the microphone. The chair should instruct the witness to present his/her testimony to the board, not to the public. The chair should also prevent others from interrupting the testimony.

The board members may want to ask questions of witnesses in order to clarify facts and opinions presented in their testimony. In addition to questioning witnesses, the board may permit members of the public to question witnesses at the hearing. If it does so, the board should be careful not to turn the hearing into a debate. Open debates of public issues tend to raise people's emotional levels, diminish the board's control over the hearing, and tend to discourage some witnesses from testifying.

If witnesses are being called from a witness list, the board will find that some witnesses will elect not to testify on the grounds that their views were expressed by a previous witness. Also, some prospective witnesses will leave the hearing early. When the list of witnesses is exhausted, the chair should ask if anyone remaining wishes to be heard. As time permits, these persons should be invited to speak.

In hearings where certain facts must be established, the chair may need to ask for further testimony by the actual parties if those facts have not been presented. This situation is most likely to arise with a planning board hearing, a board of appeals hearing, a board of assessment review proceeding, or other hearings involving either a permit or an appeals process.

12. Adjournment — The board may desire to adjourn and reconvene the hearing at a later time. This may occur for any of a number of reasons: it may wish to reconvene at a different location (for example, a project site); the hour may be late and the board may desire to continue the following day; or it may wish to adjourn for a longer period--say, a week or longer, or perhaps until its next regularly-scheduled meeting, in order to allow more time for the gathering and presenting of information. In any case, the chair should secure agreement as to the place and time at which the board will reconvene, and should announce it before adjourning. While it is generally not necessary to place a new newspaper notice of the hearing's continuation, the original hearing notice could reference the possibility of an adjournment (see Sample Notice).

13. Closing the Hearing — A public hearing is concluded when all attendees desiring to speak have been heard. A vote is not needed to close the hearing; provided no board members object, the chair simply gavels the hearing to a close. When the oral portion of the hearing is finally closed, the board may wish to "hold the record open" for a stated time period for the receipt and inclusion of additional written testimony. This may be appropriate to allow people to respond to testimony given orally. In such case the board will of course delay any final action on the matter until the latter deadline has passed. Regardless, any legal time period for a decision must begin when the *oral* public hearing is closed.

The chair should thank the public and witnesses for attending and should explain the steps the board will take to use the information gathered to make a decision.

CONCLUSION

Actions taken at meetings at which the Open Meetings Law is not complied with are at serious risk of being overturned in court. Fortunately, the goal of most local governments is service to the community, not the mere avoidance of legal hassles. For this reason, municipal officials should regard open meeting procedures as serving more than just the State's objective of keeping local government business open to the public. These procedures give the public the full opportunity to observe and to participate in its own governance, and they help confirm the local government's accountability to its constituents. In addition, fairness in applying hearing procedures results in proper accord for the rights of all parties, a better airing of public opinion on community issues, and ultimately greater public confidence in the decisional process.

It is hoped that this publication has clarified both the purpose and the detail of the procedures required in the Open Meetings Law and has been of assistance to all local officials involved in the organization of public meetings as well as hearings.

FURTHER READING

For information relating specifically to the Open Meetings Law, contact the Committee on Open Government, (518) 474-2518.

Committee on Open Government, New York State Department of State, *Your Right to Know* available at https://opengovernment.ny.gov/your-right-know.

Committee on Open Government, New York Department of State, *Disclosure of Records Scheduled for Discussion at Open Meetings* available at https://opengovernment.ny.gov/disclosure-records-scheduled-discussion-open-meetings.

Committee on Open Government, New York State Department of State, *Questions and Answers Chapter 56 of the Laws of 2022* available at https://opengovernment.ny.gov/chapter-56-laws-2022-guidance-document. This document includes the expanded use of videoconferencing by public bodies to conduct open meetings, under extraordinary circumstances, regardless of a declaration of emergency, and model procedures for member videoconferencing pursuant to Public Officers Law § 103-a.

Freeman, Chester, *Parliamentary Procedure — Teach Yourself*, Cornell Cooperative Extension, pub., available at https://cpb-us-e1.wpmucdn.com/blogs.cornell.edu/dist/3/6798/files/2016/01/ParProc-Freeman-18f7v7e.pdf.

Robert, H.M., *Robert's Rules of Order, Newly Revised*, copyright Robert's Rules Association. Available online at many websites, e.g., http://www.rulesonline.com. This is a standard reference of Parliamentary Procedure. Local officials should, however, be aware that it does not closely follow New York law in a number of subject areas. Moreover, *Robert's Rules* is far more complex than most local governments need.

SAMPLE RESOLUTION FOR PUBLIC HEARING

Proposed Town Local Law:

At a regular meeting of the Town Board of the Town of _____, _____ County, New York, held at the Town Hall, _____ Road, in said Town of _____, on the ___ day of _____, 20__, at ____ o'clock _.M., there were:

PRESENT:
ABSENT:

Mr./Ms. _____ offered the following resolution and moved its adoption:

WHEREAS,
_____
_____
[State the issue here, e.g., "numerous complaints have been received by this Board with reference to persons congregating at the Town Park on Mountain Road after 9:00 P.M. and generally causing a nuisance to owners of nearby private property], and
WHEREAS, this Board has been requested to adopt a local law _____ _____[e.g., prohibiting said congregating at and use of the Town Park during certain hours] for the purpose of protection and preservation of the property of the Town and all its inhabitants and of peace and good order therein; and
WHEREAS, this Board has been presented with and has introduced a draft Local Law No. 4 of 20__ to resolve said issue, titled "Restricting the Hours of Operation and Use of the Town Park";
NOW, THEREFORE, BE IT RESOLVED that, pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, a public hearing on said proposed Local Law No. 4 shall be held on the _____ day of _____, 20__ at ___ o'clock __.M. Eastern _____ Time, at the Town Hall, _____ Road in the Town of _____, New York, and that notice of the time and place of such hearing describing in general terms the proposed local law, be published once on or before the ____ day of _____, 20__, in the _____, a newspaper circulating in said Town of _____.

Seconded by Mr./Ms. _____ and duly put to a vote, which resulted as follows:

_____ AYES
_____ NAYS

SAMPLE PUBLIC NOTICE

NOTICE OF PUBLIC HEARING ON A PROPOSED LOCAL LAW OF THE TOWN OF _____, AS SET FORTH HEREIN

LEGAL NOTICE IS HEREBY GIVEN that pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, and pursuant to a resolution of the Town Board of the Town of _____, adopted _____ ___, 20__, the said Town Board will hold a public hearing at the Town Hall, _____ Road, Town of _____, on the _____ day of _____, 20___ at _____ o'clock __.M., Eastern _____ Time, to hear all interested parties and citizens regarding the adoption of proposed Local Law No. 4 of 20__, titled "Restricting the Hours of Operation and Use of the Town Park". Said hearing may be adjourned from time to time as necessary.
Further information, including access to a copy of said proposed Local Law, may be obtained at the Town Clerk's Office, _____Road, _____New York_____.

TOWN BOARD OF THE TOWN OF _____
By _____, Town Clerk

Endnotes

[1] *Daily Gazette Co., Inc. v. Town Board, Town of Cobleskill*, 111 Misc.2d 303(305).
[2] Pub. Off. L. §100.
[3] Pub. Off. L. §102(1).
[4] Pub. Off. L. §102(2). This provision refers to General Construction Law §66 for the definition of "public corporation". The latter statute defines that term to include counties, cities, towns, villages, school districts and fire districts, among other types of local public entities.
[5] Pub. Off. L. §103(a). See also, *Comm. on Open Govt. AO No. 2436*. A meeting otherwise required to be open to the public may not be restricted only to persons in a narrower category, e.g., residents or taxpayers of the community, or persons only of a particular age.
[6] Pub. Off. L. §103(c).
[7] *Committee on Open Govt. AO Nos. 1281, 2120*.
[8] Pub. Off. L. §103(b).
[9] Pub. Off. L. §102(3).
[10] Pub. Off. L. §105(1).
[11] Pub. Off. L. §108.
[12] *Committee on Open Govt. AO No. 2428*.
[13] Pub. Off. L. §105(1). The motion to enter into executive session must describe with some degree of particularity the matter(s) to be dealt with therein. "It is insufficient to merely regurgitate the statutory language…."[see *Daily Gazette Co., Inc*, supra, at 304]. While this does not, for example, require the body to disclose the identity of a person whose history will be discussed, it does obligate the body to disclose in its motion any information (such as the title of a court case) that is already public. See also, *Comm. on Open Govt. AO No. 2451*.
[14] Pub. Off. L. §106(2).
[15] Pub. Off. L. §105(1).
[16] Pub. Off. L. §104(1), (2).
[17] Pub. Off. L. § 103-a(2)(f).
[18] Pub. Off. L. §104(1).
[19] Pub. Off. L. §104(2).
[20] See Pub. Off. L. §107(1), dealing with judicial enforcement, which reads, in part: "In any such action or proceeding, the court shall have the power, in its discretion, upon good cause shown, to declare any action or part thereof taken in violation of this article void in whole or in part."
[21] Pub. Off. L. §107(1).
[22] Pub. Off. L. §103(e).
[23] These should include: the need for a quorum; the order of business; the rules for discussion; public participation (if any); and voting procedures.
[24] Gen. Constr. L. §41.
[25] It should be noted that the time and place of any future meeting can only be established either by a majority of the body, or by protocol already established by the public body.
[26] Reading the minutes of the prior meeting can be, and usually is, waived via motion and majority vote of the body.
[27] Constitution, Art. IX §2(c); Mun. Home Rule L. §10.
[28] Mun. Home Rule L. §20(5); Town L. §130.
[29] Mun. Home Rule L. §20(5).
[30] Municipal Home Rule Law §20 sets forth the general procedural requirements for hearings on the adoption of local laws. The reader is also referred to the Department of State's J.A. Coon Technical Series publication *Adopting Local Laws in New York State* for a more thorough treatment of local law adoption procedures.
[31] Gen. City L. §32; Town L. §276; Vil. L. §7-728.