

**Laws & Rules, Governmental Services Committee  
Special Meeting Minutes**

**DATE & TIME:** February 22, 2021 – 6:00 PM  
**LOCATION:** Powered by Zoom Meeting by Dialing (646) 558-8656  
Meeting ID: 986 3729 7923  
**PRESIDING OFFICER:** Chairwoman Bartels  
**LEGISLATIVE STAFF:** Jay Mahler, Deputy Clerk  
**PRESENT:** Legislators Gavaris, Heppner (via phone) & Ronk (via phone)  
**ABSENT:** Legislator Roberts  
**QUORUM PRESENT:** Yes  
  
**OTHER ATTENDEES:** Legislator Petit, Legislative Counsel Ragucci and Minority Counsel Pascale

Chairwoman Bartels called the meeting to order at 6:00 PM.

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Chairwoman Bartels opened the floor for a continuation of the discussion of amending the Rules of the Legislature.

See attached transcript.

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**Adjournment**

**Motion Made By:** Legislator Gavaris  
**Motion Seconded By:** Legislator Heppner

**No. of Votes in Favor:** 4  
**No. of Votes Against:** 0

**TIME:** 7:28 PM

**Respectfully submitted: Deputy Clerk Mahler**  
**Minutes Approved: March 15, 2021**

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**Chairwoman Bartels**

I call tonight's meeting to order at exactly six o'clock timely. The only thing on the agenda tonight is another rules review. Everyone was provided. Thank you, Jay, with the updated copy of the Rules of Order, which include highlighted changes that we've already made or discussed in black, highlighted changes in red from the last meeting. And then also, Jay was kind enough to provide the 2020 New York State Committee on Open Government guidance on video conferencing, something we discussed, and Robert's Rules of Order censure language, which is lengthy. So hopefully everyone's had even a quick chance to look at that. And for anyone who didn't hear, I know that Counselor Ragucci needs to leave at seven and I think everyone would be really happy if we could get through this before seven. So let's, let's try to do that. Did we just lose Nick, or is he, did he get bumped to a different page? He's still here?

**Deputy Clerk Mahler**

I think we lost him.

**Chairwoman Bartels**

Okay. All right. Well ...

**Deputy Clerk Mahler**

He does sometimes leave and come back though.

**Chairwoman Bartels**

Okay. All right. So we'll continue. So if everyone, would everyone want, two people, two are on the phone, so it's not, it won't help them. But John, would it help you and Counselor Ragucci, would it help you to have Jay put up the Rules of Order on a ... Oh, welcome, welcome back Counsel Pascale, he's back with us. Jay's doing that? All right. So let's let's do that. Let's go through the Rules. Anyone can stop me at any time if I'm moving past something, but I'd like to just focus on the highlights in red, which are the notes as Jay collated them from our last meeting. And it's our discussion. So just want to make sure that we're good with that. So the first place that we see a change is in Rule 2, amendment of the rules. It's the end of the very long sentence. I don't know if we need to read the whole thing. But it basically says, and only after having been presented for consideration at two consecutive meetings of the Legislature and at the second meeting approved by majority of the members of the Legislature. It's really a clarification. Anyone have any concerns about that?

**Legislator Ronk**

Nope.

**Chairwoman Bartels**

Okay. And if because we have a screen share. And if, if I don't recognize you, it's, it's I didn't see you. So do as, as Ken and Jonathan just did, pipe, pipe up and let me know. Okay, so moving on. Rule three we have [inaudible] the Legislature, I think, one technical change and all that's, fine moving on, moving on. Until we get to section is it two? Resolutions may be amended. Yep. Okay. Again, technical, we're changing sponsor with the to sponsor, or spon, or sponsors. I think that's fine, too. Technical. And we also had earlier made the point that the resolution shall not be advanced and shall be considered a regular, regular resolution in unamended form at the next regularly scheduled meeting that we had agreed to last time. So everyone should be fine with that. So we're moving on.

**Deputy Clerk Mahler**

There was one note from Legislator Ronk. I don't know if you can see my notes here.

**Chairwoman Bartels**

I can't see I can't see it on this computer. So can you?

**Deputy Clerk Mahler**

It says that Legislator Ronk had suggested language requiring clarification on consent when a sponsor is present at a meeting.

**Chairwoman Bartels**

Oh, right. Okay. Ken, do you have some language that you want to suggest?

**Legislator Ronk**

Wow, all right. I can't, I can't look at it right now. What's the rule read currently?

**Chairwoman Bartels**

I will pull it up. It says resolutions may be amended and or passed in any committee by a vote of the majority of the total members of such committee. So long as the sponsor, if present consents. If the sponsor is not present, the committee may pass the resolution... So that's all it says about the sponsor being present. So long as the sponsor, if present, consents.

**Legislator Ronk**

I just, I don't know how to, I don't know necessarily how to solve it. Maybe one of the attorneys could suggest some language. But my concern is that, you know, we had an issue this past year, where the sponsor who was actually was you and Kevin at that point. You were both present at the meeting. The amendment was made. And then the next day, you didn't consent to the amendment. And that was a confusing set of circumstances for me. And I feel like, you know, the rules, say the sponsor, you know, if the sponsor if present consents. I think the amendment passed unanimously, which would, you know, which would be tacit consent to the amendment. But you know, the next day, I just don't know how to solve. I don't know how to solve that issue. I just don't think that that's what the rules envision.

**Chairwoman Bartels**

Yeah, yeah, if I can just jump in for a second before the attorneys jump in. That was also a confusing circumstance, because Kevin, no longer was the sponsor. So it left me as the sole sponsor, which complicated it in some ways, I think even further. So basically, what you're looking to have, is that it's clear, that a non consent needs to be overt, basically,

**Legislator Ronk**

That, to me, if the sponsor is present at the meeting, the sponsor must consent, a sponsor or sponsors, must consent or, you know, or reject, or consent or object during the meeting.

**Chairwoman Bartels**

Okay. Anyone...

**Legislator Ronk**

But otherwise, then the Clerk has to present the amendment, and then the process follows.

**Chairwoman Bartels**

Right, then the rest stays the same. Does anyone else have any questions or comments on that? And maybe we can come up with some language.

**Legislator Gavaris**

I would just add to what Ken is saying, I think maybe even saying formally consent or reject?

**Chairwoman Bartels**

Okay. Resolution as amended ...

**Legislator Gavaris**

I think that was part of the issue that Ken had with this is that it was, it was, you know, wasn't clear whether you were objecting or not, or consenting. And if it was formally done, you have an opportunity to either object or to agree, then yeah, but that's what the outcome is, whatever the case may be.

**Chairwoman Bartels**

Yeah. resolutions may be amended and or passed in any committee by a vote of the majority of the total members of such committee. So long as the sponsor, If present, consents. Formally consents?

**Legislator Ronk**

Rather than, rather than, say, content, consents. I would, you know, I think that maybe we could, and somebody can correct me if I'm wrong, but I think that we can fix that merely by saying, you know, changing, you know, so long as the sponsor consents, change that to does not object, and then it requires you to object you would have to require an overt action.

**Chairwoman Bartels**

Okay, so, so long as the sponsor, if present, does not object

**Legislator Ronk**

Unless an attorney tells me that that's still too loose. I'm, you know, I think that that would, I think that might solve the problem.

**Chairwoman Bartels**

I feel like that's, that's fine. Let me ask the question ...

**Legislator Gavaris**

I agree with that

**Legislator Heppner**

I'm good with that.

**Chairwoman Bartels**

Okay, can I ask the attorneys something? If, and I'm fine with that, too. But given the circumstance, given a similar, a similar circumstance where you have two sponsors, where one, one consents to the change, and the other doesn't consent to the change, but let's just say, for the sake of argument, is trying to be amenable and says, okay we'll, we'll let it move forward. In that case, that would be consenting, you'd have to, you'd have to object but if you object and there is no amendment, correct.

**Legislator Heppner**

That's how I read it.

**Chairwoman Bartels**

There's no way, there's no way to, like, be a compromise to be the minority vote if you're one of the sponsors?

**Legislator Ronk**

I, I don't understand the question

**Legislative Counsel Ragucci**

I think what I think what the rule is at this juncture, is silence essentially at a meeting is acceptance. So as opposed to the onus being on the committee as a whole, either ensuring the sponsor consents or not, it is essentially now on the sponsor to voice an objection.

**Chairwoman Bartels**

Okay

**Legislative Counsel Ragucci**

Or else it will be deemed consent.

**Minority Counsel Pascale**

Yeah. If, if present, and I think the intent really is just to speak to amendments. Is that is that right?

**Chairwoman Bartels**

Yeah.

**Minority Counsel Pascale**

Because the way it reads or at least the proposed language resolutions may be amended and or passed. So I don't know if you want to and or passed because it goes on to read, you know, so long as the sponsor, if present, consents. So that sort of gives it, almost gives the sponsor a vote on the committee, even if they're not a member of it.

**Chairwoman Bartels**

Oh, you're right. You're right.

**Legislator Heppner**

That's a good point.

**Chairwoman Bartels**

So, we should probably get rid of the and or passed.

**Minority Counsel Pascale**

That's what I would suggest, redacting that.

**Chairwoman Bartels**

Yep. And then, and then, and then delete consents and substitute does not object. Correct? Everybody good?

**Committee Members**

Yep.

**Chairwoman Bartels**

Okay. Okay, the rest is the same with the technical change in the unamended form, but I think we're good with that. Jay, you got? Good. Okay. All right. So moving on D no change E is petition to discharge the sponsor or sponsors of a resolution defeated in committee shall, shall within five calendar days file with the Clerk of the Legislature the changes, being a hand delivery mail, email, or fax or the documents. So funny fax, I actually have a fax line, but I don't know who faxes anymore. Everybody good with that change?

**Legislator Ronk**

Yeah

**Legislator Heppner**

I'm good.

**Chairwoman Bartels**

Okay. All right. E is the same C, we're still in petition to discharge for those of you on the phone. C says therefore, if the requisite number of Legislators have signed a petition to discharge, that has a couple technical previously adopted changes, as described above, the resolution shall be referred to the next full meeting of the County Legislature for a vote provided such a meeting is at least 10 days from the date, the minimum number of signatures needed to, needed pursuant to these rules have been made upon or with the authorization of the Legislature placed upon the petition to discharge. Here are the changes at said full meeting of the county Legislature. The dis, discharged resolution may be adopted, defeated or referred back to committee. If the discharged resolution is defeated in committee a second time,

**Chairwoman Bartels (cont.)**

and should a second petition to discharge be successfully executed, the resolution shall only be subject to adoption or defeat by a vote of the full legislative body. This is a lot of cleanup language. I don't think we're changing anything radically, we're, we're clarifying in language what's currently happening. Correct? Cleaner language?

**Deputy Clerk Mahler**

And then I also have a note that Legislator Ronk suggested clarifying it that it is at the next regular meeting, because apparently, the, there was a petition to discharge situation that landed at the Budget Meeting.

**Chairwoman Bartels**

Hmm, okay. Yep, I remember that.

**Legislator Heppner**

And I agree with that. I don't think we have any business, I don't think we should be taking petitions, like a petition to discharge at a Budget Meeting

**Chairwoman Bartels**

Or at a special meeting

**Legislator Heppner**

Or a special meeting.

**Chairwoman Bartels**

Okay. I'm good with that, if everybody's good with that. So we'll add, which would be a ...

**Legislative Counsel Ragucci**

[inaudible] right?

**Chairwoman Bartels**

So again Chris.

**Legislative Counsel Ragucci**

That would be at the last, would that be inserted at the last line? Adoption or defeat by a vote at the next regular legislative Session, regularly scheduled legislative Session?

**Chairwoman Bartels**

It would be in that first part of the sentence that the resolution shall be referred to the next instead of full meeting, Regular meeting.

**Legislator Heppner**

Yeah, I think that's all it needs.

**Chairwoman Bartels** And every time it says full, it would say regular, Jay. At said full meeting, at said regular meeting. Just, just in that paragraph every time it says full, it would say regular. Or would we, is it regular? Or do we, would we say regularly scheduled it's a, it's a regular isn't that we call it?

**Legislator Ronk**

I believe it's a, I believe the term in the rules is regular meeting.

**Chairwoman Bartels**

Okay.

**Legislator Heppner**

Yeah. I've always heard the Clerk refer to it as regular meet, as the next regular meeting.

**Legislator Ronk**

There's regular meetings, special meetings, and annual and organizational reorganizational.

**Chairwoman Bartels**

Okay, good. That was, that's a good catch, Ken. Okay, so everybody's good with that. All right, we're gonna move on. So F, we only have a tiny technical change. We have the agreed upon removal of the substantive changes made by the laws and rules committee, requiring another public hearing and all that, we agreed to last time. So that's going, we're moving through multiple changes that we had already talked about. Now we're into confirmation of appointments. Is that the next red line?

**Deputy Clerk Mahler**

Yes, that's what I have.

**Chairwoman Bartels**

Okay. All right. This one, this one's a little confusing. The last sentence it, we have a bunch of Charter language and then the last sentence says, used to say the Clerk shall endeavor to have multiple confirmation resolutions, however, on one page. That's been stricken. And now it says in the event that multiple appointments are considered for the same position, any Legislator may at his or her sole discretion request that each candidate for appointment be presented on a separate resolution.

**Deputy Clerk Mahler**

And I have an additional note in here that I believe came from Counselor Ragucci that said, that new language may require an amendment to rule 3 I to allow for divisibility on the floor.

**Chairwoman Bartels**

Okay, so striking the language about the Clerk endeavoring to have multiple confirmation resolute, resolutions on one page. I feel like the first part of this sentence if we leave it, where it says in the event that multiple appointments are considered for the same position, I think we have to clarify in one resolution, because it could be considered for one same position and multiple resolutions. But we're clarifying that if they're considered for the same position in one resolution that any Legislator may. Does that make sense?



**Legislative Counsel Ragucci**

Yes, I think it does make sense and clarifies it.

**Legislator Ronk**

Yeah, I, if I could jump in?

**Chairwoman Bartels**

Yes. Go ahead.

**Legislator Ronk**

I think I, I think I made a discussion point on this the last time. I believe that any Legislator should be able to request, you know, this to happen in committee, so as not to cause the issue that you're going to have in I think that Nick said, sorry, Chris said 3 I. I, I have concern about trying, about allowing unlimited divisibility of resolutions on the floor, I think it's gonna, I think it's gonna cause havoc.

**Legislator Heppner**

Yeah, I totally agree with that. I think there should be language that would require that, you know, motion or whatever, by a Legislator to be made of the, at committee or by committee.

**Chairwoman Bartels**

But what if someone's not on the committee? Or hasn't attended the committee? Do would we allow for them to make the request in writing or some way to the committee? Or, you know? I mean, sometimes, sometimes people might not even be aware of the, you know, their, their take on say, let's say you have, let's say you have three people on one resolution being appointed for the same board. And it's in the committee that, that the interviews have happened, and they've happened in Executive Session, and then in caucus, Legislators are hearing about concerns, and then they do whatever they research, and then they they find that they would like to separate it because they want to be able to vote no on one of them.

**Legislator Heppner**

What if we make it similar to the process of petition to discharge? Where at least prior to session day, the Clerk would have to be notified same requirements, email, whatever, you know, with that formal request, and then at least give time for 1. the Clerk to make the change, like develop the individual resolutions, as well as that to be presented at caucus the night of session.

**Chairwoman Bartels**

It's a possibility. What do you both think is the havoc about sep, we've always separated these on the floor for as long as I've been a Legislator.

**Legislator Ronk**

We've never separated them on the floor.

**Chairwoman Bartels**

What do you mean, we've never

**Legislator Ronk**

We wrote divisibility into these rules, because, and again, I think it was something that you had attempted to do years ago with contracts. And we, you know, I believe that counsels opinion at that time was that, you know, resolutions were not divisible on the floor. And, and by our rules, resolutions, were not divisible at all. And then we wrote into the last rules change divisibility in committee. But we, I think neglected to build divisibility in on the floor because of the mess that that, that that could create, because then you're going to start dividing things other than appointment resolutions.

**Chairwoman Bartels**

But couldn't we be specific? I mean, I think appointment resolutions need to be, need to be able to be considered separate. I think they are separate resolutions, the idea, I mean, I'm fine with making them all just be separate resolutions. That's fine. We just require that appointment resolutions be separate.

**Legislator Ronk**

I don't think that that's necessary. And I don't think it's too onerous if somebody has an objection to one or more appointees on the same resolution for them to, you know, before the committee meeting, communicate that to the, to the members of their caucus on the committee.

**Chairwoman Bartels**

But I think the ...

**Legislator Ronk**

Or the Committee Chairman

**Chairwoman Bartels**

... I think it may just be that it's possible there could be a circumstance where a person might not know about their objection until after the committee meeting.

**Legislator Ronk**

Okay.

**Chairwoman Bartels**

You know, I don't, I definitely, I cannot, I'd have to do research. But I know that there have been times when we've divided these, these appointment resolutions on the floor. Where there's been, and it wasn't me, there are people who said that they did not want to vote for one of them. And they asked that they be taken out and they were separated as a separate resolution.

**Legislator Gavaris**

I maybe have a compromise here, because I just asked Cler Mahler, if these had to be a roll call, they don't. But so then why not just have them always separate, we can always block them. And if somebody doesn't want to block, then we just don't block for that time. We have drawn up as different resolutions with each appointment, we'll have the leaders block them, and then we just go ii that way. If somebody doesn't want it, they don't have to have it.

**Chairwoman Bartels**

I think that's the easiest. I mean, because I think appointments really are separate, separate. I mean, it's separate appointments for separate people, they can be really different, really, really different. They have been in the past. So I don't know if anybody else has a problem with that.

**Legislator Heppner**

My only issue could, could the issue come up that because in order, like, to block traditionally, that takes that's a majority vote. To block. Whereas this what we've allowed, this is saying the sole discretion of an individual Legislator, but a block would require a majority of the Legislature

**Chairwoman Bartels**

But they would, this is the sole discretion to separate. I mean, this they'd already be separated.

**Legislator Heppner**

But I'm saying but say, but then it can be used in reverse, say someone wanted to stay separated, a majority of Legislators could then block them that prevent them from being separated.

**Legislator Gavaris**

But that wouldn't be the real, that wouldn't be the issue. Usually you want to separate them because they may not agree with one out of the group of people that you're trying to appoint.

**Legislator Heppner**

Well, that's why politically someone could move to block them to make it harder for people to vote no.

**Chairwoman Bartels**

But Jonathan, even if they're blocked, if they're separate resolutions, if it's resolution, one, two, and three, and you make a move to block them, I could still vote no on three.

**Legislator Gavaris**

Yeah

**Chairwoman Bartels**

We can still say yes to one and two and no to three, because there's still two, three separate resolutions, they're just blocked for the purposes of, you know, expedient vote.

**Legislator Heppner**

Yep, that's true

**Chairwoman Bartels**

So I think, I think keeping them at, it doesn't come up all that much. And, you know, I mean, I think keeping them as separate, just deleting what we had, which is that the Clerk would endeavor to have multiple confirmation resolutions on one page. We just make it that each confirmation resolution shall be a separate resolution. And that's, you know, and then it's done. And we don't have to get into divisibility or anything.

**Deputy Clerk Mahler**

Does that mean I'm deleting what's currently in red and just leaving it as the stricken text?

**Chairwoman Bartels**

No.

**Deputy Clerk Mahler**

Or do you still need that?

**Chairwoman Bartels**

You would say, if it's agreed upon in the committee, you would change the stricken text, you would leave the stricken text out and it would say, each appointment, each appointment shall be considered in a separate resolution. Something like that.

**Legislator Ronk**

I'd kind of like to see the Clerk weigh in on it.

**Chairwoman Bartels**

Okay. Why don't we put it, why don't we put a pin in it and put the language, the possibility of the language of each appointment being in a separate resolution. And then we'll, we'll talk to Vicki about it.

**Legislator Ronk**

Okay, sounds good to me.

**Chairwoman Bartels**

Is that good with everybody?

**Legislator Heppner**

Yep.

**Chairwoman Bartels**

Okay. Right. Right. So we're moving on. Now we're in video conference. So this we have a whole bunch of new language. This is um,

**Legislator Ronk**

I gotta jump off from I'll be right back.

**Chairwoman Bartels**

Okay, this is what Jay was referencing. This comes from , you said at the request of the Clerk. It came from 10 CC video conference at regular and special legislative meetings 10 CC, where, where's that? Where's this coming from?

**Deputy Clerk Mahler**

Sorry. 10 CC in your Rules speaks to video attendance at legislative session. So she had me copy that language. The only changes were that this isn't, this is unlimited number of attendances, the legislative session is limited to two non consecutive.

**Deputy Clerk Mahler**

And then also in that section when we get there, you all had already stricken a lot of text that had to do with paying for. So I just simply didn't copy that. So it doesn't match up, exactly. So the main difference is that in this situation, her recommendation was that you didn't limit it.

**Chairwoman Bartels**

I have concerns about this, but I'd like to hear what everybody else thinks first, again, we're talking not about during COVID. We're not talking about the COVID circumstance.

**Legislator Gavaris**

Yeah, Tracy, I'll chime in here for myself, because I'm I'm really opposed to this, I actually think, you know, in some safe way, we should be meeting back in person. Again, I think while Zoom is great and it's sort of convenient, I think there is and I experienced it with even at work here, you lose something by not being in the same room. We're either stepping on each other, or you know, nonverbal communication is a big portion of the, getting the message across. And it's hard, especially like right now you even said, you can't see if we're raising our hands or not. There's others cues that you can't see when you have these meetings. Yeah, I'm not in favor of this.

**Chairwoman Bartels**

Jonathan?

**Legislator Heppner**

Yeah, I totally understand the concerns.

**Chairwoman Bartels**

Do you, what are your thoughts? Not to put you on the spot, but

**Legislator Heppner**

So right now, just trying to think it through

**Legislator Gavaris**

While he's doing that, are we sure that this doesn't, once we go back to whatever normal is under Open Meetings Law, that this is not violating it?

**Chairwoman Bartels**

I think it's that ...

**Legislator Heppner**

Yeah, that's what I was thinking about

**Chairwoman Bartels**

Yeah, I mean, I'll jump in on that. I think it probably would not be it probably be like our, like video conferencing in our as long as our rules provide for video conferencing, it's allowable. I can tell you that, and we only we had very little experience with it John, you had very, Gavaris, John, you had very little experience of it. Because you had so few time before we went into COVID mode. But the experience of having essentially an in person meeting with some people video conferencing, is, is very frustrating for me even more than this.

**Chairwoman Bartels**

Because I just feel like the people who are video conferencing while they are there, while they are present in order to be counted by vote. They are not present really in any other way. Like it's much more extreme than everyone being video, video conferencing. So I'm really reluctant to do this at all. And I definitely would be totally opposed to doing it in an unlimited capacity, because then you could have certain Legislators who choose to legislate entirely from home, except for two nights a month.

**Legislator Heppner**

Yeah, I totally agree with the unlimited, unlimited issue. Also, I mean, and again, especially in terms of meetings of the full Legislature. I mean, I know, I believe I've spoken with the Clerk's office about this, you know, the ability to have, you know, so many, you know, if you had 10 people there and 13 people, not there. I mean, that's just, seems like a very tough technical challenge. And as well as just in terms of just procedure.

**Chairwoman Bartels**

Yes, and the technical aspects. While, while, Jay, you've done a monumental job in terms of getting, us getting us technically connected and doing it so quickly. And deftly in terms of Zoom. You know, I can, I can hear you all clearly. And we can converse, I think we're missing everything you talked about John, but I can I can hear you all in a way that we can have a conversation however, however we muster it. But when some of us are, when some of us are, are doing it via, via video conference and the rest of us are in the room. Sometimes the technical aspects get really crazy. You know, we've had so many times where we can't, we can't hear anything the person saying when they're on a screen. Plus they're, they're, you know, they're on 2d somewhere in the room that everybody's got to now have a visual of when very often our committee meetings are around a table. Ken, can you can you hear me? You're back in the room?

**Legislator Ronk**

Yes.

**Chairwoman Bartels**

So we're talking about, Vicki had put in a section on video conferencing. We didn't discuss it last month, but video conferencing for committee meetings. That's what we're talking about right now. What's in, what's in here right now is, you know, that written requests can be would be accepted to attend meetings, regular and special committee meetings via video conference. There's no limit to the number of times that a person can video conference for special and committee meetings. And the Clerk will make all the, the Clerk would make the arrangements. We're now having a discussion about that. Just to summarize, Legislator Gavaris said, basically, that he's opposed to this idea that he thinks we should try to be meeting in person, even, even now, we should be trying to find a way to meet in person that we lose a lot via video conference.

**Legislator Ronk**

I mean, I, I tend to agree with that sentiment. I don't necessarily think that it's important for us to rush back into committee meetings now. But outside of a state of emergency, I think it's important for us to be meeting as a group in person, because you do lose a lot by not being in person.

**Chairwoman Bartels**

Yeah. And Jonathan concurred with some of that, but was, was thinking it over. And I also agreed with Legislator Gavaris. I mean, I'm, I would say, now that you're back, I'm totally opposed to, to having video conferencing for

**Chairwoman Bartels (continued)**

committees with an unlimited amount. You could have Legislators, what I said while you were absent was that you could have Legislators who are attending all their committee meetings from home, who never come in, once we're post COVID, you know, a year from now, you could have Legislators who, who we only see on a screen except for session day. And I think that's a, that would be a real problem. And it did kind of a disservice to the way, the things that you're that everyone's been acknowledging that we lose in the in person. I'm perfectly happy not allowing video conferencing for, for committee meetings. But I'm open to having the discussion. I just am not comfortable. I'm not comfortable with it unlimited. And I'm inclined to say not at all, but I open to the discussion.

**Legislator Ronk**

Is there, is there any objection to using the same criterion as we do for video conferencing at legislative meetings?

**Chairwoman Bartels**

Up to two times a year, is two times a year? Is that what it is?

**Legislator Ronk**

It's two times, up to two times per calendar year non consecutive.

**Legislator Heppner**

Yep.

**Legislator Ronk**

To avoid snowbirds from being able to use video conferencing to go to Florida.

**Chairwoman Bartels**

Um, it's definitely better. But I mean, I kind of I liked the committee, I actually, I would like to reserve my, my, my statement right now, it would be to wait till after COVID and see where we're at. But I would be open to that, to that model for, for committee meetings, potentially. But in general, I'd rather just see people in person for the committee meetings.

**Legislator Gavaris**

I would count myself with Ken. I agree, you know, up to two would be the max I would go, but yeah, I'm sort of with you on that, Tracey. I really believe meeting in person is the way to go. If we can do, if we can do it.

**Legislator Heppner**

I agree with what Legislator Gavaris just said

**Legislator Ronk**

And I do as well.

**Chairwoman Bartels**

So do we want to just take this out for now and then consider, keep it in like our back pocket as we're thinking about it post COVID? Right now, we don't have to worry about it because we're still in video conferencing, for committee meetings.

**Legislator Gavaris**

Yeah.

**Chairwoman Bartels**

Ken? Jonathan?

**Legislator Ronk**

Yeah, I'm fine with that.

**Legislator Heppner**

Sorry, I was on mute. Yes.

**Chairwoman Bartels**

Okay. Okay. And you know what, I see Legislator Petit's here. Laura, did you want to, did you want to chime in about about this at all? I just saw something come into the chat, but you if you want to unmute.

**Legislator Petit**

I'm doing, I was thinking if you want to, I mean, it would be nice not to have to cancel meetings too because of weather. And if we have a winter next year after you know, COVID is, is under control and we're meeting again, you know, it may be nice not to have to cancel a meeting. Or even a committee meeting.

**Chairwoman Bartels**

Yeah, you know, that's a good point. And I wonder, I wonder what's going to happen post COVID in terms of these open meeting laws. If they're going to allow for full video conferencing to continue, which is sort of to Jay, what you circulated to us in that report, you know, they, they referenced that about the accessibility of Zoom to the public. And you know, where this is going to go after the Executive Order is lifted, and, you know, we're back. So it might be, it might be worthwhile for us to just wait on this, but be prepared to take action if we need to. But I, well I'd like to, at the moment, like I said, I'd like to see it all in person for committee meetings, I, I, I could go with the most I could do was what Ken suggested the, the model of the session.

**Legislator Ronk**

And with without starting a new discussion on this, you know, the idea of still having the public be able to attend these things via Zoom, that's not an out of the realm of possibility option. When we're back in person with a computer at the end of the table. It's low, it's low tech, very low cost, because we already have the technology, but then we still have the benefit of being in the same room with one another. When we're doing our business.

**Chairwoman Bartels**

It's an excellent point.

**Legislator Gavaris**

And I would actually highly support that. I think transparency and openness to people accessibility for them to see our meetings, not just go back and listen, but watch live on video. I actually support that wholeheartedly.

**Legislator Ronk**

Well it was the Bartels-Ronk compromise that got these things on on tape at anyway, right?



**Chairwoman Bartels**

Yes,

**Legislator Ronk**

One of the, one of the trademark things that Tracey and I worked on together.

**Chairwoman Bartels**

Yeah, we have a bunch of those. I was just gonna say we have a bunch of Bartels-Ronk compromises. And, you know, to Laura's point, the idea I mean, and I think it's something that we should be proactively thinking about, I know that in, you know, my daughter is in, this is seems wacky, but it's related, is in karate, which is mostly meeting in person, mostly meeting outdoors, sometimes meeting inside. And it's a total on the fly thing when there's whether it's like it switches to Zoom, and it's a whole Zoom class. So, I mean, it may be that, depending on how the laws change, post COVID we have the ability to in a, you know, weather situation switch to a Zoom meeting for public protection, but full transparency. I don't know, but I think we should be endeavoring to have us be meeting in person as much, as much as possible. I do think there's a lot lost in the translation. Okay, so we've agreed we're gonna hold this whole idea. And we're going to be ready to deal with it. Just not, not today, and probably not in this round. Okay, so moving on. Two down from there, we're in G renumbered G every Legislator, this is the appointment to committees. Every Legislator shall be appointed to and required to serve on at least one and no more than three standing committees of the Ulster County Legislature. Notwithstanding the foregoing Legislators may, this is the, this is the red line language, at their discretion serve on more than three standing committees if appointed by the Chair. Everybody good?

**Legislator Ronk**

No objection here.

**Chairwoman Bartels**

Okay.

**Legislator Heppner**

Good.

**Chairwoman Bartels**

All right. Moving on, moving on. We got a lot with no changes and now we're into the section, what section, Section 7 rules for committees. K motions that shall be considered doing during a standing committee. Correct? Okay. Number six is to postpone to the next regular committee meeting. This is the clarification. We added a resolution considered at the first regular monthly meeting of the Ways and Means meeting, Ways and Means Committee may be postponed until either the second regular monthly meeting of the same month or the first regular monthly meeting the following month. And then 7 is postponed to a special meeting, which shall occur no later than 60 days from the date said motion to postpone is passed, or at the next regularly scheduled committee meeting, whichever is sooner, with the consent of the sponsors. Comments concerns?

All right, so we're good. Let's move on. Nine is organization of the Legislature, Chairperson, Majority and Minority Leaders. And we're looking at here we are, the first, the first changes with the, in the event of the vacancy of the office of the Chairperson. We have three options here. The first is designate, option one designating that the majority leader shall appoint a member of the county Legislature to serve as the Chairperson for the balance of the year.

**Chairwoman Bartels (continued)**

Option two is the County Executive shall appoint a member of the county Legislature to serve as Chairperson for a period of no longer than 60 days, during which time the Legislature may select a permanent Chairperson to serve the balance of the term. And says note, a change the provision calling for County Executive to choose the Chair will require an amendment to the Charter and referendum. So all openness to comments.

**Legislator Gavaris**

why wouldn't it be the Vice Chair?

**Chairwoman Bartels**

I don't, you know, I don't. It's a, this is a permanent vacancy. The, I don't, I don't know, I don't know why it wouldn't be the Vice Chair. But,

**Legislator Ronk**

Well, the Vice Chair is an appointed position by the Chairman.

**Chairwoman Bartels**

Yeah, so that's ...

**Legislator Ronk**

So it was not a elected position. That's, that's why when there's a vacancy, there's a permanent vacancy in the office of Chairman, we go back and vote again.

**Chairwoman Bartels**

But what's the issue? I think this all came up, because Kevin was concerned about the Exec filling the seat, but we have 30 days to fill the seat. And we is, is there.

**Legislator Gavaris**

So but that's that's my point, I guess is that why not have it, this is the stalemate situation. And before it gets to the Exec have him do the appointment, this is our way out of that. To me, it would be the Vice Chair would remain in effect until the Legislature decides who they will elect to hold that position.

**Chairwoman Bartels**

I mean, it says currently that until such time as a new Chairperson is chosen, the Vice Chairperson shall act in the place instead of the Chairperson and shove all the powers of the Chairperson. But they have you have 30 days and if in 30 days, we can't, we can't come to a majority vote, then it goes to the Exec.

**Legislator Ronk**

Isn't that Charter language though?

**Chairwoman Bartels**

The Charter language is the first, I'll read you the Charter language, the Charter languages. In the event of a vacancy in the office of Chairperson, the county Legislature shall fill that office in the manner provided by its rules, should the county Legislature fail to select a Chairperson within 30 days after that office shall become vacant for any reason, the County Executive shall appoint a member of the county Legislature to serve as Chairperson for the balance of

**Chairwoman Bartels (continued)**

the calendar year. That's the Charter language. But then it goes on to say that, that the vice Chair, which is not Charter language will serve in the Chair stead until the until the Chair's selected. Which makes sense, because you could have five or six or seven or 14 days before you have the meeting to have the vote. I don't really have a problem with this as it's written. I don't know where everybody else is.

**Legislator Ronk**

I don't have a problem. And I don't think that without a Charter change, neither one of the options solves the problem of the county Executive appointing because I think John's right, the Vice Chair serves until we choose a Chair. And if we don't choose a Chair within 30 days, the county Executive chooses and we can't change that because that's Charter language.

**Chairwoman Bartels**

Yeah, it would require a referendum, which I don't feel like it's worth it, personally.

**Legislator Heppner**

That's kind of how I look at it.

**Legislator Gavaris**

Yeah, I didn't realize that was Charter language at first couple sentences there. But yeah, in terms of this goes, I don't think it's worth it. But I think in general, I think it's worth it to look at that and potentially putting it up for a Charter change. If we're going to do any others. I think this is one of the look at because you know, the Exec's office is always screaming that we're, you know, we're taking away his powers. I don't see why he should have power over the Legislature.

**Chairwoman Bartels**

Yeah

**Legislator Ronk**

Yeah, I tend to agree with that. Just so you know, John, anything in these rules, that's italicized is Charter language.

**Legislator Gavaris**

Gotcha. Okay. Thank you.

**Legislator Ronk**

You're welcome.

**Chairwoman Bartels**

I also think that so we should flag this Jay, can you flag this to go to the Charter Revision Commission when it gets created to to look at, but we may want to, there's something I want to talk about in terms of putting up for a referendum this year. Which, which isn't in this rules, but I really do think that we have a responsibility. And I'd like to talk about at the next meeting. I know it's not in today's agenda, so I'm not going to go into it at length but we have a responsibility to fix the vacancy terms, we've already dealt with it in terms of the Executive and the Comptroller.

**Chairwoman Bartels (continued)**

And so I'd like to do that before the Charter Revision Commission just get that sorted out and put up for a vote and get changed. I don't know if we'd want to add this as well. Or if this would just go, be pushed over to the, to the Charter Revision Commission. I think we could, I think we could elect a replacement in 30 days. I mean, I feel like the body could figure it out.

**Legislator Gavaris**

I don't

**Committee Members**

[laughter]

**Legislator Ronk**

I, Tracey, I'll draw your attention to the proceedings of the Ulster County Legislature from the 1800s that Fawn has where we took 165 votes.

**Chairwoman Bartels**

I know, I know, I actually read that. That was pretty fun.

**Legislator Heppner**

That's incredible.

**Chairwoman Bartels**

Yeah

**Legislator Ronk**

My favorite part is when they brought the former Legislators in to speak in public comment to try to whip everybody in the shape. And then they continued to stalemate.

**Chairwoman Bartels**

So why don't we highlight this Jay, both for the Charter Revision Commission, but also for ourselves, if we are going to do a Charter Revision, if we're going to ask for one on the on a referendum, this might be one that we want to, we want to highlight as well. If if the committee thinks it's that important. But for now, the rules will stay as is. Okay, so now the next change is that, is the very next paragraph, which is E and it has to do with declaration of, of, of caucuses. And the change is, for purposes of any math, mathematic calculation necessary any Legislator shall within 30 days of being sworn into office declare themselves a member of the Majority, Minority, or third party caucus, by filing a document to that effect with the Clerk. The floor is open.

**Legislator Ronk**

I think it's about as good as it's gonna get. It's very convoluted. But I don't know that we can fix it better than this.

**Deputy Clerk Mahler**

There was a note here also in the margin from Chairman Donaldson, I believe, also Legislator Ronk. And the question was, what if any enforcement mechanism exists and suggested language to provide for it? I believe Dave just said, what if they don't?

**Chairwoman Bartels**

Yeah.

**Legislator Gavaris**

So maybe we can change it to where it defaults to the third party caucus if no, if they don't declare one of the Majority or Minority party, they default to third party caucus. But I would also add to that, that I don't know the language exactly off top my head, but something to the effect of that they'll have to communicate their votes to the Clerk's office as their method of caucus.

**Legislator Ronk**

That's a great idea.

**Chairwoman Bartels**

And let me ask, it says right now, third party caucus, what if there's more than one third party caucus?

**Legislator Gavaris**

I would say that there can't be I think that's the third.

**Chairwoman Bartels**

But there could be like. Someone could be, someone literally could be elected on the Conservative line, and someone could be elected...

**Legislator Gavaris**

You're frozen. Tracey

**Chairwoman Bartels**

... on the, on Working Families line only, and then you could have, you know what I mean? So then you have that's three third parties.

**Legislator Ronk**

I don't think it reverts to their party, though. I think that third party caucus is

**Legislator Gavaris**

The pizza party.

**Legislator Ronk**

Exactly.

**Chairwoman Bartels**

But what if, what, what I'm saying is what if someone wanted to have a Conservative caucus? Why would, why would we stop them?

**Legislator Ronk**

I mean, are they going to have a caucus leader? Are they going to have a majority leader or a, or, you know, Conservative Party leader stipend? I just think there's a lot of questions that go into that that are unanswered by these rules.

**Chairwoman Bartels**

Yeah, it's true. Then we're back to your point about it being convoluted.

**Legislator Ronk**

Um, I've got to jump off. I've got to run into someplace. But you know, I will double back with Jay and go over the changes, and then if I've got comments I'll send them to you all.

**Chairwoman Bartels**

Great. And if you have any, any other comments, anything that's not on here that you want to include, because I think we have one more month cycle and we'll get them in next month. So if you could that lead time, that'd be great.

**Legislator Ronk**

Awesome

**Chairwoman Bartels**

Thank you.

**Legislator Ronk**

Thanks.

**Legislative Counsel Ragucci**

Take care Ken

**Legislator Ronk**

You too.

**Chairwoman Bartels**

Okay, so can we put in language that Legislator Gavaris, just referenced that members of the third party caucus will communicate their vote, thier intended votes to the Clerk or directly to the Clerk or something like that. There must be a more artful way to say it, something like it.

**Legislative Counsel Ragucci**

I'm just trying to figure out what exactly we're trying to say.

**Chairwoman Bartels**

Well,

**Legislator Gavaris**

I think the way to do it. I think, Tracey, maybe this will help with what your comment was. Just don't have a third party caucus, just leave it as they're without caucus. Why do we have to require a caucus at all?

**Legislator Gavaris (continued)**

Why does it have to be that way? They'll just communicate their vote. So it has, so I mean, I'm quickly looking at this and reading within 30 days of being sworn into office declare themselves a member of the Majority or Minority party caucuses by filing Clerk with the, to that effect with the Clerk. If a person fails to declare with either party, they will remain without caucus and will communicate their votes directly to the Clerk's office. Very loosely said, but essentially what I'm thinking.

**Chairwoman Bartels**

Yeah, I mean, the one thing I wonder about, though, is the possibility, and maybe third, maybe I shouldn't say, third party to just say, alternate caucus. Because I wonder about the possibility. Maybe, Jonathan, you could speak to it more directly with your experience in the state? I could imagine there being a circumstance where a group of Legislators decide they want to do an, another caucus, or is it, or do we want to keep it just the Majority, Minority, Majority or the Minority caucuses?

**Legislator Gavaris**

What's the benefit to that? Besides being so so the choice that you're saying is Tracey, if I'm hearing you, right, is they either are a part of a third party caucus, or they're independent, and they can caucus together themselves? What benefit do they get by actually having the title of the pizza party, let's say? What benefit is that? And I'm asking because I don't know what the answer is.

**Chairwoman Bartels**

I don't know. That's why I'm asking Jonathan too.

**Legislator Heppner**

I mean, I look at it more in the sense of, you know, and I defer to counsel, is, I don't know what allowance we would have under law to prohibit different scenarios. To prohibit someone from sitting just independently, or, versus mandating them to declare an official caucus. Or, you know, I think it's pretty open ended, what a duly elected official's allowed to do once they're in the body.

**Minority Counsel Pascale**

Yeah, if I can just kind of echo what Chris was raising, I'm not sure what the proposed language here is intended to accomplish. You know, as it exists, it's really just for the purposes of a mathematical calculation just to set who the Majority and Minority leaders are. So just by making that declaration, you're not bound to sit in a caucus, you can attend caucus or not. Is how I read it, so

**Legislative Counsel Ragucci**

And, you know, I agree with that. Sorry to interrupt, Nick. I agree with that. And I would note that for purposes of definition, third party in this instance, is just any other party that is not the Majority, or the party with the second highest members. Right. So that, it's wide open to any other party, any other caucus.

**Minority Counsel Pascale**

Right. But that's also like a bit of an orphan term, because I'm not sure that our law, our rules, or amendments to the rules that we have proposed here actually provide for the the formation or conduct of a of a third or fourth or fifth party caucus.

**Chairwoman Bartels**

Yeah, I mean, this is this is where it gets complicated, kind of like Jonathan says, you know, what's the what's our legal? Can we legally prohibit a group of Legislators from creating a, let's just call it an alternate caucus, like an independent caucus of some sort? Where they don't

**Legislative Counsel Ragucci**

I don't think we can prohibit the creation, but we don't have to allow that to affect the calculation for leadership.

**Chairwoman Bartels**

Okay. So in that case, then, if this just relates to the calculation for leadership, then I think we can just delete or third party. Because if all it is is about calculating leadership, then you, you, you shall declare yourself a member of the Majority or Minority, I guess, or, you know, by filing a document to that effect.

**Legislative Counsel Ragucci**

Or other, you could just put or other caucus.

**Chairwoman Bartels**

Okay.

**Legislative Counsel Ragucci**

Instead of third party.

**Legislator Gavaris**

Okay. I see the issue. The issue and I think that the to get to your point why this even covers discussion is and I'll be frank about it, John Parete has refused to or is unwilling to choose a party to join the caucuses. So we have one person right now, hat's that's what this is addressing. But going forward, I can see where this could be an issue. It says for mathematical purposes, what if you don't have, you, to Tracey's point before. What if you have 5, 6, 7 people who want to be in a separate caucus? What does that do to the Democrat, Republican caucuses? Which could be or may not be the Majority or Minority depending on what happens in that third party caucus?

**Chairwoman Bartels**

Yeah. And Jonathan, John, you know, just to, just to also clarify, we had a situation where a previous Legislator was elected on the Republican line, but was a registered Democrat. And the way that the rules read at that time, he was counted as, he was technically counted as Democrat because he was a member of that party. But he sat with the Republicans. And it was so confusing that if I recall correctly, the Democrats didn't even push the issue. And the Republicans had the majority. But technically, he was a member of the Democratic Caucus. It just was like, crazy. So I don't, I don't know.

**Minority Counsel Pascale**

Well, there was another example from more, maybe more recent history. And I think what the existing rules served to accomplish was when you had someone that switched in midstream, it didn't all of a sudden reverse the poles. So you know, you do it within 30 days, and it's it's set for the year. So you have your Majority Leader, you have your Minority Leader.



**Minority Counsel Pascale (continued)**

And if somebody decides they want to sit in another caucus in the middle of the year, that doesn't change anything, you can always reorganize the next year. So there's some stability or continuity. I think if you're gonna address the third party issue, there's it's opens a whole other can of worms that this minor amendment, I don't think really fully speaks to.

**Chairwoman Bartels**

What does everybody think? Jonathan?

**Deputy Clerk Mahler**

He's muted, and he did say he had to

**Chairwoman Bartels**

Jump back and forth, back and forth. Okay

**Deputy Clerk Mahler**

I'm not sure where exactly he's jumped to.

**Legislative Counsel Ragucci**

And I apologize, Tracey, I'm gonna have to jump off to another meeting.

**Chairwoman Bartels**

Okay.

**Legislator Gavaris**

So why don't we, why don't we revisit this one? And maybe.

**Chairwoman Bartels**

Yeah, let's just

**Legislator Gavaris**

I think there's, that you brought to light some good points as to what this could turn into. I'm interested in probably maybe submitting some languages by email to everybody to maybe address this and through counsel, I'll do that as well.

**Chairwoman Bartels**

Okay, that's great. Um, okay, so let's just quick get through the end of it. And, Chris, I know you have to jump off. The next red, I think is order of business is that correct, Jay, F, under something? Monthly and special meetings. F, this has to do with public comment, which shall be limited to items appearing on the meeting agenda, or matters currently, before any Standing Committee, public comment shall be limited to two minutes per person. And then at the end would be public comment on items not included, we saw that that was a public comment shall be limited to two minutes per person. Just remind me, do these rules allow for the Chair to allow more minutes per person?

**Deputy Clerk Mahler**

That was a concern by the Clerk after she read it. Because there wasn't a caveat in there.

**Chairwoman Bartels**

Yeah, I feel like I feel like we should. So I personally feel like we should allow the Chair the latitude to allow for more, as long as they're applying it consistently, not for individual speakers. But if they want to allow three minutes per person, because there's only five speakers. John, you're shaking your head no.

**Legislator Gavaris**

Because it's not consistent. That's gonna be the issue. Somebody's gonna claim that we're, we don't like the subject that they're speaking on. And that's why this month, it was okay for three minutes. And next month, it's only okay, for two, for one minute and 59 seconds. There's, if we're going to make a rule. It's got to be consistent and consistently enforced. I think there's, you know, I think encouraging people to submit ahead of time of their comments in writing. That's something we should be doing. I don't actually think it has to be something on the agenda that they speak about, but it should wait till the end. I think the Chairman himself has agreed that he thought that was something we could do,

**Chairwoman Bartels**

Which is that, which is what's proposed here. I'm still okay. I think it's a, it's a fair point in terms of consistency. But in practice, forever we've, we've allowed that allotted time because technically, our rules allow for a certain number of minutes of public comment and we always exceed that pretty much. You know, it allows for what is it, what is it Jay? Do you know? 30, 30 minutes or something?

**Deputy Clerk Mahler**

It's a half hour.

**Chairwoman Bartels**

Yeah, lasts for 30, r. Right now our rules allow for a total of 30 minutes of public comment. We've had three hours of public comment. And we've not, I don't think we've ever had a complaint that some sometimes it's two minutes, sometimes it's three minutes. And it's rare that it's three minutes, but sometimes when we have very few speakers, as long as everybody who's speaking gets the same amount of time, I think it's fine. But, I'm, it's not something I would like, you know, it's not, it's not a huge issue to me. I just think that, that latitude's a good thing to have, if there's not many speakers. Two minutes is really short. But three minutes when when you have 50 speakers is long.

**Legislative Counsel Ragucci**

Or 336, like we did in our last convention.

**Chairwoman Bartels**

Yeah

**Legislative Counsel Ragucci**

I'm still recovering.

**Chairwoman Bartels**

Okay, do we want to? You want to just leave it? You're saying that Vicki raised the question, the same one that I'm raising,

**Deputy Clerk Mahler**

That there isn't some sort of written into the rules that the Chairperson shall in at his or her discretion ...

**Legislative Counsel Ragucci**

Subject to the, you know, discretion of the Chair

**Chairwoman Bartels**

Why wouldn't we just get rid of the public comment shall be limited to two, why don't we get rid of that entirely?

**Legislative Counsel Ragucci**

I don't know. I think it was an aspirational comment on behalf of certain staff members.

**Legislator Gavaris**

What about

**Chairwoman Bartels**

Maybe Legislators too

**Legislator Gavaris**

Tracey, maybe a compromise on this would be public comment should be limited to two minutes per person, or extended to three minutes at the Chair's discretion.

**Chairwoman Bartels**

We could do that. Or we could just not say anything, and then the Chair, will designate their discretion. That's what it does now, right? We don't, nowhere, it doesn't say anywhere in our rules right now what public comment is. You know, there might be a circumstance where we want to hear more extended comment, who knows?

**Legislative Counsel Ragucci**

So I apologize, Tracey, I'm going to have to jump off. I'm sorry

**Chairwoman Bartels**

Yep. We'll circle back.

**Legislative Counsel Ragucci**

All right. Have a great night everybody take care.

**Chairwoman Bartels**

You too. So maybe we can highlight that, that the two minutes is the issue, but I feel like we came to an agreement on splitting the public comment. And the, the compromise was allowing all comment at the end, but also allowing for the comment at the beginning not to just be what's on the meeting agenda, but matters before standing committees. So I feel like we're in a good place. But let's make a note that we need to address the the time. Alright, we are almost done.

**Legislator Heppner**

Sounds good.

**Chairwoman Bartels**

But we're not gonna, I think this one's going to be a bigger issue. This is the censure issue is the next, decorum. I'll read it, the Legislature hereby recognizes that censure is a formal group recognition that a given member's conduct runs counter to the Legislature's accepted standards of behavior centers to be utilized as a serious rebuke in turn notwithstanding any other section of these rules of water. Any Legislator May at any time submit a resolution for consideration of the Legislature seeking to censure any other member and other members. Such resolution will clearly state the reason for the proposed censure. Such resolution will not be considered in any committee but will be considered by the full body at the next full meeting of the Legislature. That should be Regular Meeting. Let's just change that now. A resolution seeking to censure a member requires a majority vote of the members of the Legislature. The resolution is debatable. The resolution is not amendable. The member in question can participate in the debate but can not cast a vote. In the event that the Chairperson is the subject of the censure, the Vice Chairperson will conduct the meeting during that portion of the agenda, a resolution to censure cannot be postponed or referred and cannot be reconsidered. A member cannot be censured twice for the same offense. So it was really a combination of Robert's Rules into one paragraph. Thoughts?

**Legislator Gavaris**

My only initial thought when you say about the next full meeting, I mean, depending on what this situation is, I think we should leave the possibility for a special meeting specifically to address the, the resolution of censure. If it's something so egregious that we don't want to wait a full month. If we call for a special meeting, that is for that purpose, then that's fine. I don't want to see it at a budget meeting but if we do call a special meeting, just to address this, I think it should be allowed to be discussed there and [inaudible]

**Chairwoman Bartels**

That's a good point. So it would say at the next ...

**Legislator Heppner**

That's a good point

**Chairwoman Bartels**

... Regular Meeting of the Legislature or a specially ..

**Legislator Heppner**

A special session on, to specifically. I'm just trying to think of the legal. How to say a special meeting only on that topic.

**Chairwoman Bartels**

Right. Or a special

**Legislator Heppner**

Solely for the purpose

**Chairwoman Bartels**

Session scheduled solely

**Legislator Heppner**

of considering the censure resolution.

**Legislator Gavaris**

All right, good. I like that.

**Chairwoman Bartels**

Okay

**Legislator Heppner**

I think Laura has her hand raised.

**Chairwoman Bartels**

Laura. Sorry, I didn't see your hand.

**Legislator Petit**

No, I just raised it. I have a question about the language, they cannot be censured twice for the same, for the same, whatever the language was. So if, if more information comes to light, perhaps the censorship wasn't enough. I mean, or, or could they, then I mean, the language I feel just needs to be a little bit tighter. Or what if they go out and do the same thing after, but you can't censure them again, because they were already censured? Should it be [inaudible] or?

**Chairwoman Bartels**

Yeah, I think you could censure them for a second offense doing the same thing. Right. I mean, that's happened in, you know, in, in bodies before, but not, it's not for the same. If they did something on Monday, you know, August 5, and then they did it again, on August 9, that could be two different censures, but they can't get censured twice for August 5, you just can't keep bringing up August 5. And that's that is from Robert's Rules. But I I hear, if we need to make it tighter, then we should press it.

**Legislator Petit**

Again for the same incident or the same offense or it didn't say that in there, did it?

**Legislator Gavaris**

It's in Robert's Rules, Laura.

**Legislator Petit**

Yeah. But it's not in

**Chairwoman Bartels**

It says, yeah, here it says cannot be censured twice for the same offense. Nick, can you can I ask in terms of legal-ease, is there a way to clarify a distinct offense from doing the same thing multiple times?

**Minority Counsel Pascale**

Right. So I mean, I understand the issue, which is, let's say you do the same thing repeatedly. Right? Or, you know, you do, you know, something on Monday, and something different, slightly different on Tuesday, the, sounds like

**Minority Counsel Pascale (continued)**

what the question is, can we, can we come back if we learn different information and censure you again? So, I think the answer is yes, as this is written. Maybe you could say, a member cannot be censured twice for the same discrete, you know, conduct, or same as, discrete incident, you know, or singular incident. You know, in other words, I understand the point. If, is that, is that the issue that's being raised here?

**Chairwoman Bartels**

Yes, I think so. So language could it can say a member cannot be censured twice for the same, discrete

**Minority Counsel Pascale**

I think what, you know, if you start going down the road, the road, of defining, you can define offence. So, you know, it's a question of multiple instances of the same conduct can be a singular offense. Alternatively, some penal laws provide that you can define offense, as each instance of the conduct shall be a separate and distinct offense. So I don't know for the purposes of these rules, we want to go down the road of defining what an offense is. Beyond this language.

**Chairwoman Bartels**

Yeah, I think we just pulled it from Robert's Rules. So maybe

**Legislator Gavaris**

And that's exactly what it says in Robert's Rules. And I think it's, I think it's sort of what Nick is saying, I think but the interpretation, he's using the word discrete event, but I think it's saying the same exact thing, they're referring to the double jeopardy essentially. You can't be censured twice for the same thing. If I, if tonight, I started going off on a tear and started cursing. You can't censure me tonight, and then again in a month from now, for the same event tonight. If I do it multiple times, I do it tonight. I do tomorrow night, you can censure me each time for those events, but not the same one twice.

**Chairwoman Bartels**

Right. So maybe, maybe we can just flag this that we want to make sure that we're, both that we're protecting the person from being censured repeatedly for the same offense, the exact same offense, but then we're allowing the opportunity that if someone continually behaves badly in the same way that they can be censured, more than once for a like offense. So we don't have to

**Legislator Gavaris**

It automatically says that by not, it's sort of it's there by omission because you can't be censured for the same offense. But doing the same thing on a different date is not the same offense.

**Chairwoman Bartels**

Right. But

**Legislator Heppner**

Yeah

**Chairwoman Bartels**

But I think what Laura's pointing out, though, is that someone who's being censured could argue, you ready censured me for swearing?

**Legislator Petit**

Right. Right.

**Legislator Gavaris**

Yeah, but we didn't actually censure them for swearing. We censured them for swearing at the Laws and Rules meeting on February 22 at 7:10pm.

**Chairwoman Bartels**

Right.

**Minority Counsel Pascale**

I mean, presumably, the the resolution would be worded specifically enough that this wouldn't be something that would come up frequently.

**Chairwoman Bartels**

The resolution of censure.

**Minority Counsel Pascale**

Correct, correct.

**Legislator Gavaris**

Can I ask a question, Tracey? Why did this come up as just a resolution not as simple to be able to address it on the spot? Because as Robert's Rules allows for?

**Chairwoman Bartels**

I don't know exactly. I think because, well, I think you could, since it could be submitted anytime you could submit the resolution while you're in a meeting. So it's sort of on the spot, but it's just got to be written down. But I think we wanted to avoid a kind of degeneration of chaos on the floor. I mean,

**Legislator Gavaris**

Presumably, there's already chaos going on. And that's what the reason for censure is.

**Deputy Clerk Mahler**

You also have a note here.

**Chairwoman Bartels**

But it doesn't always happen on on the floor. Like the, like the, you know, what I mean? That the, the reason for censure very well might be something that isn't happening in the moment. So,

**Minority Counsel Pascale**

Oh, right, with the example of what occurred in Dutchess County was social media posting. It had, it did not occur in the confines of the Legislature.

**Chairwoman Bartels**

Yeah, yeah. I mean Yeah

**Deputy Clerk Mahler**

You have a note here that spoke to that a little bit. That was a discussion you were having regarding sponsorship requirements, Legislator Cahill was in the meeting, also at the time, and suggested a majority of each caucus a way, and then Chairwoman Bartels you did point out to the meeting that Robert's Rules allows for censure as a motion on the floor. And then we kind of flagged it at that point. Chairman Donaldson also suggested stronger language for acceptable use as a benchmark before you can even begin censure discussion. Which also complicated your talk about what Robert's Rules allows for.

**Chairwoman Bartels**

Yeah. That's, no, that's a good, thank you for reminding me of that. So that's a good point. So John, I think what was happening is that as we discussed censure, because it wasn't our rules. So we would defer to Robert's Rules, which allowed censure as just a motion on the floor period. But we were looking for some way to bridge a balance between just a motion on the floor. And what you heard at our last meeting, which was asking for a certain number of Republicans and a certain number of Democrats, a certain threshold. I can tell you that I would oppose any of those limitations and thresholds.

I think that, I think that what we have here is as far as I would go to limiting it. Which is to say, it's a resolution that could be submitted by anyone at any time, not to a committee goes right to the floor. So, so if you wanted to write up a resolution of censure against me, you could just write that resolution up, submit it, and it's going to the floor, and then we have the discussion and debate etc. Because I think the effort to depoliticize and protect by, by requiring all these thresholds, actually might functionally have the have a counter effect, you know, so, but I, but I could see not, you know, I could see asking that this be a little more formal, and that it be in the form of a resolution. Which when we had a censure last time, it was in the form of resolution versus a motion on the floor.

**Legislator Gavaris**

So I guess the question is, what other tools are in our arsenal, that if a person is going nuts at a meeting, regular open session, legislative meeting, and they're either being profane or there's something else that they're doing, and we want to address it on the spot? Do we know what are our options are for that aside of censure or including censure?

**Minority Counsel Pascale**

The, the Chair controls the meeting, whether it's in a committee or on the floor of a full session and can actually eject a member from the from the room if it comes to that?

**Legislator Gavaris**

Okay, so what if the Chair does not agree, because we've had this recently happened, that the Chair does not agree with the behavior being out of line. But, but let's say there was a majority of the people present that did feel it was out of line. Is there anything currently, or is that something that we are able to address?



### **Chairwoman Bartels**

Well, you can appeal a Chair's ruling, and a two thirds vote would overrule the Chair's ruling. So if the Chair ruled that it wasn't out of line, you could appeal that ruling, and a two thirds vote would overrule it. But I can tell you functionally, it's a challenge. You know, even even what Counsel Pascale just said about the Chair being able to object I've thought about that we I don't think we've had situations where anyone's, not in recent memory, in my long term memory in the Legislature, there have been extreme cases, you know, 15 years ago. But in more recent memory, not, believe it or not, not so extreme in terms of on the floor behavior, some, you know, maybe some is arguable. Other people will say there was, but I think probably most things stayed within the lines. But functionally, I think it'd be very hard to eject someone.

If I mean, I, as I imagine going through the motions, you tell someone to quiet, you know, you don't have the floor, you don't have the floor. And if they continued to go off, and you said you're out of this meeting, and they didn't leave. What are you, what are you going to actually do? It's not like, [inaudible], I guess we have a sergeant of arms, we have someone standing there, but I don't know that they're going to actually remove them. I wasn't in the Legislature when they remove someone from the window sill. But that wasn't that was not because of behavior. So it's very hard thing we sort of have to self police. But these are questions, I think that are valid to, to ask, you know.

### **Legislator Gavaris**

So maybe the best thing to do would be to come up with, you know, what are we, what are the problems that we anticipate could happen, and then back ourselves into a solution for those problems, instead of trying to create language that, I think to Laura's point may be too ambiguous and a little too loose. I think we maybe need to have to differentiate between something that's egregious and needs to be addressed right then and there versus something that can wait and can be done by resolution at the next meeting that's available.

### **Chairwoman Bartels**

Yeah, I think you're right. But I also think, just my opinion on putting in this censure language, I think that this makes it, this is not that much tighter than Robert's Rules. But it's a little, it requires that there be the resolution versus right now if we, if we just delete this, you can censure as motion on the floor. You can just make a motion.

### **Legislator Gavaris**

I think, I'm saying I think there should be the ability on the floor for an egregious offence that needs to be addressed immediately, in layman's language right now. But I think there, you know, a little cleaner language that way could be created that would, you know, rise to a certain level that would need to be addressed right then and there, something that cannot wait. And it would probably be something at a general session meeting, not at a committee meeting or not at any special meeting. But if something had occurred at a legislative meeting, and it needed immediate consideration by the membership, then I think we should have that ability. I don't think it should have to wait for a resolution.

### **Chairwoman Bartels**

So that's, would you be, let me ask, would you be open, or are you proposing that we rather than defer to Robert's Rules, which allows a motion on the floor for any reason, so you can you can make a motion to censure on the floor for a behavior that happened two weeks ago. Would you be for leaving, leaving this, leaving the resolution requirement for all those other things, but allowing for a motion on the floor for behavior on the floor?

**Legislator Gavaris**

Yes, that's actually what I was thinking.

**Chairwoman Bartels**

That's very, very interesting. That's a very interesting point. And I, I like it, Jay, can we make a note of that?

**Legislator Heppner**

I think that's, we should definitely consider that.

**Chairwoman Bartels**

Yeah, making that distinction may be a way also to hold people accountable. So if it's going sideways, and if a Chair can't get control or a Chair has an opinion, that's not with, that's not aligning with the majority of the Legislature, then there's still the opportunity to call out bad behavior and ask for there to be some accountability.

**Deputy Clerk Mahler**

I will touch base with Legislative Counselor Ragucci tonight or tomorrow and see if he has a line in there that's for that particular provision.

**Chairwoman Bartels**

Yeah, I think we'll have to create it but and then maybe Counsel Ragucci and Counsel Pascale, maybe the two of you can put your heads together on that as well.

**Minority Counsel Pascale**

Sure, I'd be totally happy to work with Chris on that. Yep

**Chairwoman Bartels**

Thank you. Okay. That's a great idea.

**Deputy Clerk Mahler**

The last note that you had that wasn't about sponsorship, or that benchmark was Legislator Roberts suggested providing, I don't mean to laugh, a process for appeal. And you went into the weeds on ethics board, and whether or not you wanted someone to be able to appeal. So I'm not, he also said it's not his hill to die on.

**Chairwoman Bartels**

Yeah, I think. And I will, when we have Kevin back at the meeting, we could talk about it. I think typically, there is no appeal to a censure. Censure is just because it's a rebuke. It's not. It is what it is. So, and I'm comfortable with there being no appeal. I think, if we were going to talk about accountability that extended beyond a censure that went into the, to the realm of fines or some other, then there should be the opportunity to appeal. And ethics is something I think we need to get back into. As soon as we get this off our our, our table. And that I believe is the last major point.

**Deputy Clerk Mahler**

You have one more flag on R under Privilege of the Floor.

**Chairwoman Bartels**

Oh, no. Oh, yep, yep. When a member may be excused, so we changed be excused to only be recused, which is the right language. I think we have to we have to start using recusal versus abstention tech, it's a technical, there is a difference. And then we added that In such instances the member shall remove him or herself from any participation in discussion and or debate on the subject. Everybody go with that? And we can, we should, we need to, if this passes we need to start using the word recuse. Through the Clerk's office too.

**Deputy Clerk Mahler**

The only note that you had here was a discussion point whether a member's presence in the room constitutes participation. And then Legislator Gavaris, you had a, outside of legislative meeting setting question, that I thought you were going to bring up directly with Counsel? I can remind you about that. If you want we can just sidebar on that if you'd like.

**Legislator Gavaris**

Yeh, I'd like to sidebar because I don't recall the specific scenario there.

**Deputy Clerk Mahler**

It was not to be context in the rules. So I'll just hit you up later with that.

**Legislator Gavaris**

All right.

**Chairwoman Bartels**

Okay. Yeah. And I, my understanding when we spoke with the attorney at NYSAC, who was speaking on ethics, and he was speaking on recusal, abstention. He said that if you are recusing yourself, that he advises people that they actually leave the room when it's being discussed, but that you can be present. But he was very adamant that there should be no participation in the discussion whatsoever.

**Deputy Clerk Mahler**

So I'll just call it resolved then? If you didn't want to build that in, regarding presence in the room?

**Chairwoman Bartels**

Yeah. Why don't we leave it just because Chris, Chris isn't here. And Ken isn't here. Let's just make sure that they're all on the same page. Yeah.

**Legislator Heppner**

Yeah. My only point to being present in the room and why I could understand it being suggested, recommended, but not, as you know, definitive in terms of legally, in terms of participating, is that, you know, this is being discussed in a committee meeting like this is all public, recorded on the record. So what's in depth into the person leaving when they can still access that information? That of, the which is the discussion.

**Chairwoman Bartels**

Right.

**Legislator Gavaris**

I think the only thing I would say to that, Jonathan, is that you know it, for right now it's fine because we're doing this via Zoom. But in terms of when we get back to in person meetings, and I've done this myself on town board meetings, if it's something that I'm recusing myself from, I will, I've physically gotten out of my seat on the board and sat down in the public. And I've spoken on something that I have that conflict with, but I make it very clear, and I think that maybe that's something we should be considering as well. If we're in person again. It's very clear that you're speaking on behalf of your, your, what your reason for recusal is a not as a legislative member.

**Chairwoman Bartels**

Yeah, and I mean, I just looked it up really quickly. Now It's jogging my memory of this conversation with the attorney. So the term abstention, you know, is withholding of your vote, right? So it's you're just abstaining, you're choosing not to weigh in, we don't allow for that. For you to just choose not to abstain, which I, I love that about our rules. Recusal is removing yourself from the decision making process because of a conflict of interest, typically. So, because we only allow what we used to call abstention, for conflict of interest of the pecuniary interest. We, it's really a recusal, which means that you shouldn't be engaged in any of the discussion whatsoever. But I see your point, Jonathan, because it's like your, I guess the idea is that your presence, could, you know, could sway

**Legislator Heppner**

Your body language and so on

**Chairwoman Bartels**

I don't know, that if you just want to be as clear as possible that you're not involved. I think the bigger functional problem is that when we have a meeting, things sometimes happen fast. How do you, you know, you go out of the room for three minutes, and then you need to be back and then something, you know. So I just think it requires a discipline of, of not engaging in the conversation. Which we, you know, we, we have had Legislators in the past, one on one subject that I recall, who was absolutely disciplined and not discussing anything on the subject at all, once the conflict was pointed out. So then that's it. It went a little longer than we hoped. But if everybody could go through this, we're gonna, we'll have the conversation. I would like to, if there's no objection, put this on the agenda, not for voting, but have it on the agenda this month to wrap it up at this month's meeting, unless our agenda is jam packed. I haven't seen it yet, just so that we can go over these few points, and then solve anything we need to solve before next month's resolution deadline so we can get the changes in for next month. Is everyone good with that?

**Legislator Heppner**

Yep

**Legislator Gavaris**

I agree

**Chairwoman Bartels**

Okay, thank you. So, Jay, that you make a note that this will be on the agenda for the committee meeting this month. Again, for discussion purposes with the, with the highlighted changes, and hopefully we'll get some answers from Nick and Chris. And we'll, we'll circle back prior to that, that meeting. You know, via email. So that we'll have updates. All right. So, motion to adjourn.

**Legislator Gavaris**

I'll make the motion.

**Chairwoman Bartels**

Okay. Thank you. Second?

**Legislator Heppner**

Second.

**Chairwoman Bartels**

All right. All in favor of adjournment. All right. Thank you. Thank you all very much. Thanks, Laura for attending.

**Minority Counsel Pascale**

Have a good night all

**Chairwoman Bartels**

Have a good night.