

## General Rules for Public Meetings and Hearings—An Overview

New York State public bodies are subject to the regulations of the Open Meetings Law. Generally, it is in a municipality's best interest to be as open and transparent as possible when it comes to municipal proceedings like town or village board meetings; city council meetings; hearings; and planning / zoning board meetings. This approach is beneficial (and required by the law) although the process may seem onerous at the time.

What does the law say? According to the Open Meetings Law (OML), it applies to “public bodies” that consist of two or more people that conduct public business and perform a government function for the State of New York. As noted above, this covers nearly every meeting a town / village / or city would conduct.

### Workshop Meeting vs. a Public Hearing—What's the Difference?

It may seem like semantics, but there is a difference between a public meeting and a public hearing. According to the New York State Department of State (NYS DOS), they are defined as follows:

*Public Hearing:* An official hearing or proceeding of a governmental body or officer, during which the public is included and granted an opportunity to be heard.

*Workshop Meeting:* A meeting that citizens may attend, but can only observe the proceedings of the municipal body as they conduct business. There is no public comment period.

For both a public hearing and a workshop meeting, the OML does apply—the meetings must be advertised in advance and the public is allowed to attend.

### Planning Board Meetings and Zoning Board of Appeals Meetings—They're Not Identical

The Planning Board consists of 5-7 members and the terms typically last 5-7 years. Appointments are made by either the Town Board or the Mayor. Either the Mayor / Town Supervisor or other members of the board designate one of the board members as the chairperson. The chairperson's major responsibilities include ensuring the rules or order are being followed; the meeting has been publicized and is run in accordance with the NYS OML. It is worth noting that the planning board cannot make laws or ordinances. The planning board is there to review land uses and make recommendations on development proposals based on the existing land use regulations.

The Zoning Board of Appeals has 3-5 members and the terms typically last 3-5 years. Like the Planning Board, either a Town Supervisor or Mayor appoints the members. The Zoning Board also has a chairperson who is designated the same way as the Planning Board Chair and has similar responsibilities as the Planning Board chair. The Zoning Board is a quasi-judicial body—it has powers similar to those of a court. This is different from the Planning Board because the Zoning Board can:

- Take action on both use and variance proposals; and
- Hear matters of appeal from the code enforcement officer.
- Request and interpretation of the town code as it pertains to the code enforcement officer's decision.

It's worth noting that, like the Planning Board, the Zoning Board cannot make laws or ordinances, nor can they adopt, amend, or approve actions they have not been given authority to oversee. However, the Zoning Board is required to hold a Public Hearing in advance of reviewing an issue before them. This is a key difference between the Planning Board and the Zoning Board of Appeals.

### Guidelines for a Successful Public Meeting

In order to ensure a successful public meeting from a procedural standpoint, be sure to follow these guidelines:

**Give Public Notice** – You need to let the public know that a meeting is happening. Publish a hearing or meeting notice in official newspaper, town hall, municipal website in accordance with respective state or local laws. At minimum, it must include the time and place of the meeting; the name and contact information for the public body holding the meeting; and sufficient time for public review prior

**Make Sure You Have a Quorum**—In order to conduct business or make any official decisions, there must be a certain number of people or a quorum. A majority of the whole board must be present.

**Taking Action**—Similar to having a quorum, in order to approve or deny an application or action, the majority of the full board must concur.

**Maintaining a Record**—The municipality is responsible for maintaining a record of the meeting and the voting. All decisions must be filed with the municipal clerk within five days. It's also worth noting that the public can request meeting notes, even if they have not been formally accepted.

**Conflicts of Interest**—This probably should go without saying, but any board member (including the chair / supervisor, etc.) must guarantee no personal conflict of interest. If there is, they must recuse themselves.

**Listen and Be Respectful**—Board members should listen to the public; be responsive and respectful; make an informed decision; and then decide in the public interest.

The more a public meeting is advertised and the more options the public has to comment or participate, the better. Should a member of the public complain and say they didn't know a meeting was being held, your municipality can apologize and point to the meetings notices and avenues that were available for public participation / comment..

*Resources: NYS Department of State Open Meeting Law:*

<https://www.dos.ny.gov/coog/openmeetinglawfaq.html>

*NYPF—A Guide to Procedures Governing Public Meetings (available for purchase)*