COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE OF THE WHOLE

COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARING

OPEN MEETINGS CLARIFICATION AMENDMENT ACT OF 2025

Testimony of Niquelle M. Allen, Esq.
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Board of Ethics and Government Accountability
FOR THE RECORD

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4:00pm
1350 Pennsylvania Avenue, N.W.
Council Chambers Room 500 (Track A)
Washington, D.C. 20004

Good evening, Chairman Mendelson and members of the Committee of the Whole. I am Niquelle Allen, Director of Open Government and I lead the Office of Open Government (the "OOG"), an office within Board of Ethics and Government Accountability ("BEGA") that is responsible for ensuring that the District of Columbia Government's (the "District") operations are open, transparent, and accessible to the public. OOG ensures this primarily through enforcement of the Open Meetings Act ("OMA") and providing advice on compliance with the District of Columbia Freedom of Information Act of 1976 ("D.C. FOIA"). In our capacity as the District's experts, advisors, and enforcers of the OMA, it is our function to ensure that the District government operates with transparency and openness.

The purpose of this testimony is to discuss the significant changes that the Council has made to the OMA through B26-208, the "Open Meetings Clarification Amendment Act of 2025" ("permanent bill"). I urge the Council to abandon this permanent change to the OMA because it is unnecessary to address the Council's stated concerns regarding its own meetings and it is a substantial blow to government transparency. I also encourage the Council to vote against the temporary amendment to the OMA, Bill 26-200 ("temporary bill"). This legislation will unintentionally and unnecessarily erode certain safeguards that the OMA has in place to prevent barriers to transparency, accountability, and the public's ability to observe the operations of the District's public bodies. I am here today to appeal to you to preserve the public's right to know about the government's affairs through access to its meetings. The OMA serves as a shield to protect the public against backroom dealing and other activities that undermine the public's confidence in its government. Transparency is not always convenient, but it is necessary to build and maintain the trust of your constituents.

I. Introduction

The Board of Ethics and Government Accountability (BEGA) was established by the District of Columbia to be an independent agency that administers and enforces the District's ethics and open government laws. BEGA includes the Office of Government Ethics (OGE), the Office of Open Government (OOG), and a five-member Board with members that are appointed by the Mayor of the District of Columbia (the "District") and confirmed by the Council of the District of Columbia (the "Council"). BEGA was formed in 2012 to maintain the public's confidence and trust in government at a time when several scandals erupted in the District involving the ethical and criminal conduct of elected officials. Knowing that secrecy breeds corruption, OOG was incorporated into BEGA to ensure that the government not only operated ethically but also conducted its affairs with openness and transparency. OOG plays a vital role in government transparency by providing advice on meetings primarily through its statutory role and expertise in open meetings laws and parliamentary procedure.

The OMA was enacted to ensure transparency, accountability, and public participation in the operation of public bodies within the District. Any attempt to dilute its provisions undermines the public's trust in government and violates core democratic principles of self-governance, and accountability to the public. The Chairman and Members of the Council have an awesome responsibility to act on various issues in ways that best affect the needs and concerns of the citizens of the District. The goal of this testimony is not to dictate how the Council carries out its responsibilities. I am here to appeal to your better nature as leaders and encourage you to

preserve the protections of the OMA. I hope you decide to do so.

Also, just as BEGA provides ethics advice, we also provide advice on government meetings through OOG. In this instance, it would have been preferable if the Council had consulted with the OOG prior to proposing this change because we are well suited to provide advice based upon our expertise and knowledge of best practices in open meetings. It is this expertise and knowledge which would have been beneficial to the Council in addressing many of its concerns about the current OMA, and its perceived obstacles to the Council's effective governance. I am providing such advice now through this testimony, which I hope the Council will receive and change course as a result.

II. The Council May Change its Own Rules and this is the Best Action for Remedying the Council's Concerns About Council Meetings, Not a Change to the OMA

The OMA allows the Council to "adopt its own rules to ensure the District's open meetings policy, as established in § 2-572, is met with respect to Council meetings; provided, that the rules of the Council shall comply with this section and the definition of meeting in § 2-574(1)."[1] Further, the OMA provided that "until the Council adopts rules pursuant to this subsection, this subchapter shall apply to the Council."[2] D.C. Official Code § 2–579 provides:

> [t]he Office of Open Government may bring a lawsuit in the Superior Court of the District of Columbia for injunctive or declaratory relief for any violation of this subchapter before or after the meeting in question takes place; **provided, that the Council shall adopt its own rules for enforcement related to Council meetings**. (emphasis added)[3]

The current RULES OF ORGANIZATION AND PROCEDURE FOR THE COUNCIL OF THE DISTRICT OF COLUMBIA, COUNCIL PERIOD 26 ("Council Rules")[4] deal explicitly with the subject of meetings and openness. The Council has adopted its own rules for every Council Period ("CP"), including CP 26. The Council Rules have included provisions regarding almost all manners of meetings that the Council might convene. Thus, the Council is only subject to the general provisions of the OMA to the extent that it has not adopted rules specific to its own proceedings.

In this regard, the temporary bill and permanent bill are an attempt to change the Council Rules. The Council could amend its CP 26 rules to address the concerns regarding how the OMA applies to its own meetings. Under the District of Columbia Home Rule Act and the Council's procedural autonomy, the Council has the authority to amend its own internal rules through a resolution. Though the whole of the Council is encompassed by the OMA. The Council's rules concerning its Committee meetings are wholly encompassed by CP 26 rules. While it is prudent

[1] D.C. Official Code § 2-575(f).
[2] D.C. Official Code 2-575(f).
[3] D.C. Official Code § 2–579(a).
[4] COUNCIL RULES ("COUNCIL RULES"), January 2, 2025.

that Council Committee meetings be subject to the OMA, these meetings are subject to the OMA because of the CP 26 rules.[5] If there are concerns about Committee meetings in particular, I advise the Council to revise its own rules, not the OMA.

Furthermore, the temporary bill and permanent bill exclude Council meetings from the OMA altogether and provide that only Council gatherings are subject to the OMA, if the Council neglects to adopt rules. The change to D.C. Official Code § 2-575(f) obliterates the transparency protections of the OMA respecting Council meetings. This is ill-advised and an affront to maintaining an open government. Based on this change alone, I press on the Council to reject this legislation.

One of the Council's stated concerns with the OMA is having the latitude to meet with the Mayor privately without running afoul of the OMA. I will address that concern next.

III. Closed Meetings with the Mayor Are Permitted Under the OMA

As currently written, the temporary bill and permanent bill "exempt from the act meetings between the Council and the Mayor provided that no official action is taken at such meetings." The permanent version of the OMA and the existing Council Rules already provide a clear path for the Council to conduct legally compliant private/confidential meetings with the Executive (the Mayor and members of the Mayor's Cabinet). Further, the CP 26 rules on Council Meetings permit such action if the Council follows its procedures and those rules supersede the OMA.[6]

The Council Period Rules, including Council Period 26,[7] have explicit rules for Open Meetings.[8] Specifically, as to meetings between the Mayor and the Council, the rules are already clear, and there is no need to change either the OMA or Council Rules.

Beginning with the purpose of the meeting, one of the stated goals of the temporary bill as stated in the declaration of the emergency, is "to exempt from the act meetings between the Council and the Mayor provided that no official action is taken at such meetings."[9] The change to the OMA adds that "[t]his act shall not apply to a meeting between members of the Council and the Mayor, provided that no official action is decided at the meeting."[10] Both the OMA and

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[5] Note that Council Committee meetings that constitute a quorum of the full Council are subject to the OMA. Council Committee meetings that constitute less than a full quorum of the Council are subject to the OMA pursuant to CP 26 rules.

[6] D.C. Official Code § 2-575(f).

[7] COUNCIL RULES, Rule 301, 33, and Rule 1005. EFFECTIVE PERIOD. "These Rules shall be effective until superseded by Rules of Organization and Procedure adopted in a succeeding Council Period, as provided in Rule 301." ("COUNCIL RULES"), 98.

[8] *See* COUNCIL RULES, Rules 371-376, 54-58.

[9] PR26-0156, Approved April 1, 2025.

[10] B26-0199 - Open Meetings Clarification Emergency Amendment Act of 2025 and B26-0200 - Open Meetings Clarification Temporary Amendment Act of 2025.

the Council Rules, already provided for the ability of the Council to meet in closed session, D.C. Official Code § 2-575(b), and Council Rules, Rule 375. EXCEPTIONS TO OPEN MEETINGS., and Rule 376. CLOSED MEETINGS., 57-59, respectively. The list of reasons that allow closure is essentially identical between the two regimes, as Council Rule 375(1) incorporates to its list "[a]ny other reason provided in section 405(b) of the Open Meeting Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code § 2-575(b))."

Additionally, the Council Rules – specifically, Rule 305, provide for a process for "hearing the Mayor," stating that "[t]he Mayor has the right to be heard by the Council upon request and at reasonable times set by the Council." There is nothing in either the OMA or Council Rules to prevent a gathering between the executive and legislative branches in a closed session. As stated, both sets of rules spell out the process for conducting a meeting in a closed session.[11] The reasons enumerated cover a wide spectrum of sensitive and confidential matters.

The meeting can be convened in a brief open session at which the Chair or presiding officer can "make a statement providing the reason for closure, including citation to [D.C. Official Code § 2-575(b)] and the subjects to be discussed." Following that, the Mayor and the Council can go in to closed session and "discuss or consider matters… listed under that subsection *and* Council Rule 376(2) and (3), where the Council already allows for gatherings of itself, where "no official action is expected to take place; provided, that no official action may be taken at such meetings."[12] This language already existed within the Council Rules which, as discussed, supersede the OMA regarding Council meetings.

As to the issue of quorum, both the OMA and Council Rules already allow for the Mayor to meet with Councilmembers, including a quorum of the Council. A meeting is not subject to the OMA or Council Rules on Open Meetings unless a quorum of members is present. A quorum, or all, of the Council's members is already allowed to have a meeting with the Mayor, as outlined above, under the permanent OMA and the Council's Rules.

Regarding Notice and Recording, the Council Period Rules, including Council Period 26,[13] have explicit rules for Open Meetings.[14] Although the Open Meetings section of the rules parallels the OMA in many respects, the Council rules differ in material ways. Under Rule 373, subsection (e), "[t]his section[15] shall not apply to administrative meetings, breakfast meetings, open discussions, or other gathering of the Council when no official action is expected to take place; provided, that no official action may be taken at such meetings." This exact language is

[11] D.C. Official Code § 2-575(b), and Council Rules, Rules 375-375, 57-59.
[12] COUNCIL RULES, Rule 374(c), 56.
[13] COUNCIL RULES, Rule 301, 33, and Rule 1005. EFFECTIVE PERIOD. "These Rules shall be effective until superseded by Rules of Organization and Procedure adopted in a succeeding Council Period, as provided in Rule 301." ("COUNCIL RULES"), 98.
[14] *See* COUNCIL RULES, Rules 371-376, 54-58.
[15] COUNCIL RULES, Rule 373, 55-56.

then found again under the provisions regarding recording of meetings in the OMA.[16]

As the Council specifically provided that the Council, itself, "shall adopt its own rules for enforcement related to Council meetings," and did so in the OMA statute where "Enforcement" and "authority" are addressed, the rules of statutory interpretation lead to the conclusion that the Council intended and is solely empowered to "create rules for enforcement" relative to all Council meetings, already. Further, the Rules adopt the same language, which does not parallel the OMA, regarding both notice and recording of "open discussions, or other gathering of the Council when no official action is expected to take place," so presumptively the Council intended to have a category of "gathering[s]" that were not "open meetings" either according to the OMA or the Council Rules. Meetings with the Mayor could already be considered within this interpretation.

Where a recording is made of a Council meeting in closure, Council Rules provide that [e]xcept as provided…the record of a closed meeting… shall be confidential and may not be released to the public" allowing that "[u]pon good cause shown…a majority of the Council or committee may approve the release of the record…"[17]

To synthesize my points on this particular issue -- when a meeting goes into closed session as outlined above, the proceeding is conducted in private and is not subject to the openness requirements of the OMA and Council Rules.[18] The public is not entitled to observe meetings, including with the Mayor, that are properly closed under the permanent version of the OMA and existing Council Rules.[19]

Thus, the temporary bill and permanent bill are unnecessary, and I encourage the Council to reject both because the OMA and CP 26 rules provide for private/confidential meetings with the Mayor and her Cabinet.

IV. Emergency Meetings Under the OMA Permit the Council to Meet With Short Notice

It is important to emphasize that the OMA expressly provides for a public body to hold emergency meetings under D.C. Official Code § 2-576(4). That Section states that "When a public body finds it necessary to call an emergency meeting to address an urgent matter, notice shall be provided at the same time notice is provided to members and may be provided pursuant to any method in paragraph (2) of this subsection" (Section 406(4)).

The methods for affecting such notice are as follows:

1. Notice may be posted in the office of the public body or a location that is readily accessible to the public;

[16] COUNCIL RULES, Rule 374(c), 56-57.
[17] COUNCIL RULES, Rule 376(b),(c)(1), 58.
[18] COUNCIL RULES, Rule 376(b), 58.
[19] D.C. Official Code § 2-575(b), and Council Rule 376(a)(2),(3).

2. Notice on the website of the public body or the District government (Central Meeting Calendar); and except for the boards of Trustees for DC Public Charter Schools, in the D.C. Register. Pursuant to D.C. Official Code § 2-576(2)-(4), the as timely as practicable requirement still applies but the public body is not fettered to the 48 hours or two business days requirement, since an emergency is being considered (Section 406(1)-(3)).

The current OMA requires that at an emergency meeting, the public body opens the meeting with a statement explaining the subject of the meeting, the nature of the emergency, and how public notice was provided (Section 407(d); D.C. Official Code § 2-577(d)).

These requirements for an emergency meeting are not draconian and do not: (1) hinder a public body from conducting such meetings; (2) jeopardize addressing the exigency of any matter; or (3) compromise executive or closed session undertakings.

Furthermore, the OMA provides for specific matters to be conducted in executive/closed session meetings.[20] Among the exceptions to open session meetings or reasons under § 2-575(b) of the OMA for entering closed session meetings, which may be more applicable here, are:

> (1) A law or court order requires that a particular matter or proceeding not be public;
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> (2) To discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating the price and other material terms of a contract, including an employment contract, if an open meeting would adversely affect the bargaining position or negotiating strategy of the public body;
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> (3) To discuss, establish, or instruct the public body's staff or negotiating agents concerning the position to be taken in negotiating incentives relating to the location or expansion of industries or other businesses or business activities in the District;
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> (4)(A) To consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body, or to approve settlement agreements; provided, that, upon request, the public body may decide to waive the privilege.
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> (5) Planning, discussing, or conducting specific collective bargaining negotiations;
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> ….
>
> (8) To discuss and take action regarding specific methods and procedures to

[20] D.C. Official Code § 2-575(b).

protect the public from existing or potential terrorist activity or substantial dangers to public health and safety, and to receive briefings by staff members, legal counsel, law enforcement officials, or emergency service officials concerning these methods and procedures; provided, that disclosure would endanger the public or the public body;

(9) To discuss disciplinary matters;

(10) To discuss the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials, or of public charter school personnel, where the public body is the board of trustees of a public charter school;

….

(13) To deliberate upon a decision in an adjudication action or proceeding by a public body exercising quasi-judicial functions; and

(14) To plan, discuss, or hear reports concerning ongoing or planned investigations of alleged criminal or civil misconduct or violations of law or regulations, if disclosure to the public would harm the investigation.

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A public body, including the Council, is not required to apply any of the reasons to enter into closed/executive session in the time of an emergency. What is required is adherence to Section 407(d); D.C. Official Code § 2-577(d) when the public body avails itself of the emergency provision under the OMA as described in the preceding (Section 406(4); D.C. Official Code § 2-576(4)).

However, the availability of closed session meetings to the Council is described to show that if an emergency does not exist and the Council is concerned about the information released to the public prejudicing against the outcome of any decision or undertakings, there are various reasons for the Council to enter closed session meetings.

For example, the Emergency Resolution Declaration states in part, the following: "(c) In recent months, the District government has had to deal with a variety of consequential, large-scale business and economic development propositions, most notably, the effort to retain Monumental Sports and Entertainment in the District. This effort involved significant negotiations between the parties, much of which had to be kept confidential until agreements in principle were reached."

In this instance, the Council is free to look at its own rules for conducting meetings and utilize any of the applicable reasons for entering closed/executive session meetings under the OMA. D.C. Official Code § 2-576(f) states "… the Council may adopt its own rules to ensure the

District's open meetings policy … is met with respect to Council meetings; provided, that the rules of the Council shall comply with this section and the definition of meeting …"

The Office of Open Government takes notice of the Council's interpretative and enforcement power concerning the OMA in Advisory Opinion #OOG-2024-0007, where I recognized the Council's ability to apply and enforce its own rules concerning open government matters.[21] In that Advisory Opinion, I concluded, in part, that: "Rule 373(e) excludes certain meetings from the notice provisions if the D.C. Councilmembers assembled do not take official action. Such meetings include "administrative meetings, breakfast meetings, open discussions, or other gathering of the Council when no official action is expected to take place."[22]

The temporary bill and permanent bill amends Section 406 of the OMA (D.C. Official Code § 2-576(1)) to "Notice shall be provided when meetings are scheduled and when the schedule is changed. A public body shall establish an annual schedule of its meetings, if feasible, and shall update the schedule throughout the year. A public body shall attempt to provide notice as early as possible, but not less than 48 hours or 2 business days, whichever is greater, before a meeting." This removes "Except for emergency meetings" from before "a public body" and adds "attempt to" between "shall" and "provide." The removal of "[e]xcept for emergency" shows that the new emergency measures do not take into contemplation an emergency meeting as one that is subject to the OMA. Even though the Council amended the temporary bill to confine the changes to the Council, to remove its emergency meetings from the arm of the OMA in the face of the current emergency provision of the statute that is adequate to address any form of emergency does not bode well with openness and transparency.

In addition, the inclusion of the term "attempt to" provide notice has given wide latitude for a public body (in this instance, the Council) to do whatever it deems as sufficient to provide notice for regular, legislative, and committee meetings where votes are taken, and has put in place a lesser standard for the Council to be held to for accountability and compliance. This language is vague and discourages actual compliance with the OMA. A public body (the Council) could attempt to publish a meeting notice on its website, experience technical issues, and decide that it was sufficient to "attempt to provide notice," since it is posted at the John A. Wilson Building in plain view (Rule 373(2)(b)).

The Emergency Declaration Resolution states "[t]his emergency legislation is particularly necessary in the current political climate to allow the Council to be briefed as a body in a timely manner and to develop appropriate responses to rapidly unfolding issues, and to ensure that other public bodies in the District are able to receive, discuss and analyze relevant information securely, while also ensuring that the process for taking any official action with respect to that information is conducted publicly."

Respectfully, the Council states a desire to balance addressing an emergency while keeping the public informed of the government's actions but has overlooked the current

[21] Advisory Opinion, #OOG-2024-0007, February 12, 2025, 1-9.

[22] Ibid., 9.

emergency provisions of the OMA. Such an action sends a message – perhaps unwittingly – that transparency of the government has not been given careful consideration to accord with the Rules of Construction of the OMA.

D.C. Official Code § 2-573 states that the OMA "shall be construed broadly to maximize public access to meetings." This means an emergency must be real and not imagined or supposed under the current OMA. It also means that exceptions to open sessions must be carefully applied. As such, to exclude Council meetings from adherence to the OMA, except where votes are taken, is too large an umbrella to capture an emergency such as described by the Council in its Resolution.

The Office of Open Government takes notice that the current Federal-related emergency is not the only matter the Council contemplates in putting forward this legislation. The Council has cited prior and future matters of emergency as the impetus for this legislative action. The Council has also stated that where there is not an emergency, the current OMA creates specific obstacles to the Council's effective, functional operation, especially as it relates to its committees. However, to disregard the current OMA emergency provisions with the focus being the Federal-related emergency, it begs the question whether it would not be expedient to address the matter under the current open government laws, as opposed to possibly setting a precedent to make sweeping changes to the OMA. Leaving government transparency subject to the whims of individual elected officials, based upon the order of the day is not transparency or good policy.

Based on the preceding, the Council may conduct meetings that conform to the OMA to address the Federal-related emergency by availing itself of the opportunity as laid down in Section 406(4) of the OMA.[23] The notice requirement, as discussed, will not prejudice the affairs of the Council. Not only is the emergency provision available under the OMA, but the opportunity to conduct specific matters in closed/executive session is also currently available. I appreciate the work of the Council in seeking to respond as it deems fit to the Federal/DC budget situation. But I urge the Council to consider the ramification of the proposed legislation on the government's openness and transparency and err on the side of caution by abandoning the proposed changes.

V. Amendment to D.C. Council Rules - Committees

The changes to the OMA that the D.C. Council is considering are too broad to accomplish the purpose stated as the rationale for the changes. The amendments reach all public bodies, not just the D.C. Council. This, of course, presents a widening potential for abuse in the form of clandestine assemblies by public bodies where there is no longer the scrutiny and the restraining effects of public notice and civic involvement.

With respect to D.C. Council meetings, as discussed previously, those are governed by the Council Period 26 rules. D.C. Council Committees are only subject to the OMA because of

[23] D.C. Official Code § 2-576(4).

their own rules. It is unnecessary to change the OMA to resolve the issues the D.C. Council has with its Committees.

Currently, Council Rule 502 establishes that "one Councilmember, for the Council, or one member of a committee, for the committee, shall constitute a quorum for the purpose of holding a hearing or a roundtable."[24] The quorum requirement for a committee is one member of the body,[25] which is already compliant with the OMA, as the Council has enacted its definition of a quorum for the purpose. Thus, there is no need to change the OMA, as the Council has already demonstrated its ability to promulgate its own rules.

The Council Rules establish that "[a] majority of the Councilmembers shall constitute a quorum for the lawful convening of a meeting and for the transaction of business, except as provided in Rule 502."[26] Additionally, "[i]n the absence of a quorum… no debate or motion shall be in order except a motion to adjourn" and "[d]uring a Call of the House, the Council shall stand in recess for no more than 20 minutes…[i]f a quorum is present, the meeting shall proceed. If a quorum is not present, the meeting shall be recessed or adjourned."[27] Therefore, like the OMA, Council Rules require of open meetings that "[t]he Council or a committee shall not keep the number of attendees below a quorum to avoid the requirements of this section."[28]

The primary difference with Council committee meetings is that the Council rules provide that "at least one Councilmember attending the meeting shall notify the Secretary at least 24 hours before the meeting,"[29] which is a shorter notice requirement than full Council hearings, or the public body requirement of the OMA. Emergency circumstances are provided for by excusing less notice.[30] Both the Council Rules and the OMA require committees to notice their agenda, with date, time, location, and planned agenda, including any statement of intent to go into closed session including the reasons for the closure. The requirements for electronic recording of both open and closed sessions of meetings are the same in Council Rules as with the permanent version of the OMA.[31]

As quorum applies to Hearings and Roundtables, the Council Rules' definition of ""Meeting[s] of the Council" means a gathering of a quorum of the Council, including hearings and roundtables."[32] As stated earlier, the quorum requirement for either is one member of the body, which is already compliant with the OMA, as the Council has enacted its definition of a quorum for the purpose. Thus, there is no need to change the OMA, if any change must be made the Council should revise its CP 26 rules.

Where Notice and Recordings are applicable to Hearings and Roundtables, they are both

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[24] **COUNCIL RULES, Rule 502, 71.**
[25] **COUNCIL RULES, Rule 502, 71.**
[26] **COUNCIL RULES, Rule 304(a), 34.**
[27] COUNCIL RULES, Rule 304(d)-(e), 34-35.
[28] COUNCIL RULES, Rule 371(b), 54.
[29] COUNCIL RULES, ARTICLE III, [Subsection] A. LEGISLATIVE MEETINGS, Rule 373(a)(2), 55.
[30] *Id.*
[31] See D.C. Official Code § 2-578, and Council Rules, Rule 374, 56-57.
[32] COUNCIL RULES, Rule 371(2), 54.

required to be noticed according to Council Rule 421,[33] which requires that "15 days' notice by publication in the Register or abbreviated notice published in the Register is required before the conduct of a hearing."[34]

Committees, including the Committee of the Whole, "may hold a hearing or roundtable…on any matter relating to District affairs." And, while a "committee may not consider a measure unless the Chairman has made an official referral… a hearing or roundtable notice may be filed in the meantime."[35]

Council hearings and roundtables are unique constructs of the Council and governed by its Rules, particularly Article V—Hearing Procedures.[36]

As an alternative to hearings, "a committee may hold a roundtable on any matter relating to the affairs of the District… within the committee's jurisdiction" and unless a hearing is required by law," nevertheless "[a] roundtable shall comply with the hearing requirements."[37]

Either gathering requires that "[a] notice of a hearing or roundtable shall be filed with the Secretary."[38] Notice of roundtables requires notice "at least 24 hours before the roundtable" except for a "confirmation resolution, [where] 5 calendar days' notice is required."[39]

Hearing and roundtables both require a committee to follow the same requirement to file a "hearing record,"[40] which are more stringent than the requirement of the OMA.

The takeaway here is that the Council empowered itself to adopt rules *for* itself regarding open meetings by the whole Council or committees. In making self-regulation a portion of the OMA, the Council differentiated itself from other public bodies. As the Council can further adopt rule changes regarding meetings, it is unnecessary to amend the OMA regarding itself. Further, it is not in the spirit of the OMA to make changes to the Act regarding all other public bodies, as the Council did not include provisions for those bodies to adopt rules of their own which deviate from the OMA. Thus, I implore the Council to abandon this legislative change.

VI. Conclusion

Thank you, Chairman Mendelson, and Members of the Committee of the Whole, for providing me the opportunity to testify today. It is my hope that the information I have provided to you today was helpful and has provided you with a more in-depth and clearer picture about how your goal to be more effective through greater meeting flexibility is not thwarted by any of

[33] COUNCIL RULES, Rule 373(f), 56.
[34] COUNCIL RULES, Rule 421(c), 67.
[35] COUNCIL RULES, Rule 404(d), 61.
[36] COUNCIL RULES, Rules 501 et seq., 71-73.
[37] COUNCIL RULES, Rule 501, 71.
[38] *Id.*
[39] COUNCIL RULES, Rule 421(e)(1)-(2).
[40] COUNCIL RULES, Rule 531(a), 73.

the current provisions of the D.C Open Meetings Act. I also hope that this information has thoroughly explained how your proposed amendments to the Open Meetings Act are not only unnecessary to achieve your goals, but they also have the potential to adversely affect public confidence in the transparency of our government and diminish the public's ability to participate effectively in their civic duties.

BEGA's role in government is to inspire our leaders to operate ethically and transparently. Our function is not to chastise leaders or point fingers – BEGA's mission is to promote a culture of integrity in government. BEGA is successful if you, as leaders in our community remember you obligation to your constituency to provide them with full access to their elected leaders. The temporary bill and the permanent bill substantially weaken the OMA and the public's trust, and we encourage you to abandon it.

Thank you again for the opportunity to testify.