

COMMUNITY BOARD NO. 8 BRONX

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ETHICAL GUIDANCE

A MANUAL FOR MEMBERS OF COMMUNITY BOARD NO. 8 BRONX

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MEMBERS, LAW, RULES & ETHICS COMMITTEE

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Serving the neighborhoods of Fieldston, Kingsbridge, Kingsbridge Heights,
Marble Hill, Riverdale, Spuyten Duyvil, and Van Cortlandt Village

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Foreword and Introduction

In 2007, Mr. Irving Ladimer, the Chair of Community Board 8's Ethics Committee, took on the personal task of creating the Community Board No. 8 Ethical Guidance Manual. Since that time, new issues have been brought before the Board that resulted in the need to expand the Guidelines content and scope. The following Guidelines have been revised by a subcommittee of the Law, Rules and Ethics Committee.

"Community board members are chosen because of their professional involvement with, and commitment to, the communities in which they live and work." *

*It is recognized that, by virtue of such interests and qualifications, they have personal interests and private or official associations. It is the purpose of the New York City ethical codes, presented in many ways, to ensure the integrity and impartiality of Board decisions. Thus, members are instructed and assigned in their service to avoid personal gain or advantage." (Community Boards by General Counsel, Conflict of Interest Board)

Our community is best served by the sincere and active involvement of Board members. The highest ethical imperative is met by attendance, participation and voting. In this way, members may achieve improvement in the quality of life for the neighborhoods served by the Bronx Community Board NO. 8 and for all New Yorkers.

Beyond adherence to the formal rules, members are expected to treat with dignity and respect all the members of the Board and members of the public whom we serve.

This manual is intended as long-term reference for members of Bronx Community Board No. 8 to aid them in affording proper and effective service. Generally, few issues arise but, for guidance, the basis and experience of local boards and the specifics of the Board's Bylaws are provided. The major source is the Conflicts of Interest Board (COIB), responsible for issuing opinions and for advising community boards and the public.

Bronx Community Board No. 8 also has a website at www.nyc.gov/bronxcb8. The Board's site provides resource information; committee agendas and minutes, board reports, data relevant to the district's planning initiatives, district statistical profiles, community health profiles and conflict of interest information.

The completion of this revised project could not have occurred without the hard work of the Board office and its staff: Pat Manning, District Manager. In addition, great appreciation to Wayne G. Hawley, General Counsel, Conflicts of Interest Board who reviewed this document and to those Board members that provided comments.

This is a work in progress. As new issues come before us, especially in our rich and varied communities, new and current responses will be needed. This is a start.

Irving Ladimer, Rosemary Ginty, Martin Wolpoff
Law, Rules and Ethics Committee

Part I

General Conditions

In service to City and community, members of Community Boards (CB) are expected to observe generally accepted ethical principles, notably avoidance of conflict of interest or advantage of position.

It is known that members would have personal, family, work or social interests and associations that may affect their views or conduct in Board considerations. Accordingly, rules and opinions from several sources are available to instruct and govern member participation. The purpose of these restrictions is to acknowledge private concerns while preserving the integrity of the Board and its processes.

Part II

Authorities and Sources

1. Primarily, the New York City Charter includes a chapter on Ethics (Ch. 68) creating the current Conflicts of Interest Board (COIB) to promulgate rules, provide education and issue advisory opinions. The Charter contains specific provisions relating to official conduct of Community Board members, many subject to COIB interpretation. These apply to Board staff and to appointed Board members but not to “public members” who volunteer on committees, as they are not deemed “public servants” under the Charter. However, the Community Board expects these “community members” to disclose any relationships that might involve a conflict and that they not vote on any resolution for which they have a conflict.
2. The Conflicts of Interest Board (COIB) is the principal agency monitoring and advising Boards generally on ethical issues or specifically in answer to a Board inquiry. The COIB may also enforce requirements and impose fines or other penalties, after a hearing.

The COIB has a wide range of responsibilities and issues advisory opinions (not judicial orders) on topics concerning Board operations, committee service and financing of Board

activity, but mainly responses to private versus public interests. Part III (below) summarizes a number of opinions of special interest to Bronx Community Board No. 8 (CB8) such as zoning, representation of charitable and non-profit groups, public employment and business ventures.

3. Bylaws of Bronx Community Board No. 8. This is the governing instrument of the Board. It governs the internal management and outlines the responsibilities and powers of the Board. It defines rules for officers, meetings, voting, standing committees and the authorization for special committees, public hearings, gallery sessions, public relations, district manager and the board office and amendments. The bylaws are available on the Board's website at: www.nyc.gov/bronxcb8 under the category About CB8. The Ethical Guidance Manual does not change or amend CB8's Bylaws.

The Board uses parliamentary procedures based on Robert's Rules of Order to conduct meetings in the tradition of public democracy. The Mayor's Community Assistance Unit has written *A Guide to Parliamentary Procedures for New York City Community Boards*. The parliamentary procedures are available on the Board's website at www.nyc.gov/bronxcb8 under the category About CB8, Member Resources.

4. Law, Rules & Ethics Committee. The Committee is a regular standing committee of the Board. By special provision, the membership of the Committee "shall consist of those appointed Board Members who are attorneys at law and other interested appointed Board Members. When an issue arises requiring an ethics opinion, an ad hoc ethics committee can be formed with the Board Chairperson appointing two (2) officers of the Board; and the Chairperson of the Law Rules and Ethics (LRE) Committee appointing an LRE Committee member as counsel/voting member," (Bylaws, Article Section 7, D)

The jurisdiction of the Committee is limited to issues and matters within the scope of Board powers and functions and does not extend to subjects of interest to the community district unless properly presented and acknowledged by the Board.

The Committee is available on an open or confidential basis, for information or advice to any appointed Board member, or any community committee member upon approval of the chair.

The Committee is obliged to inform the Board of official reports, decisions and advice provided for guidance of Community Boards. The Committee maintains a reference file of such information for the benefit of Board and community members.

5. Your Community Board. This brochure, issued by the Mayor's Community Affairs Unit, outlines the functions, powers and operations of local Boards. It is available on the Board website at: www.nyc.gov/bronxcb8 under the category About CB8.
6. The 2010 Handbook for Community Board Members was originally prepared by the Community Board Assistance Unit of the Mayor's Office. It has a reference guide for community board members and includes the *Appendix E. Conflicts of Interests*. The Handbook is available on the Board's website at: www.nyc.gov/bronxcb8, under the category About CB8, Member Resources.

Part III

Opinions of the Conflicts of Interest Board

The Conflicts of Interest Board (COIB) issues and compiles opinions, published periodically; also in City Law, the journal of the Center for New York City Law; in occasional bulletins and brochures. Separates are available. A City Law monograph "Conflicts of Interest Under the New York City Charter" contains a chapter on Community Boards. By illustration, two pamphlets "Conflicts of Interest: What Every Community Board Member Should Know" (1996) and "Conflicts of Interest Law and Community Boards" (1999) are available on the website under Member Resources.

Ethics seminars open to the public are held by the COIB and the Center for New York City Law. Meetings and conferences are announced in publications of the Center for New York City Law (New York Law School) and COIB office. Visit COIB at: <http://nyc.gov/ethics>

The purpose of the Charter (law) is to ensure that Board members, as public servants, do not use or appear to use their positions for their own interests. Recognizing their private interests, COIB opinions permit discussion and participation on proper disclosure or recusal, if indicated, and

appropriate voting. These are determined by balancing the nature and extent of possible personal gain or influence against the importance of the subject at issue.

Some typical opinions are provided:

1. Zoning - Board member homeowners may vote on rezoning when not individually or directly involved. Nine members of Community Board 7 (Queens) asked COIB if they could vote on a proposal for rezoning an area in which they lived. Voting would not violate conflicts of interest laws as long as members disclose, in advance, any economic interests to their Board. The Board members were homeowners, not investors with business interests and the rezoning involved a vast area with 8000 properties. Board members could not individually benefit. (Opinion No. 2005-3, 11/7/05)
2. Senior Facility - A Board member had an interest in a corporation planning to build an assisted living facility on five lots in the community. The member did not refrain from voting on the proposal. COIB ruled that by voting, he violated the Ethics provision of the Charter since his vote could result in a direct economic gain to him. (Opinion No. 99-157, 2001)
3. Liquor Facility - A Board member who owned a liquor shop may be permitted to vote on liquor licensing of another, possibly competing, facility because any advantage would be speculative and any effect on the member's facility would be indirect. (Opinion No. 2003-2, 2003). A further Opinion stated that a Board member who had an interest in a liquor facility could not serve as Chair of the Committee responsible for considering liquor license applications, i.e.; Public Safety Committee. (Opinion No. 2003-2)
4. Private Interests - A Board member may Chair a Committee unlikely to consider issues concerning the member's private interests. If they arise, the member may not participate in discussions. Relevant information must be disclosed.
5. Budget Priorities - Board members may vote on budget priorities that may affect developments in which they have an interest, provided such votes do not result in personal and direct economic gain. (Opinion No. 93-3)

6. Compliance with City Charter - Appointed members may not use their positions for personal advantage or for any business or organization with which they are associated. Generally, they are subject to the same restrictions imposed on public servants but are afforded the special Charter provision for community boards, mainly regarding conflicts of interest.
7. Service on a Community Education Council (“CEC”) - A Board member may serve on a “CEC” that represents the same neighborhood as the community board. The Board member may vote on matters at both entities, and chair community board meetings that consider matters that had been or might be considered by the “CEC”. (Opinion No. 2010-1)
8. Community Board Members Right to Vote when Associated with Organizations
- A member who is employed or a board member of an organization may not vote on a matter that would benefit the organization or chair any meeting.
 - A member who is an executive director or executive of an organization may not vote on a matter that would benefit a more senior executive or member of the board of directors. An employee may vote if it does not appear that the executive or director determines terms and conditions of employment.
 - A member whose spouse, sibling or other “associated” party is employed by an organization that would be materially affected may not vote on the matter or chair any meeting if the “associated” party will receive a financial benefit.
 - A member who is employed at a not-for-profit may not vote or chair a meeting on a matter providing direct financial benefit such as to underwrite the member's salary but, if unpaid, may vote.
 - A member whether an employee or a board member of a not-for-profit may not solicit contributions from any person or firm with a matter before, or about to be before, the community board. (Opinion No. 2008-2)
9. Gifts of Admission to Sporting Entertainment Events - A Board member or employee, as public servants, may accept complimentary attendance to a sporting and other entertainment events only if there is a clear and direct nexus between the event and the public servant’s official duties and the public servant must perform some official function at the event, not merely be announced as present. (Opinion 2012-4)

Part IV

Related Issues of Interest to Board

Related issues, indirectly affecting Board members, are noted.

1. Representation. A Board member may not issue a public statement to media or otherwise without prior approval by the Board Chair and may not sign as a Board member or permit such inference unless authorized.
2. Honoraria. A Board member may not accept an honorarium or expense fee for speaking or working for an organization when it may reasonably be inferred that the member might receive favorable treatment.
3. Political Activity. A Board member may be involved in political activity and run for public office while continuing to serve on the Board. However, pursuant to Section 1115 of the City Charter, which prohibits individuals from holding more than one civil office, a Community Board member would have to resign from the Board upon assuming elective office. Fundraising must be undertaken separately and without reference to Community Board membership.
4. Board Appointments. Appointments to a Community Board are within the discretion of the Borough President on the basis of applications, recommendations and nominations from local City Council members. Appointments are not subject to reconsideration or appeal.
5. Board Fundraising. Boards may authorize soliciting of donations or contributions but not from individuals or firms with matters pending before the Board or periodically pending and, as appropriate, within the City's bidding process. The Board may solicit or accept funds to support a public service project, such as a community survey, but with disclosure of any possible involvement leading to conflict of interest and must provide findings and recommendations on the basis of fair dealing.

6. Gifts. The Board may, after appropriate approval, accept gifts on the condition that the donor, private or non profit, is not afforded any advantage or preference or be a party to a pending issue.
7. Member Request. A Board member for self or others is entitled, as a private citizen, to apply to a Committee for consideration of a neighborhood matter, such as parking or housing. Membership does not, of itself, imply preference or the appearance of special interest. The member is equally entitled to the resources of public authorities, including the Board. There is no personal economic gain for the member.
8. Professional Representation. Board members associated with professional firms such as law, health, accounting, engineering, architecture, urban planning and similar entities, may not personally represent a private client before the Board and cannot vote on any matter involving the client's interest. However, the firm may be able to obtain a waiver from COIB for presentation by a partner or colleague.
9. Supplier to Board. A Board member may not serve as a supplier or vendor to the Board or engage in business dealings. An exception may be made for special purchases, upon disclosure and approval.
10. Financial Disclosure. Information presented by a member at the time of appointment is deemed sufficient by the Board. A proposal by New York City Council Member, submitted to all Boards, for full financial disclosure similar to that for City employees, was deemed not necessary and also inappropriate for members with only advisory authority.
11. Waivers for Members. Employees of contractors for the City may serve as "public members" or Board members. They are unpaid volunteers who evaluate or review programs and take part in public hearings. They have no executive or administrative responsibility for the employer. To serve as members they may obtain waivers from COIB and recuse themselves from any negotiations involving their employer or gain status from their employer. (Opinion No. 2006-01, 01/18/06)

12. Voting. A Board member that is not entitled to vote on a particular issue due to a conflict of interest may be counted present for a quorum. For vote tabulation, the member should be marked “present but not entitled to vote” rather than “abstaining for cause.”
13. Ex Officio Member. An ex officio Board member may participate in discussion and express opinions, but is not entitled to vote. CB8 has three (3) ex-officio members from City Council Districts 10, 11, and 14.

Part V

Community Board Administration

1. Nominating Committee

The Nominating Committee is subject to the Open Meetings Law.

In addition to the Bylaws, which specify the structure and duties of the committee, the following procedures are to be followed pursuant to resolutions adopted by the community board on February 14, 2012 , November 13, 2012, and April 14, 2015.

- (a) Officers: A member of the nominating committee may not be nominated by the committee for a position of officer.
- (b) Committee Chairs: A member of the Nominating Committee under consideration for a committee chair shall recuse him/herself from discussion and vote for that position.
- (c) In the event of a tie vote in the Nominating Committee, both candidates shall be presented to the Board.
- (d) The Nominating Committee must complete its activities and present its slates at least two calendar weeks before the June meeting at which the election will take place.
- (e) When the nominating committee is elected, there will be a statement that all officer and chair positions are to be considered open and available for nominations.
- (f) Within five (5) business days of the formation of the nominating committee, each current chair or officer shall notify such committee of his or her intention not to be considered for renomination. The nominating committee will then notify all board members of such position(s)

within 24 hours of such notification. If an incumbent chair wishes to be considered for two or more chair positions, the committee will notify all board members of the incumbents' intent.

(g) Open Meetings Law -

1. The activities of the nominating committee should still be guided by the principals that Board 8 previously established
 - a) A potential candidate for an officer position should not be on the nominating committee
 - b) Members of the nominating committee who seek to be candidates for chair positions, should absent themselves from all interviews, discussions, executive sessions and votes concerning that position
 - c) Incumbent chairs have five day from the creation of the nominating committee to notify of their desire to vacate the position. Even though all officer and chair positions are considered vacant, the committee will then notify all board members of the incumbents' intent.
2. The actions of the nominating committee are subject to the OML: meeting notice must be given, the meeting is open to the public and minutes must be taken, including the recording of votes taken
3. The nominating committee may go into executive session if it is to discuss the "medical, financial, credit or employment history of a particular individual." It is recommended that, if interested, the committee establish a question schedule that includes such questions. If that is the case, a motion must be made to go into executive session and a recording of the votes on the motion be recorded. While in executive session, there are no minutes, votes or discussion relating to the selection of a slate. Such discussions and votes must be made in open session with minutes taken and votes recorded.

2. Freedom of Information Law (FOIL)

Our community board provides access to records during normal board office hours when staff is present. Our District Manager is the person whom such records can be obtained. If an audio recording is requested to be heard, then the District Manager will arrange to set up the Board audio machine and re-catalog the tapes when finished. The office does not have the capacity to make audio copies and therefore it has been the practice of the community board office to make the tapes available with a tape machine to listen to them in the office during business hours. The cost of each photocopy is twenty-five cents per photocopy not in excess of nine inches by fourteen inches or the actual cost of reproducing any other record in accordance with the provisions of paragraph 1(c) of Section 87 of the New York State Public Officers Law except when a different fee is otherwise prescribed by statute.

It is the policy of Bronx Community Board No. 8 to comply with the New York State Public Officers Law, Article 6, Sections 84-90. The Board highlights the following Sections as particularly relevant to FOIL requests:

§87. Access to agency records.

1. (a) Within sixty days after the effective date of this article, the governing body of each public corporation shall promulgate uniform rules and regulations for all agencies in such public corporation pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the administration of this article.

(b) Each agency shall promulgate rules and regulations, in conformity with this article and applicable rules and regulations promulgated pursuant to the provisions of paragraph (a) of this subdivision, and pursuant to such general rules and regulations as may be promulgated by the committee on open government in conformity with the provisions of this article, pertaining to the availability of records and procedures to be followed, including, but not limited to:

- i. the times and places such records are available;
- ii. the persons from whom such records may be obtained; and
- iii. the fees for copies of records which shall not exceed twenty-five cents per photocopy not in excess of nine inches by fourteen inches, or the actual cost of reproducing any other record in accordance with the provisions of paragraph (c) of this subdivision, except when a different fee is otherwise prescribed by statute.

c. In determining the actual cost of reproducing a record, an agency may include only:

- i. an amount equal to the hourly salary attributed to the lowest paid agency employee who has the necessary skill required to prepare a copy of the requested record;
- ii. the actual cost of the storage devices or media provided to the person making the request in complying with such request;
- iii. the actual cost to the agency of engaging an outside professional service to prepare a copy of a record, but only when an agency's information technology equipment is inadequate to prepare a copy, if such service is used to prepare the copy; and
- iv. preparing a copy shall not include search time or administrative costs, and no fee shall be charged unless at least two hours of agency employee time is needed to prepare a copy of the record requested. A person requesting a record shall be informed of the estimated cost of preparing a copy of the record if more than two hours of an agency employee's time is needed, or if an outside professional service would be retained to prepare a copy of the record.

2. Each agency shall, in accordance with its published rules, make available for public inspection and copying all records, except that such agency may deny access to records or portions thereof that:

(a) are specifically exempted from disclosure by state or federal statute;

- (b) if disclosed would constitute an unwarranted invasion of personal privacy under the provisions of subdivision two of section eighty-nine of this article;
- (c) if disclosed would impair present or imminent contract awards or collective bargaining negotiations;
- (d) are trade secrets or are submitted to an agency by a commercial enterprise or derived from information obtained from a commercial enterprise and which if disclosed would cause substantial injury to the competitive position of the subject enterprise;
- (e) are compiled for law enforcement purposes and which, if disclosed, would:

- i. interfere with law enforcement investigations or judicial proceedings;
- ii. deprive a person of a right to a fair trial or impartial adjudication;
- iii. identify a confidential source or disclose confidential information relating to a criminal investigation; or
- iv. reveal criminal investigative techniques or procedures, except routine techniques and procedures;

- (f) if disclosed could endanger the life or safety of any person;
- (g) are inter-agency or intra-agency materials which are not:

- i. statistical or factual tabulations or data;
- ii. instructions to staff that affect the public;
- iii. final agency policy or determinations; or
- iv. external audits, including but not limited to audits performed by the comptroller and the federal government; or

- (h) are examination questions or answers which are requested prior to the final administration of such questions;

- (i) if disclosed, would jeopardize the capacity of an agency or an entity that has shared information with an agency to guarantee the security of its information technology assets, such assets encompassing both electronic information systems and infrastructures;

3. Each agency shall maintain:

- (a) a record of the final vote of each member in every agency proceeding in which the member votes;
- (b) a record setting forth the name, public office address, title and salary of every officer or employee of the agency; and
- (c) a reasonably detailed current list by subject matter, of all records in the possession of the agency, whether or not available under this article. Each agency shall update its subject matter list annually, and the date of the most recent update shall be conspicuously indicated on the list. Each state agency as defined in subdivision four of this section that maintains a website shall post its current list on its website and such posting shall be linked to the website of the committee on open government. Any such agency that does not maintain a website shall arrange to have its list posted on the website of the committee on open government.

4. (a) Each state agency which maintains records containing trade secrets, to which access may be denied pursuant to paragraph (d) of subdivision two of this section, shall promulgate regulations in conformity with the provisions of subdivision five of section eighty-nine of this article pertaining to such records, including, but not limited to the following:

- (1) the manner of identifying the records or parts;
- (2) the manner of identifying persons within the agency to whose custody the records or parts will be charged and for whose inspection and study the records will be made available;
- (3) the manner of safeguarding against any unauthorized access to the records.

(b) As used in this subdivision the term "agency" or "state agency" means only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor.

(c) Each state agency that maintains a website shall post information related to this article and article six-A of this chapter on its website. Such information shall include, at a minimum, contact information for the persons from whom records of the agency may be obtained, the times and places such records are available for inspection and copying, and information on how to request records in person, by mail, and, if the agency accepts requests for records electronically, by e-mail. This posting shall be linked to the website of the committee on open government.

5. (a) An agency shall provide records on the medium requested by a person, if the agency can reasonably make such copy or have such copy made by engaging an outside professional service. Records provided in a computer format shall not be encrypted.

(b) No agency shall enter into or renew a contract for the creation or maintenance of records if such contract impairs the right of the public to inspect or copy the agency's records.

§89 General provisions relating to access to records; certain cases.

2. (a) The committee on open government may promulgate guidelines regarding deletion of identifying details or withholding of records otherwise available under this article to prevent unwarranted invasions of personal privacy. In the absence of such guidelines, an agency may delete identifying details when it makes records available.

(b) An unwarranted invasion of personal privacy includes, but shall not be limited to:

- i. disclosure of employment, medical or credit histories or personal references of applicants for employment;
- ii. disclosure of items involving the medical or personal records of a client or patient in a medical facility;
- iii. sale or release of lists of names and addresses if such lists would be used for solicitation or fund-raising purposes;
- iv. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such information is not relevant to the work of the agency requesting or maintaining it;
- v. disclosure of information of a personal nature reported in confidence to an agency and not relevant to the ordinary work of such agency; or
- vi. information of a personal nature contained in a workers' compensation record, except as provided by section one hundred ten-a of the workers' compensation law.

(c) Unless otherwise provided by this article, disclosure shall not be construed to constitute

an unwarranted invasion of personal privacy pursuant to paragraphs (a) and (b) of this subdivision:

- i. when identifying details are deleted;
- ii. when the person to whom a record pertains consents in writing to disclosure;
- iii. when upon presenting reasonable proof of identity' a person seeks access to records pertaining to him or her; or
- iv. when a record or group of records relates to the right, title or interest in real property, or relates to the inventory, status or characteristics of real property, in which case disclosure and providing copies of such record or group of records shall not be deemed an unwarranted invasion of personal privacy.

2-a. Nothing in this article shall permit disclosure which constitutes an unwarranted invasion of personal privacy as defined in subdivision two of this section if such disclosure is prohibited under section ninety-six of this chapter.

3. (a) Each entity subject to the provisions of this article, within five business days of the receipt of a written request for a record reasonably described, shall make such record available to the person requesting it, deny such request in writing or furnish a written acknowledgment of the receipt of such request and a statement of the approximate date, which shall be reasonable under the circumstances of the request, when such request will be granted or denied, including, where appropriate, a statement that access to the record will be determined in accordance with subdivision five of this section. An agency shall not deny a request on the basis that the request is voluminous or that locating or reviewing the requested records or providing the requested copies is burdensome because the agency lacks sufficient staffing or on any other basis if the agency may engage an outside professional service to provide copying, programming or other services required to provide the copy, the costs of which the agency may recover pursuant to paragraph (c) of subdivision one of section eighty-seven of this article. An agency may require a person requesting lists of names and addresses to provide a written certification that such person will not use such lists of names and addresses for solicitation or fund-raising purposes and will not sell, give or otherwise make available such lists of names and addresses to any other person for the purpose of allowing that person to use such lists of names and addresses for solicitation or fund-raising purposes. If an agency determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty business days from the date of the acknowledgement of the receipt of the request, the agency shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part. Upon payment of, or offer to pay, the fee prescribed therefor, the entity shall provide a copy of such record and certify to the correctness of such copy if so requested, or as the case may be, shall certify that it does not have possession of such record or that such record cannot be found after diligent search. Nothing in this article shall be construed to require any entity to prepare any record not possessed or maintained by such entity except the records specified in subdivision three of section eighty-seven and subdivision three of section eighty-eight of this article. When an agency has the ability to retrieve or extract a record or data maintained in a computer storage system with reasonable effort, it shall be required to do so. When doing so requires less employee time than engaging in manual retrieval or redactions from non-electronic records, the agency shall be required to retrieve

or extract such record or data electronically. Any programming necessary to retrieve a record maintained in a computer storage system and to transfer that record to the medium requested by a person or to allow the transferred record to be read or printed shall not be deemed to be the preparation or creation of a new record.

(b) All entities shall, provided such entity has reasonable means available, accept requests for records submitted in the form of electronic mail and shall respond to such requests by electronic mail, using forms, to the extent practicable, consistent with the form or forms developed by the committee on open government pursuant to subdivision one of this section and provided that the written requests do not seek a response in some other form.

Part VI

Voting

Appointed members of the Board are exclusively entitled and expected to vote on resolutions for action submitted to the Board. An official vote requires a quorum ("A majority of appointed members.") All votes are recorded as cast in person and on time. For a resolution to be approved there must be a majority vote of the members eligible to vote.

Votes may be positive, negative, abstentions or abstention noted "for cause." The quorum is not affected by abstention or refusal to vote. All abstentions for cause must be approved and is subject to challenge on request. Votes from members who are approved as abstentions "for cause" reduce the majority required for the resolution to be approved.

An abstention is acceptable if the cause or reason for abstention is permissible as a recognized conflict of interest, the appearance of a conflict of interest or the position of the member is based on statute or decision of the Conflict of Interest Board (COIB). In the absence of a specific response to a question adjudicated by the COIB, the chair of the Laws, Rules and Ethics committee shall determine whether the basis of a abstention for cause meets the standards provided by the COIB. The chair of the board will offer a decision, which may be challenged by a vote of the board.

All votes are recorded as For, Against, abstention and abstentions "for cause." The member is permitted to attend the meeting and allowed to take part in the discussion.

END

Appendix:

1. Conflicts of Interest: Appendix E. Conflicts of Interest: What Every Community Board Member Should Know from 2010 Handbook for Community Board Members
2. Community Boards by Wayne G. Hawley, General Counsel, Conflicts of Interest Board
3. Your Community Board, City of New York, Mayor's Community Affairs Unit pamphlet