

Vermont Developmental Disabilities Council

Quarterly Meeting Minutes ~ December 7, 2017

Vermont Association for the Blind and Visually Impaired, South Burlington

Approved March 29, 2018

Present: Kaiya Andrews, Julie Arel, Fred Breunig, Gina Carrera, Betsy Choquette, Mike Gruteke, Terry Holden, Steve Kieselstein, Dion LaShay, Ed Paquin, Lisa Rudiakov, Jesse Suter, Kay Stambler, Miriam Stoll

Absent: Stacey Emerson, Carol Hassler, MD, Catherine Hybels, Clare McFadden, Hannah Neff, John Spinney, Jennifer Stratton, Adrian Vaut

Support Staff: Rich Ossias

Guests: Scott Strenio, Secretary of State Jim Condos and staff (chief of staff, general counsel, and deputy secretary), Lynne Cleveland Vitzthum, Sarah Launderville, Pam McCarthy, Karen Lafayette, Deborah Lisi Baker (phone)

VTDDC Staff: Kirsten Murphy, Susan Aranoff

1. Welcome & Minutes

Fred Breunig welcomed members and guests to the meeting. He noted that a quorum was present, and that Dr. Scott Strenio was joining the meeting today as a possible representative from the Vermont Medicaid Program. Roles were assigned:

- Kaiya Andrews – Jargon Buster
- Steve Kieselstein – Keeper of the List
- Julie Arel – Time Keeper
- Mike Gruteke - Rudder

Motion: Ed Paquin moved to approve the Minutes from the September 28, 2017 meeting. Kay Stambler seconded the motion. The minutes were approved unanimously, and will be amended to reflect that Steve Kieselstein was at the September meeting.

2. President's Report

This is Fred's second to last meeting as President. In March, he finishes two (2) years as Council President. Fred talked fondly about his tenure as President, enjoying both state-level work and representing Vermont nationally at conferences. Fred nominated Miriam Stoll to be President. Miriam accepted the

nomination. Anyone else who wishes to run for President should inform Kirsten by March 1st so that the nomination can be properly noticed.

Fred announced the formation of the Council's new Program Committee which now has a charter and members. Members of the Program Committee are Fred, Stacey Emerson, Cathy Hybels, Terry Holden, Mike, Steve and Kay.

3. Training by Secretary of State Jim Condos

Secretary Condos and members of his staff visited as part of the Secretary's "Transparency Tour." The Secretary reviewed the Council's obligations as a public body under Vermont's Open Meeting Laws. [Slides are attached, and members are encouraged to keep a copy in their binders].

4. Reports from the Field

Visitors from the Vermont Coalition for Disability Rights (VCDR) discussed the results of their six-month grant from VTDDC. Sarah Launderville, VCDR President reviewed each grant objective and activity. She was joined by VCDR's Vice President Pam McCarthy and their Coordinator Karen Lafayette. The presentation included a sneak preview of the new VCDR website which is under construction.

5. Executive Director's Report

Kirsten Murphy provided an overview of the Council's progress toward each of the objectives in VTDDC's Five-Year State Plan [attached]. Areas of strength include VTDDC's work in developing leadership skills among self-advocates and family members (Objective 2.2) and securing a wage increase for direct support providers, which will ultimately improve Home and Community Based Services (Objective 3.3). Some revisions may be needed to reflect current trends and emerging issues. The Program Committee will review and make recommendations at the March quarterly meeting.

Kirsten said that the Council's budget has approximately \$80,000 remaining for major grants and \$30,000 for SEEDS awards.

6. Lunch with legislators

Council members were joined by four legislators during lunch: Rep. Mary Sullivan (Democrat, Chittenden 6-5), Rep. Maida Townsend (Democrat, Chittenden 7-4), Rep. Brian Cina (Progressive, Chittenden 6-4), and Rep. Betsy Dunn (Democrat,

Chittenden 8-1). Conversation focused on health care reform and education funding.

7. Program Committee Report

The Council discussed the results of the grant to VCDR as presented by earlier [See section 4]. Kirsten confirmed that VCDR initiated the activities and provided the deliverables set out in the grant agreement. There was a discussion about whether to fund a renewed grant or to move the project to a contract. Some Council members expressed concern that if funded, this project reflect the Council's intent that VCDR widen the base of participants in the cross-disability movement in Vermont.

Motion: Kay Stambler moved that VTDDC provide VCDR with an amount not to exceed \$50,000 for one year and that the Program Committee work out the specific details for the scope of work. Kaiya Andrews seconded the motion.

Motion approved: 12 in favor and 1 abstention.

Terry Holden reviewed three (3) proposals for SEEDS grants. The Program Committee recommends funding the first of these, a request from the Federation of Families for \$15,000 to support two Parent Support Providers in southern Vermont. Two other proposals – one from the New England Youth Theatre and one from VSA Vermont – showed some strengths. They will be encouraged to revise and resubmit their proposals.

Motion: Terry moved that VTDDC fund the proposal from the Vermont Federation of Families, and Mike seconded. **Motion approved: 11 in favor and 1 abstention.**

8. Update from Public Policy Committee

Susan Aranoff reported on recent comments that the Council submitted to the Green Mountain Care Board.

Miriam discussed the status of the Independent Schools Rules discussion. The next and final meeting of the Independent Rules Work group is Friday, December 15th 1- 3:00 pm at the State House. Susan and Miriam will be there, and other advocates are encouraged to attend.

9. Update from Dr. Scott Strenio, Medical Director for the Department of Vermont Health Access (DVHA)

Dr. Strenio is a family practice physician who has spent much of his career working in federally qualified health centers (FQHCs), which serve low income individuals, and in health policy. He discussed three projects within DVHA:

- Vermont has a critical shortage of dentists who are willing to accept Medicaid.
- Primary Care physicians need education about the importance of engaging their patients with Individual Education Plans (IEPs) when a signature is needed to access the Medicaid to Schools Program. Currently Dr. Strenio signs as many as 200 of these authorizations annually, but it would be better for the child's own doctor to be part of this care planning process.
- Dr. Strenio is tasked with monitoring the quality of care received by the 35,000 Medicaid patients who have been assigned to OneCare Vermont, which is a pilot program.

10. Public Comment

Rich Ossias said that he did not feel that the Council had fully processed what it would like to do with VCDR's grant going forward. He expressed his hope that the Program Committee, which was tasked with working out the details of any agreement, keeps the full Council informed.

Respectfully Submitted,

Susan Aranoff, Esq.

Date

Got Transparency?

VT Open Meeting Law 101



Secretary of State Jim Condos

WHY ARE WE HERE?

Democracy-Accountability-Openness

- The public has a right to know!
- Open meeting laws protect our direct access to the decisions that affect us.
- Understanding these laws makes everyone a better citizen.



IN GOVERNMENT, THE ULTIMATE BOSS IS THE PUBLIC

Vermont Constitution - Chapter 1, Article 6.

*That **all power** being originally inherent in and consequently derived **from the people**, therefore, **all officers of government**, whether legislative or executive, **are their trustees and servants**; and at all times, in a legal way, **accountable to them**.*



IN GOVERNMENT, THE ULTIMATE BOSS IS THE PUBLIC

1 V.S.A. § 311. Declaration of public policy

*...public commissions, boards and councils and other public agencies in this state **exist to aid in the conduct of the people's business and are accountable to them ...***

1 V.S.A. § 315. Statement of policy

*...**free and open examination** of records...*

*Officers of government are **trustees and servants of the people** and it is in the public interest to enable any person to review and criticize their decisions **even though such examination may cause inconvenience or embarrassment...***



OPEN MEETINGS

1 V.S.A. § § 310-314



WHO MUST COMPLY?

“**PUBLIC BODIES**” of the state and its municipalities:

- State and municipal boards, councils, and commissions
- Committees and subcommittees of these bodies

NOT INCLUDED:

- Individual officials
- Councils established by the Governor exclusively for policy advice
- Judicial branch
- Public Service Board
- Nonprofits (generally)



WHEN DOES THE OML APPLY?

Any time a “quorum” holds a “meeting.”

QUORUM: a *majority* of the entire public body.

1 V.S.A. § 172. Joint authority

When joint authority is given to three or more, the concurrence of a majority of such number shall be sufficient and shall be required in its exercise.

MEETING: a gathering of a quorum of a public body for the purpose of *discussing business or taking action*.



WHEN DOES THE OML APPLY?

A “meeting” can occur *regardless of physical location*.

- No exceptions for work sessions or retreats.

A “meeting” can come together *over a span of time*.

- Watch out for email strings and social media discussions.

“Meeting” does *not* include:

- Communications to schedule a meeting, organize an agenda, or distribute materials to discuss at a meeting.
- Clerical work.
- Staff work assignments.
- Routine day-to-day administrative matters, if no action is required and no money appropriated or spent.
- Site inspections.
- Quasi-judicial deliberations.



ADVANCE PUBLIC NOTICE

REGULAR MEETINGS:

- Adopt a *resolution* setting the regular time and place.
- Post and make an *agenda* available 48 hours before each meeting.

SPECIAL MEETINGS:

- Give 24 hours' notice (time, place, and purpose) to:
 - *newspaper or radio station* serving the area;
 - *any person who specifically asked in writing*; and
 - all *members* of the public body.
- Post and make an *agenda* available 24 hours in advance.

EMERGENCY MEETINGS:

- Only used “when *necessary* to respond to *unforeseen* occurrence or condition requiring *immediate* attention.”
- Give “*some public notice...as soon as possible*” before the meeting.



AGENDAS

When?

- At least **48 hours** before each *regular meeting*.
- At least **24 hours** before each *special meeting*.

Where?

- On a *website* that public body maintains or designates (if one exists).
- Municipal public bodies only: in or near the *town clerk's office* and in **two other designated public places** in the municipality.
- Made **available to any person** prior to meeting **upon specific request**.

What else?

- Should address specific topics to be discussed and potential actions.
- Any **addition or deletion** must be the **first act of business** at the meeting.
- Any other adjustment may be made during the meeting.



MINUTES

What?

- “Give a *true indication of the business of the meeting*,” covering *all topics and motions* that arise.
- At minimum: *members* present; active *participants*; *motions, proposals, resolutions* and their *dispositions*; *vote results*, noting *individual votes if roll call*.

When? No later than *five calendar days* after the meeting.

Where?

- Made *available* for inspection and copying *upon request*.
- Posted to a *website*, if the public body maintains or designates one (to remain for at least a year).

WHEN CAN A BOARD MEET IN PRIVATE? EXECUTIVE SESSION

What is it? A closed portion of a public meeting.

When is it appropriate?

- Only if the business to be considered fits into one of **14 statutory categories**.
- Only if the public body **moves to enter in open session** and **indicates its reason** for doing so.
- Only for **talk, not action**: No formal or binding action may be taken while in executive session.
 - Exception: real estate options



WHEN CAN A BOARD MEET IN PRIVATE? EXECUTIVE SESSION

Some **PERMISSIBLE REASONS** require an additional **specific finding** that *“premature public knowledge would clearly place the public body or a person involved at a substantial disadvantage”*:

- **Contracts**
- **Labor relations agreements** with employees
- **Arbitration** or **mediation**
- **Grievances**, other than tax grievances
- Pending or probable **civil litigation** or **prosecution**,
if public body is or may be a party
- **Confidential attorney-client communications**,
if made to provide legal services to the public body



WHEN CAN A BOARD MEET IN PRIVATE?

EXECUTIVE SESSION

Other **PERMISSIBLE REASONS** include consideration of:

- Negotiating or securing **real estate purchase options**
- **Appointment, employment, evaluation, discipline,** or **dismissal** of public officer or employee
- **Student academic records, suspension,** or **discipline**
- **Exempt public records** under the Public Record Act
- Clear and imminent **peril to public safety**
- **Municipal or school security** or **emergency response** measures, if disclosure could jeopardize public safety.



MEETING BY ELECTRONIC MEANS

A *member* participating remotely must:

- *Identify him/herself* when the meeting convenes.
- Be able to *hear and be heard throughout* the meeting.

If a *quorum* or more is participating remotely:

- *Agenda* must *designate a physical location* where the public can attend and participate.
- *One member* (or designee) must be *physically present*.

Any *vote not unanimous* must be taken by *roll call*.



PUBLIC PARTICIPATION

Members of the public have the right to:

- **ATTEND!**
 - Obtain meeting agendas in advance.
 - Be notified directly of upcoming special meetings.
 - Disability accommodations, pursuant to Vermont's anti-discrimination statutes.
- **PARTICIPATE!**
 - A *reasonable opportunity to express opinions on matters considered*, subject to reasonable rules.
- **ENFORCE THE LAW!**



WHY COMPLY?

Meetings held without respecting the details of the law may be *illegal*, and the courts may regard any actions taken in those meetings as *voidable*.

More importantly, illegal meetings offend our notions of:

- ...openness,
- ...accountability,
- ...our democracy.

In Vermont, the people rule, sometimes directly, sometimes through elected or appointed representatives, but always with the benefit of public scrutiny.



WHY COMPLY?

The following persons can be charged with a **misdemeanor** and **fined**:

- A **member** of public body who **knowingly and intentionally** violates the OML.
- A **person** who **knowing and intentionally** violates the OML **on behalf of a member** of a public body.
- A **person** who **knowingly and intentionally** participates in the **wrongful exclusion** of a person from a meeting.

The Attorney General or **any aggrieved individual can bring suit** in court, asking for:

- **Injunctive relief** (STOP a specified act or behavior).
- **Declaratory judgment** (make a binding determination of rights).
- **Attorney's fees and costs**, under some circumstances.



ENFORCEMENT

- 1) **Written notice to the public body** by *aggrieved individual* or Attorney General, alleging specific *violation* and requesting specific *cure*.
- 2) **Public body's public response** within *10 calendar days*, *acknowledging violation* and *stating intent to cure* OR stating *no violation occurred*.
- 3) **Public body's cure**, if acknowledges violation, within *14 calendar days* of public response, *ratifying or declaring as void* action taken at improper meeting AND *adopting specific measures* that actually *prevent future violations*.
- 4) **Aggrieved individual's recourse**, if unsatisfied: *filing suit* in Superior Court *within one year* after the meeting.



THANK YOU!

Please call or visit our office with any questions!

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Secretary of State Jim Condos