

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY



Office of Open Government

December 12, 2013

***VIA ELECTRONIC MAIL***

Beatrix D. Fields, Esq.  
Senior Legislative Specialist  
Department of Housing and Community Development  
1800 Martin L. King, Jr., Avenue, SE  
Room 333  
Washington, DC 20020

Dear Ms. Fields:

This letter responds to your questions regarding the posting of detailed records of meetings of the Housing Production Trust Fund Board (“HPTF” or “the Board”).<sup>1</sup> Specifically, you have asked: (1) Are written meeting minutes required? If so, can a written transcript be used in place of meeting minutes? (2) Is an electronic recording (video or audio) required? This advisory opinion serves to provide guidance to the HPTF on what constitutes detailed records of public meetings under the Open Meetings Act, *D.C. Official Code* §§2-571-2-580.

The purpose of the Open Meetings Act is to provide the public with full and complete information regarding the affairs of government and any official actions taken by government officials.<sup>2</sup> For that reason, a detailed record of all public meetings<sup>3</sup> must be maintained by the HPTF. Detailed records are in the form of detailed meeting minutes, electronic recordings, and transcripts.<sup>4</sup>

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<sup>1</sup> The Housing Production Trust Fund is a public body as defined under D.C. Official Code §2-574(3). Its members consider conduct and advise on public business.

<sup>2</sup> D.C. Official Code §2-572.

<sup>3</sup> D.C. Official Code §2-574(1). “[A] ‘[m]eeting’ is a gathering of a quorum of the members of a public body, including hearings and roundtables, whether formal or informal, regular, special, or emergency...”

<sup>4</sup> D.C. Official Code §2-578.

Detailed meeting minutes are required to be posted to the website,<sup>5</sup> along with the agendas of every meeting. As the majority of boards and commissions are unable to post meeting minutes within the three (3) business days required under the Open Meetings Act, draft meeting minutes must be posted within three (3) business days upon the conclusion of the meeting, with a notation at the top of the document that full meeting minutes will be posted to the website on the next meeting date of the board or commission.<sup>6</sup>

If, however, the HPTF has a complete transcript of the meeting, that transcript may be posted in lieu of detailed meeting minutes.<sup>7</sup> The transcript must be posted within seven (7) business days upon the conclusion of the meeting. The posting of a complete transcript *and* detailed meeting minutes is redundant and is *not* required. The Board may post one or the other, as long as the minutes or transcript allow the public to gain a complete understanding of the topics discussed and the actions taken by its members.

An electronic recording of the public and closed portions of every meeting is required.<sup>8</sup> Audio and video files of the public portions of meetings need not be posted on the website, but *must* be made available to the public upon request.<sup>9</sup> If the Board does have the capacity to post audio/video files to the website, the files should be posted with meeting agendas and detailed written records (either meeting minutes or complete transcripts) of meetings.<sup>10</sup> Again, if server capacity will be jeopardized, audio and video files may simply be stored by the HPTF and made available upon request. The public is not entitled to access meeting minutes, transcripts, audio or video files of closed sessions.<sup>11</sup>

If there are documents provided to the HPTF and discussed during the public portion of a meeting, those documents *must* be posted along with the meeting agenda and a detailed written

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<sup>5</sup> Although D.C. Official Code §2-578(b) states copies of records shall be made available for public inspection, the Office of Open Government interprets *public inspection* in concert with the §2-576(2)(B) where notice shall be provided by posting on the website of the public body or the District government. Notice of meetings, to include the posting of agendas, must be provided in each format and location practicably relied upon by the public: via print publication, posting of a notice in the physical location where the meeting will take place, and on the Internet.

<sup>6</sup> D.C. Official Code §2-578(b)(1). The recommendation is intended to assist all public bodies with compliance with the Open Meetings Act. It is the finding of the Office of Open Government that a great many boards and commissions lack the administrative support to meet the quick turnaround. This difficulty is further compounded by the fact that many boards and commissions, particularly if there are several members, do not reach majority consensus on finalizing meeting minutes until the next scheduled meeting date. The intermediary step of posting draft meeting minutes allows public bodies to generally inform the public of actions taken, with the expectation that a detailed record will be provided upon final adoption of meeting minutes or approval of meeting transcripts.

<sup>7</sup> See D.C. Official Code §2-578(b)(2). A transcript of a meeting of a public body is assumed to be a verbatim account of all statements and official actions taken during a meeting, and would therefore provide significantly greater detail than summaries provided in meeting minutes. Although not verbatim, meeting minutes must be detailed enough to provide a full record of a meeting. Bullet points are not considered detailed minutes.

<sup>8</sup> D.C. Official Code §2-578(a).

<sup>9</sup> Many boards and commissions do not have the server capacity on their respective websites, or their governing agency's website to post and maintain audio files for an extended period of time. The posting of documents in PDF format utilizes far less space and is a commonly accepted means of accessing written materials on the Internet.

<sup>10</sup> D.C. Official Code §2-578(b)(2).

<sup>11</sup> D.C. Official Code 2-575(b)(1-14).

record of the meeting; and if feasible, the electronic recording.<sup>12</sup> The HPTF may not rely upon any of the enumerated exemptions of the Open Meetings Act<sup>13</sup> to withhold the posting of such documents if the documents were provided to the Board during the public portion of the meeting.

All electronic files, meeting minutes and transcripts must be maintained by the HPTF in accordance with its document reschedule, or the document retention schedule of its governing agency<sup>14</sup> -- the Department of Housing and Community Development. If the document retention schedule is not instructive, all audio and video files, meeting minutes and transcripts should be retained for a minimum of 5 years.<sup>15</sup>

Please feel free to contact me if you have additional questions.

Sincerely,

/s/

TRACI L. HUGHES

Director, Office of Open Government

Board of Ethics and Government Accountability

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<sup>12</sup> The documents must be included as part of a full record of a public meeting. D.C. Official Code §2-578(b)(2).

<sup>13</sup> D.C. Official Code 2-575(b)(1-14).

<sup>14</sup> See generally, DCMR 1-1503.

<sup>15</sup> This is the standard time advised by the Office of Boards and Commissions. The Office of Open Government concurs.