

SUFFOLK COUNTY BOARD OF ETHICS

Minutes of Meeting Held on
August 19, 2015
In the Office of the Board of Ethics
Sunrise Business Center, 3500 Sunrise Highway, Room 364
Great River, New York 11739

Meeting: *Board Members present:* Linda Spahr, Richard Halverson and Dennis O’Doherty. *Staff present:* Samantha Segal, Executive Director and Darlene Kurrass, Board Secretary, taking minutes.

Ascertainment of Quorum: The meeting was called to order at 5:00 p.m. by Acting Chair, Linda Spahr. A roll call was conducted and a quorum was present.

Adoption of Agenda: A motion was made by Richard Halverson, seconded by Dennis O’ Doherty, to adopt the agenda. Upon a vote being taken, motion was approved (3-0-0).

Board Elections: A call was made for nominations for Chair of the Suffolk County Board of Ethics.

A motion was made by Richard Halverson, seconded by Dennis O’ Doherty to elect Linda Spahr as Chair to fill the remainder of the current term. Upon a vote being taken, motion was approved (3-0-0).

A call was made for nominations for Vice Chair of the Suffolk County Board of Ethics.

A motion was made by Linda Spahr, seconded by Dennis O’ Doherty to elect Richard Halverson as Vice Chair. Upon a vote being taken, motion was approved (3-0-0).

Board Elections were closed.

Adoption of Minutes: A motion was made by Dennis O’ Doherty, seconded by Richard Halverson to adopt the minutes of the August 5, 2015 meeting, as amended. Upon a vote being taken, motion was approved (3-0-0).

Chair Report: Linda Spahr reported to the Board that, in her capacity as Acting Chair, she received Heather Palmore’s letter of resignation stating that her resignation is effective as of August 16, 2015. Linda Spahr reiterated that Robin Long’s resignation was effective May 13, 2015. There are now two current vacancies on the Board.

Linda Spahr stated that Local Law 56-2011 created the Suffolk County Board of Ethics, a five member Board, requiring the presence of three members to ascertain a quorum and a majority (three members) vote for any action to be taken by the Board.

Effectively, due to the current vacancies on the Board, the following can cause board inaction:

- All actions now require unanimous vote,
- No quorum can be ascertained upon the absence, for any reason, of any one member, and
- No action can be taken upon the recusal of any one member.

Additionally, by law, some actions of the Board require a supermajority vote:

- The Board is currently unable to subpoena witnesses and/or documents in accordance with Suffolk County Administrative Code Section A30-7, disabling the Board’s ability to conduct a formal investigation.

Linda Spahr continued, stating that Suffolk County Charter, Article XXX, §C30-2(D), states that:

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“D. Any vacancy occurring on the Board other than by expiration of a term shall be filled by nomination of a successor by the appropriate appointing authority within 60 days of the creation of the vacancy. The County Legislature shall act on such nomination within 60 days of an appointment resolution being laid on the table for consideration.”

Robin Long’s vacancy became effective on May 13, 2015. As the appropriate appointing authority, and in accordance with §C30-2, the County Executive’s nomination was due July 13, 2015. The County Legislature’s action on such nomination would be due on approximately September 13, 2015.

Heather Palmore’s vacancy became effective on August 16, 2015. As the appropriate appointing authority, and in accordance with §C30-2, the Majority Leader’s nomination will be due October 16, 2015. The County Legislature’s action on such nomination would be due on approximately December 16, 2015.

The next meeting of the Ways & Means Committee is scheduled to be held September 3, 2015 at 12:30 p.m. In accordance with Suffolk County Charter, Article XXIII, §C23-3, as the newly appointed Chair, Linda Spahr will notify the Clerk of the Suffolk County Legislature, in writing, of the current board vacancies and request the Clerk kindly advise the members of the Legislature of such vacancies in accordance with §C23-3 to facilitate the 60 day vacancy appointment provision under Suffolk County Charter §C30-2(D). Linda Spahr directed staff to request a letter from Counsel on behalf of the Board advising the Legislature of the implications of the Board vacancies.

The Suffolk County Board of Ethics considered, non-specifically, whom may be suitable as board members to fill the vacancies, in accordance with Suffolk County Charter, Article XXX, §C30-2, such as individuals: on professional disciplinary committees, with a human resources, or training, background, who work in private sector, or in-house, professional ethics, who are professors of law, in a bar association, etc.

Linda Spahr also reported to the Board that the office and a board member were recently contacted by the press. The office and member made no comment. General Counsel to the Board is the Board’s official press contact and Board members, staff, and counsel are bound by confidentiality laws. Local Law 56-2011, which created the Board, included strict provisions regarding confidentiality and privacy to which the Board enacted rules and procedures in compliance with these regulations. Local Law 49-2012, upon recommendation of the Grand Jury, and unanimously adopted by the Suffolk County Legislature, directs, in part, that:

“...the executive director, independent counsel and support staff shall not assist any person or entity, other than the Board and its members, in the preparation of a complaint against a public servant alleging a violation of the County’s Code of Ethics or other applicable provision of law governing conflicts of interest.”

Suffolk County Administrative Code Section A30-5(D), and that,

“B. Any unauthorized disclosure of confidential information by a member of the Board, or the executive director, independent counsel or staff of the Board, *shall be a violation punishable by a fine of not more than \$1,500, or imprisonment of not more than 15 days, or both.*”

Suffolk County Administrative Code Section A30-8(B)(emphasis added).

In conclusion, Linda Spahr reported to the Board that the Board, staff, and counsel acted appropriately and in compliance with the law and Board rules. It is the Board’s policy to always adhere to the laws and policies set forth and always operate transparently.

Public Session: Linda Spahr opened Public Session. No members of the public were present and no written testimony was submitted. Linda Spahr closed Public Session.

Meeting Schedule: For the purpose of enabling Board, and public, access to other County Departments’ and Agencies’ support staff and Board counsel during all meetings, a motion was made by Linda Spahr, seconded by Richard Halverson

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to adopt a regular meeting schedule of the first and third Wednesdays of every month at 9:30 a.m. Upon a vote being taken, motion was approved (3-0-0). Linda Spahr directed staff to update the Board Member Reference Booklet.

Executive Director Report: Samantha Segal, Executive Director, reported and/or discussed the following:

- 2016 Budget: August Update submitted,
- Training: All-Employee in the autumn,
- Elected Official Online Training is active,
- Board Vacancy of May 2015: No update received from appointing authority,
- Attended a NYC Public Hearing of the Disciplinary Committee for Attorneys regarding reasonable cause threshold and statewide amendments;
 - Letter of Education, as opposed to Letter of Caution;
 - New York Law Journal inquiry.

The Board took a brief recess at 5:40 p.m. and resumed at 5:50 p.m.

Executive Session: At 5:50 p.m. a motion was made by Dennis O' Doherty, seconded by Richard Halverson to go into Executive Session for the purpose of discussing confidential matters pertaining to one Ethics Violation Complaint and one Advisory Opinion in accordance with the Suffolk County Administrative Code §A30-8 and the New York State Open Meetings Law. Upon a vote being taken, motion was approved (3-0-0).

During Executive Session the Board voted to adjourn the reasonable cause vote of C-004-2015 and directed staff to conduct further fact finding pursuant to Board procedures (Approved) (3-0-0) and voted on standing of AO-2015-11 (3-0-0).

A motion was made by Dennis O' Doherty, seconded by Linda Spahr to close Executive Session. Upon a vote being taken, motion was approved (3-0-0).

New Business: Linda Spahr reiterated that the New York State Open Meetings Law provides that minutes of meetings of all public bodies can be requested, in draft, through a FOIL request.

The next meeting of the Board will be held September 2, 2015 at 9:30 a.m.

There being no further business, a motion was made by Linda Spahr, seconded by Dennis O' Doherty to adjourn the meeting. Upon a vote being taken, motion was approved (3-0-0) (6:45 p.m.).