

Minutes

Metro Public Policy Committee 2019-2020

Meeting No. 1

September 4, 2019

8:30am-10:15am

Attendees: Ray Daddazio; Vicki Arbitrio; Charles Copeland; Joe Engels; Charles Gozdziwski; Maxine Hill; Rich Humann; Bob Kulikowski; Luke Martinek; Sanjay Naik; George Penesis; Rich Peters; Andy Sandor; Kelly Sheehan

Staff: Hannah O'Grady, Bill Murray, Campbell Wallace, ACEC New York

Counsel: Ken Fisher, Jenny Fernandez, Katie Schwab, Cozen O'Connor

1. Welcome & Introductions

Ray Daddazio opened by welcoming members to the first meeting of the new committee year. He provided background on the Public Policy Committee mission and had everyone introduce themselves.

2. Procurement Reform & Issues

- **MOCS meeting and PASSPort – August 20**

Bill Murray reported ACEC New York has been working with the Mayor's Office of Contract Services (MOCS) to address procurement issues for some time. In early 2020, MOCS is planning to expand the PASSPort webportal to digitize procurement processes across City agencies through "Release 3." Association members have been invited to meetings the past year to provide input as the webportal is being developed. On August 20, a group of members, Hannah O'Grady and representatives of other industries met with MOCS to discuss the new system's "taxonomy" or classifications for services procured by the City. Hannah noted members are generally enthusiastic about MOCS's efforts but did have some questions and concerns around the proposed taxonomy. After the meeting, Paul Paparella of Mott MacDonald provided comments, which were shared with MOCS, recommending the new classification system be correlated with professional licensing as regulated by the State Department of Education (<http://www.op.nysed.gov/prof/>). Committee members said the NAICS code structure does this for Architecture/Engineering/Related professional services. The City currently uses the National Institute for Government Purchasing (NIGP) structure in its procurement process. Ken Fisher recommended staff send a communication to MOCS expressing thanks for including us in the taxonomy discussion and suggesting MOCS consider referencing State licenses when designing the taxonomy. MOCS invited ACEC New York and member firms to participate in subsequent meetings on various PASSPort features that are being designed, and the next meeting will take place September 5. In addition, Jennifer Geiling, Deputy Director of Policy and Partnerships at MOCS, will be the feature speaker at ACEC New York's December 10 Holiday Membership Meeting (PASSPort overview) and March 12 Membership Meeting (more detailed presentation on Release 3).

3. NYC Legislation & Rules

- **MWBE Legislation - June 20 hearing and [testimony](#)
July 11 meeting with CM Kallos staff**

Ken reported on June 20, the Council held a hearing on MWBE bills. He and Vicki Arbitrio testified on behalf of ACEC New York. On July 11, Ken, Bill and Katie Schwab then met with chair of the Council's Committee on Contracts, Council Member Kallos' staff to further discuss the MWBE bills. The Association's testimony and advocacy efforts have focused on three main bills:

[Intro. 1293](#), this bill updates MWBE goals for all minority groups on City contracts. It will re-establish that Asian-owned firm participation on A&E contracts will count toward MWBE goals. The Alliance of New York Asian Architects and Engineers also testified at the hearing and by and large our organizations are in agreement. ACEC New York's overall position on MWBE goals continues to be that they must be based on accurate and transparent data. Accordingly, we have requested data from the 2018 Disparity Study from the Department of Small Business Services, Mayor's Office and the Council, but to no avail. Council Member Kallos shared our concern that the Disparity Study might be based on flawed data, which could make the City's MWBE program vulnerable to legal challenge.

[Intro. 1452](#), this bill broadens agencies' ability to provide exemptions from goals. ACEC New York has asked the Council to acknowledge in the bill language that licensing requirements are a factor to be taken into consideration when agencies determine MWBE capacity in the marketplace. We have advocated for this bill to be passed in a package with Intro. 1293.

[Intro. 1379](#), requires the hiring of MWBE consultants to assist firms in complying with goals. ACEC New York opposes this bill, arguing it is unnecessary and will increase project costs. Council Member Kallos's staff agreed and said the bill is not likely to move forward at this point.

- **[Local Law 97 \(Building Retrofits\) & Clean-Up Legislation \(\[Local Law 147\]\(#\)\)](#)**

Ken reported that in May, the City enacted landmark Local Law 97 in relation to building retrofits. The bill established an Advisory Board which accidentally excluded reference to professional engineers participating on it. In June, the Council passed a clean-up bill which specifically opened a position for an engineer on the board at ACEC's request. The Association is now focused on recommending two members to be appointed to the board, Scott Frank of JB&B and Josephine Zurica of Dagher Engineering who are chair and vice-chair of the Metro Energy Code Committee. ACEC New York's next Metro Region Membership Meeting on October 4, will feature guest speaker John Lee, of the Mayor's Office of Sustainability who will update our members on LL 97.

- **[Intro. 1602 \(Contractor Spyware\) – Introduced June & Coalition letter](#)**

Ken reported a bill has been introduced at the Council which would create a Task Force to study the feasibility of using "transparent billing software" on computers to verify time billed for work performed on public contracts. The software is intended to be a tool for the City to audit work performed by consultants by tracking computer keystrokes, mouse activity, screenshots and other functions. This creates privacy and data security concerns for Association members and their clients. It also fails to capture the comprehensive aspects of a consulting engineer's work on City contracts. ACEC New York is part of a coalition of groups working to oppose the bill, along with the GCA, AIA New York, New York Building Congress and Building Trades Employers' Association. The bill originated in another state and has been spreading across the country. It is a priority of ACEC national and all state associations to stop this legislation.

- **City Clerk regulatory [agenda](#) – Lobbying Law guidance for engineers and architects**

Ken reported that in 2013 the City overhauled the Lobbying Law. We played an active role at that time. Recently, the City Clerk's office issued a Notice that it plans to do a rulemaking clarifying certain exclusions from the definition of "lobbying" applicable to architects and engineers. This is expected to take place in 2020.

- **City Council approved rule on "Mechanical Voids" in Residential Towers – May 29**

Ken reported that on May 29 the Council approved a Zoning Text Amendment regulating the height of "Mechanical Voids" in residential towers. The regulation sets a 25' height limit on mechanical floors in new residential and mixed use buildings. This does not prohibit larger mechanical spaces; rather, it means any additional volume will be charged to the permitted development rights. After the rule was put into

effect in July, the Department of City Planning invited ACEC New York to attend a new series of meetings to provide feedback on the City's plan to expand this new rule so that it applies to additional business districts across the City. The July 15 meeting was attended by Ken, Bill, Ed Bosco (Overall DOB Liaison), Chris McHugh (former Overall DOB Liaison) and other stakeholders including REBNY. The Public Policy Committee directed staff to follow Ed's lead in deciding ACEC New York's level of engagement on this issue going forward.

- **Intro. 1627 (procurement process time limits) – introduced June 26**

Ken reported a bill has been introduced at the Council which would require the Procurement Policy Board to establish time limits on agency's procurement processes. The bill would also require MOCS to develop an online platform for tracking contracts from award to registration. We think it is unlikely the bill will move forward because the City has a new procurement webportal, PASSPort, in design.

- **DOB finalized new Rules Governing Electrical Work – June 11**

Ken reported the DOB finalized new Rules Governing Electrical Work which were published June 11 and took effect starting July 7. DOB's long-term plan is to move the submission process to the DOB NOW online platform. The Electrical Code Committee engaged with DOB for more than a year on this rule change and sought modifications prior to finalization. DOB made key changes requested by our members.

- **DOB finalized new Rule on Energy Audits and Retrocommissioning – Aug 4**

Bill reported a new rule took effect requiring agents who perform Energy Audits and Retrocommissioning work (pursuant to Local Law 87) to be a registered design professional or under the supervision of a registered design professional. Prior to this, non-registered design professionals could do this work. The Metro Energy Code Committee submitted comments to the DOB on the rule change which were supportive and made technical recommendations. The Committee was pleased with the outcome.

- **Intro. 1481 (Plumbing Code) – Sept 10 hearing**

Bill reported the Council scheduled a hearing on the legislation to update the City's Plumbing Code bringing it in line with the 2015 International Plumbing Code. The chair of the Association's Metro Plumbing Code Committee, Phil Parisi, is also chair of the DOB's Plumbing Technical Committee and he will testify in support of the bill as Technical Committee chair. Ed Bosco of M-E Engineers, ACEC New York's Overall DOB Liaison, will also testify in support of the bill. During the current construction code revision cycle, 120 ACEC New York members have been serving on various Technical Committees and the Managing Committee to assist the DOB in revising the codes. The Plumbing Code revision is expected to be the first to pass and will be followed by updates to the other construction codes.

4. 2019 ACEC NYC PAC - (credit card contributions can be made at this meeting)

Bill reminded the Committee the NYC Political Action Committee is a tool that allows ACEC New York to raise funds and make contributions to NYC elected officials who demonstrate commitment to policy positions that are in alignment with our industry's values. The Metro Board of Directors sets two goals for the NYC PAC: 1) raise \$15,000 per calendar year and 2) achieve 100% participation by leadership, including Public Policy Committee. To date, 80 members from 33 firms have contributed \$13,300. A member can contribute any amount to help meet these goals. To contribute, contact Bill Murray, NYC Director of Government affairs at 212-682-6336 or bill@acecny.org

5. NYC DOB – Sept 18 Meeting with Commissioner Melanie La Rocca

Metro Chair Vicki Arbitrio, Overall DOB Liaison Ed Bosco, Ken, Hannah and Bill will have a meet and greet with the new DOB Commissioner and the Department's top staff.

6. DOB NOW

Ken reported the Code Committees have been asked to include DOB NOW on the agendas of their upcoming meetings. When the DOB was developing the online filing system they engaged ACEC New

York members and did grant some requests, including allowing use of delegates. Now that DOB NOW is operational, the Committees are asked to assess whether it has been an overall improved system and whether there are any filing issues cropping up. One member, a structural firm, recently reported the new filing process requires them to submit Tenant Protection Plans and other materials they previously were not responsible for as secondary filers (Architects were responsible in the past). Staff will follow up.

7. NYC Update

Ken reported the political environment has shifted significantly over the past year. Unprecedented growth in the City has resulted in issues related to affordability and equality. There are some anti-development forces in the political sphere. With the passage of new State rent control laws which impose challenging requirements on building owners, there are some who think the implications of these types of laws have not been fully thought out. Some policymakers in the City see a need to focus on smart growth going forward and ACEC New York should think about how engaged in this discussion we want to be down the road.

8. NYS

• State Leg Update

Campbell Wallace reported QBS remains a foremost priority. Municipal QBS legislation has been added to the Association's agenda. Indemnification: Draft indemnification language was forwarded to NYS DOT and the Association continues to follow up with contacts. ESOP Expansion: the bill passed the Senate in the past and ACEC New York representatives met with sponsor's staff to inquire about the issues and concerns the Assembly Higher Ed committee brought to the sponsor's office last session. Geologist Licensure: ACEC New York staff and legal counsel members are meeting with State Education Department in mid-September to discuss the bill, which passed the Senate but did not pass in the Assembly. A significantly revised Damages for Delay bill was passed by both houses and will not be opposed by ACEC New York. The cost-benefit bill was passed by both houses and ACEC New York is again prepared to work with a stakeholder coalition to secure its veto.

• Special MTA Report, Maxine Hill, Chair, MTA Committee

Maxine Hill reported there are big issues facing member firms who work for the MTA: 1) Debarment Regulation – ACEC New York and member firms submitted comments to the MTA but have not received responses. The Association also formed a new legal entity with other groups including the General Contractors Association and the Association General Contractors to develop a legal challenge to the debarment rule. 2) 10% cut – ACEC New York continues to work with State Legislators, Members of Congress and federal transportation agencies to try and get them to weigh-in with the MTA. Patrick Foye recently stated at a presentation that MTA achieved the cost savings goal of \$75 million. It is unclear if this will affect implementation of the 10% cut. 3) Reorganization – a plan was issued in July outlining a re-structuring of the MTA. Plans include centralizing all capital-related functions across the MTA into a new central group responsible for planning, development, and delivery of a Capital Program. The MTA also created new roles for project CEOs. The MTA Committee this year will focus on meeting each subagency and Janno Lieber to provide input and feedback to the MTA during this reorganization.

9. New Business

No new business was raised.

Submitted by:

Bill Murray

NYC Director of Government Relations

September 9, 2019

(all minutes are posted on the Members Only section of our website)

C: Jay Simson, President & CEO
Campbell Wallace, NYS Director of Government Relations
GA Chairs/NYC