Roxy Regional Theatre

Board Meeting Agenda
02/19/24

1. Attendance	Melissa Schaffner
2. Approval of January Meeting Minutes	
3. Old Business	Kurt Kowalski
a. Bylaw Revisions	Bylaw Revision Committee
4. New Business	
5. Board Member Discussion	
6. Staff Discussion	
7. Artistic Director Report	Emily Ruck
8. Financial Report	Nancy Ladd
9. New Building Update	New Building Committee
10. Board Member Comments	
11. Public Comments	
12. Adjourn	

Next Meeting: Monday, March 18, 2024 @ 6 PM

Minutes – Regular Monthly Board Meeting

Monday, 22 January 2024

Roxy Regional Theatre (location)

The meeting was called to order at 6:03PM by Board Treasurer, Nancy Ladd.

Melissa Schaffner recorded the attendance and ensured a quorum. All board members except Jennifer Scribner, Jason Knight, and Kurt Kowalski were present. Melissa Schaffner was present virtually. Laurie Matta, City of Clarksville, was present. Artistic and Acting Managing Director Emily Ruck was present.

Minutes from November were approved with a motion from Rich Holladay and a second from Andrea Herrera. Motion passed.

Old Business: None

New Business: Laurie Matta gave a presentation on Sunshine Laws. 30% or more funding from the City requires the organization to follow Sunshine Laws, which we do receive between cash funding and rent abatement.

By-laws revision: Emily mentioned ex-officio members, many of whom have been on the list for years and have not been active. Amendments must have the written documentation 10 days prior to voting. Recommendation was made to form a by-laws committee. Motion made by Andrea, second Nancy. Motion passed. Andrea, Joe Britton and Rich will serve on the committee.

Regarding the storefront at 125 Franklin Street. Nancy pointed out that the rent was nearly twice the mortgage we used to hold and was financially challenging. The costume shop will not earn enough to cover the rent. This led to a conversation about the costume shop contents and disposition of same in the new building. Agreement was made to not rent 125 Franklin.

Two of the newest employees have asked about raises, following completion of their performance reviews. Emily shared what other regional theaters are paying Actors and Production staff. Katie Kennedy has not had a raise in 8 years. The group agreed that raises are not in order for anyone except Katie at this time, but discussion was not held to consider that possibility.

See Emily's Director's report for more details and information she shared with the group.

Nancy presented the Financial Report. See the report for specific information.

New Building Update: none

Business concluded at 7:35PM and Nancy moved to adjourn, David Shelton seconded.

The next regular board meeting will be held on Monday, February 19, 2024 at 6PM at Edwards.

Respectfully Submitted,

Melissa A. Schaffner

Vice Chair/Board Secretary

BY-LAWS
OF
ROXY PRODUCTIONS, INC.

ARTICLE I

NAME OF ORGANIZATION

SECTION 1. Legal Name. The official name of the Organization is: Roxy Productions, Inc. and shall also be known as “Roxy Regional Theatre,” “Roxy Theatre” or “Roxy”. Any of these names shall constitute the name of the organization. The entity is and shall remain a not-for- profit organization in the State of Tennessee.

ARTICLE II

PRINCIPAL OFFICE

SECTION 1. The Organization shall have a principal office within the state of Tennessee at such location as the Board of Directors may, from time to time, designate. Until changed by the Board of Directors, the principal office of the Organization shall be located at 100 Franklin Street, Clarksville, TN 37040.

SECTION 2. The Organization shall be authorized to use a secondary, interim office located at the Customs House Museum and Cultural Center (200 S. 2nd Street, Clarksville, TN 37040)

ARTICLE III

PURPOSE AND MISSION

SECTION 1. Legal Entity. The Organization is a not-for-profit professional theatre organization organized under the laws of the State of Tennessee and as defined by the Internal Revenue Service under Section 501(c)(3) of the code. Donations made to the organization shall be tax-deductible as allowed by law.

SECTION 2. Mission Statement. The Roxy Regional Theatre attracts, motivates, entertains and challenges audiences with theatrical productions ranging from the classics to new works. Furthermore, it trains and supports the next generation of theatre artists; provides educational programming and promotes a wide range of learning to a diverse community. The Roxy Regional Theatre celebrates the importance and the impact theatre has on the citizens of Clarksville – Montgomery County and Middle Tennessee.

ARTICLE IV

THE BOARD OF DIRECTORS

SECTION 1. Authority. The legal, business and fiscal affairs of the Organization shall be managed by the Board of Directors. The Board of Directors shall act as the Organization's governing body as a whole, with no individual or committee acting independently to make decisions and/or act on behalf of the Organization.

SECTION 2. Number of Directors. The number of Directors shall be no less than nine (9) and no more than twenty-one (21).

SECTION 3. Appointments. The Organizational Board of Directors will be appointed by three different entities. The City of Clarksville will be granted ten (10) Directors appointments. Roxy Productions, Inc. will be granted ten (10) Directors appointments. The City of Clarksville and Roxy Productions, Inc. will share one (1) appointment.

SECTION 4. Board Admission. Directors may be added to the board by a majority vote and may take their seats at the meeting upon election. Protocols for Board Membership may be written and amended from time to time by the ~~Executive Committee~~ Board of Directors. As a full board, applications for new directors will be reviewed and recommendations will be made to the City (when there is an open City appointment in question) as to which applicants are believed to contribute to the board and be a successful member.

SECTION 5. Terms. Directors shall serve terms of three (3) years and may be re-elected for two (2) additional terms. Members of the Board of Directors will be reviewed annually and voted on annually. Directors serving three consecutive terms must vacate their position for at least one (1) year before reelection.

SECTION 6. Regular Meetings. Regular meetings of the Board of Directors shall be held on a monthly basis at the principal office of the corporation or at such other place as the Directors may determine. Meetings of subcommittees shall be scheduled as needed at the principal office of the corporation or at such other place as the Directors may determine, as long as the adequate public notice is given.

SECTION 7. Special Meetings. Special meetings may be called by the Board Chair at the principal office of the corporation or at such other place as the Directors may determine. Special consideration shall be made to hold a special meeting in an expedient fashion if an urgent matter is to be discussed.

SECTION 8. Notice of Meeting. *Directors shall be given notice of each meeting of the Board of Directors, which shall state the date, time and location of the meeting and, in the case of a special meeting, the items of business to be transacted. It shall be in the duty of the Chairperson or Executive Director to cause such notice to be given to each Director no less than one (1) calendar day prior to the meeting. Such notice shall be given personally or by mail, telephone or other electronic means capable of verification to the Director's residence or place of business as listed at the Organization's principal office.*

Reword to: "Directors shall be given notice of each meeting of the Board of Directors or a subcommittee, which shall state the date, time, and location of the meeting and the items of business to be transacted. Public notice is required for all meetings of the Board of Directors and subcommittees, and shall be provided in the following manner:

- As required by state statutes
- Notice shall set forth the time, date, place and the subject matter of the meeting
- Notice shall be made public at least three (3) days prior to the commencement of such meeting, or two (2) hours under special circumstances
- These notices should be sent to the City Clerk for notice on the City's website
- Notice shall be posted at the entrance of the Roxy, or wherever the meeting shall take place

It shall be in the duty of the Chairperson or Staff Liaison/Managing Director to cause such notice to be given to the City Clerk and each Director. Such notice shall be given personally or by mail, telephone, or other electronic means capable of verification to the Director's residence or place of business as listed at the Organization's principal office."

SECTION 9. Robert's Rules of Order. The rules contained in the current edition of Robert's Rules of Order Newly Revised shall govern the Organization in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Organization may adopt.

SECTION 10. Sunshine Law. The Tennessee Sunshine Law declares that the formation of public policy and public business must be transacted in public and not in secret.
The Tennessee Open Meetings Act requires all meetings of a governing body to be open to the public and that a governing body provide adequate public notice of the meeting. A meeting is a gathering of elected officials who can deliberate toward or make a decision or hold a vote if a quorum is required.
A governing body is an elected body of two or more members with the authority to make a decision on behalf of the public. This excludes chance meetings of two or more elected officials. Please refer to the TENNESSEE OPEN MEETINGS ACT - TCA §8-44-101 – Appendix I.

SECTION 11. Quorum. *A quorum at a regular or special meeting shall be a simple majority of Board Members. Proxies by Board Members may be given to an Executive Committee member or to the Executive Director of the Organization. Said proxy (proxies) may be used in determining the presence of a quorum. Written confirmation will be required in the event of a dispute regarding the issuance or execution of votes by a proxy.*

Reword to: "A quorum at a regular or special meeting shall be a simple majority Board Members. A quorum of the body is necessary to conduct official business, and Board Members must be physically present in-person to count towards the quorum and participate in any discussion or votes to be executed at the meeting."

SECTION 12. Board Decisions. The act of a majority of the Board Members present at any meeting at which a quorum is present shall be construed as the act of the Board of Directors unless a larger majority is required by law or by these Bylaws of the Organization.

SECTION 13. Resignation and Removal. *A Director of the Organization may resign at any time by tendering his/her resignation in writing to the Organization, which resignation shall become effective upon receipt by the Organization at its principal office. Any Director may be removed by the Board of Directors by two thirds (2/3) majority of all Board Members whenever, in its judgment, the best interests of the Organization would be served. In this event, proxy votes are* *not allowed. Directors under review will be brought to the attention of the Executive Committee and considered at that level before being brought before the entire Board of Directors. The Director under consideration may be allowed to briefly address the Board of Directors, determined by the Executive Committee, prior to a vote being taken. Consideration and respect shall be afforded to such a Director under consideration for dismissal.*

> **Reword to:** "A Director of the Organization may resign at any time by tendering his/her resignation in writing to the Organization, which resignation shall become effective upon receipt by the Organization at its principal office. Any Director may be removed by the Board of Directors by a two thirds (⅔) majority of all Board Members whenever, in its judgment, the best interests of the Organization would be served. Directors under review will be brought to the attention of the full Board of Directors for a vote. The Director under consideration may be allowed to briefly address the Board of Directors prior to the vote being taken. Consideration and respect shall be afforded to such a Director under consideration for dismissal.
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> **13.1 Bad Faith.** A Director or officer is not acting in good faith may be removed from office for good cause including voting in matters of personal interest in violation of Tennessee Code Annotated §12-4-101, but only after notice of the cause of such removal has been served upon the Director or officer in accordance with general law."

SECTION 14. Compensation. Directors shall not receive compensation for any services rendered in their capacities as Directors. However, nothing herein contained shall be construed to preclude any Director from receiving compensation from the Organization for other services actually rendered or for expenses incurred serving the Organization as a Director or in any other capacity.

SECTION 15. Vacancy. *Any vacancy occurring on the Board of Directors shall be filled by the Executive Committee. A Director appointed to fill a vacancy shall serve the unexpired portion of the predecessors in office and may opt for a full board position for a complete term at the next annual August meeting. Each vacancy appointment shall be subject to a majority vote of the Board of Directors at a Regular or Special meeting. The Chairperson may consult with other Board Members to recommend a candidate but is not required.*

> **Reword to:** "Any vacancy occurring on the Board of Directors shall be filled by the full Board. A Director appointed to fill a vacancy shall serve the unexpired portion of the predecessors in office and may opt for a full board position for a complete term at the next annual June meeting. Each vacancy shall be subject to a majority vote of the Board of Directors at a Regular or Special meeting and, if it is a City seat that is vacant, approval from the City. The Executive Committee can recommend a candidate but is not required."

SECTION 16. Indemnification. The Organization may, by resolution, provide for indemnification by any and all of its Directors against expenses actually and necessarily incurred by them, in conjunction with the defense of any action, suit or proceeding in which any one of them is made a party by reason of their being a Director of the Organization. Exceptions include relations to matters where such Director or Directors shall be adjudged in such action, suit or proceedings to be liable to negligence, misconduct in the performance of their duties and to such matters as shall be settled by agreement predicated on the existence of such liability for negligence or misconduct.

The Organization will annually provide liability coverage for all members of the Board of Directors. The cost of liability coverage will be covered by the Organization.

SECTION 17. Liability. A director shall discharge the duties of the position of director in good faith, in a manner the director reasonably believes to be in the best interests of the corporation, and with the care an ordinarily prudent person in a like position would exercise under similar circumstances. A person who so performs those duties is not liable by reason of being or having been a Director of the Organization. A Director is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by: (1) one or more officers or employees of the Organization whom the Director reasonably believes to be reliable and competent in the matters presented; (2) counsel, public accountants, or other persona as to matters that the Director reasonably believes are within the person's professional or expert competence; or (3) a committee of the board upon which the Director does not serve, duly established as to matters within its designated authority, if the Director reasonably believes the committee to merit confidence.

SECTION 18. Attendance. *Directors are expected to be present for ALL MONTHLY Board Meetings and SPECIAL CALLED Board Meetings. Director may communicate to Board Chair if any known, regular or recurring conflicts or issues regarding regularly scheduled monthly meeting dates are foreseen before the start of the new fiscal year (September 01). Special permission is only granted through the Executive Committee.*

"Present" is defined as in-person, video chat or via phone. A Directors means of attendance or unforeseen absence will be communicated to Executive Director ahead of the meeting date(s) to guarantee a quorum is established at each meeting.

Any SPECIAL CALLED meetings involving any of the following MUST be attended in person. Hiring and/or firing of Executive Director. Dissolving of organization. Other meeting deemed necessary by Board Chair and/or Executive Director.

> **Reword to:** "Directors are expected to be present for ALL MONTHLY Board Meetings and SPECIAL CALLED Board Meetings. Director may communicate to Board Chair or Staff Liaison/Managing Director if any known, regular or recurring conflicts or issues regarding regularly scheduled monthly meeting dates are foreseen before the start of the new fiscal year (July 01). Special permission is only granted through the Executive Committee.
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> "Present" is defined as in-person. If a Director cannot attend, they can call in or listen

via phone or video chat, but will not be able to deliberate or vote. A Director's means of attendance or unforeseen absence will be communicated to the Staff Liaison/Managing Director ahead of the meeting date(s) to guarantee a quorum is established at each meeting.

If a Director misses three meetings, an agenda item will be created for discussion and consideration of removal at the next scheduled meeting. The Director in consideration will have an opportunity to speak on their behalf at said meeting."

SECTION 19. Presumptive Assent. A director who is present at a meeting of the board when an action is approved by the board is presumed to have assented to the action approved, unless the director: (1) objects at the beginning of the meeting to the transaction of business because the meeting is not lawfully called or convened and does not participate in the meeting, in which case the director is not considered to be present at the meeting for purposes of this chapter; (2) votes against the action at the meeting; or (3) is prohibited from voting on the action by the articles or bylaws or as a result of a decision to approve, ratify, or authorize a transaction or a conflict of interest policy adopted by the board.

SECTION 20. No Trustees. A director, regardless of how identified, is not considered to be a trustee with respect to the corporation or with respect to property held or administered by the corporation, including without limit, property that may be subject to restrictions imposed by the donor or transferor of the property.

SECTION 21. No Self-Benefit. This Organization is not organized or operated for the benefit of private interests, such as the creator or the creator's family, shareholders of the organization, other designated individuals, or persons controlled directly or indirectly by such private interests. No part of the net earnings of a 501(c)(3) Organization may inure to the benefit of any board member or individual.

SECTION 22. No Political Activity or Lobbying. No lobbying or political activity shall be conducted or sanctioned by the Organization. The Board is absolutely prohibited from directly or indirectly participating in, or intervening in, any political campaign on behalf of (or in opposition to) any candidate for elective public office. Contributions to political campaign funds or public statements of position (verbal or written) made on behalf of the Organization in favor of or in opposition to any candidate for public office clearly violate the prohibition against political campaign activity. Violating this prohibition may result in denial or revocation of tax-exempt status and the imposition of certain excise taxes.

SECTION 23. Organization. The Chairperson, and in his or her absence the Vice Chairperson and in their absence any Director chosen by the Directors present, shall call the meeting of the Board of Directors to order and shall act as Chairperson of such meeting. The Secretary of the Organization shall act as Secretary of the meeting of the Board, but in the absence of the Secretary, the presiding officer may appoint any director to act as Secretary of the meeting.

SECTION 24. General Powers. Without prejudice to the general powers conferred by statute, the Articles of Incorporation and by the Bylaws; it is hereby declared that the Board of Directors shall have the power from time to time:

i. To determine policies and conduct general business of the Organization.

ii. To make and change rules and regulations not inconsistent with these Bylaws, for the management of the Organization's business affairs.
iii. To purchase or otherwise acquire for the Organization any property, rights or privileges that the organization is authorized to acquire at such price or consideration and generally on such terms and conditions they deem proper.
iv. In their discretion, pay for any property or rights acquired by the Organization either wholly or partly in money, stock, bonds, debentures, or other securities of the Organization.
v. To borrow money.
vi. To elect, appoint, or employ and at their discretion to remove or discharge such officers, agents, factors or employees as they see fit, including an ~~Executive Director~~ Artistic Director and Managing Director for the Organization, to determine their duties, responsibilities, salaries, wages or benefits and to require corporate surety bonds in such instances and in such amounts as they see fit.
vii. To confer upon any officer of the Organization the power to appoint, remove, or suspend subordinate officers, agents or factors.
viii. To appoint any person or organization to accept and hold the trust for the Organization any property belonging to the Organization or in which it is interested, or for any other purpose to execute and do all other deeds and things as may be requisite in relation to any such trust.
ix. To determine who shall be authorized on behalf of the Organization to make and sign bills, notes, receipts, acceptances, endorsements, checks, releases, contracts and other instruments.
x. To delegate any of the powers of the Board in relation to the current business of the Organization to any standing or special committee or to any officer or agent or to appoint any person to the agent or Organization with such powers (including the power to sub-delegate) and upon such terms as they deem proper.
xi. To delegate powers or duties of any office to any other officer or to any Director so far as may be lawful.

SECTION 25. Director's Conflict of Interest. No member of the Board of Directors nor Officer of the Organization shall knowingly or intentionally have any pecuniary interest in or derive profit from a contract or purchase by the Organization unless the Director or Officer makes a full disclosure of his/her pecuniary interest in or profit from such contract to the Board of Directors prior to such action by the Board; that said action does not violate the proscriptions in the Articles of Incorporation against the Organization's use or application of its funds for private benefit; and that no contract, transaction or act is a prohibited transaction or one which would result in denial of tax exemption under the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended.

No contract or other transaction between the Organization and one or more of its Directors or any other Organization, firm, association, or entity in which one or more of its Directors is a Director or Officer or is financially interested, shall be either void or voidable because of this relationship or interest or because the Director or Directors are present at the meeting of the Board of Director or a committee thereof which authorizes, approves or ratifies such contract or transaction because his/her or their votes are counted for such purposes, if:
i. The fact of this relationship or interest is disclosed or made known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a

vote or consent sufficient for the purpose without counting votes or consents or such interested Directors; or

ii. The fact of such relationship or interest is disclosed or made known to the members entitled to vote and they authorize, approve or ratify such contract or transaction by vote or written consent; or

iii. The contract or transaction is fair and reasonable to the Organization.

~~Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or a committee thereof, which authorizes, approves, or ratifies such contract or transaction.~~ "Tennessee state law (TCAS§12-4-101) prohibits public officials, including board members, from having a personal financial interest in a sale, lease, or contract they are authorized to make in their official capacity. Directors must also avoid actions that might give the appearance of impropriety or a conflict of interest. They must not use their position to gain privileges or special treatment.

If there is a conflict of interest on an issue, that Director should abstain from discussion or voting on the issue. If Directors have any question about the possible conflict of interest, they should contact the Board Chair and Managing Director"

SECTION 26. Minutes. Minutes shall be kept of all Regular and Special Meetings of the Board of Directors and any of the committees of the Board and shall be made available, upon written request, for public inspection. The minutes shall include, but not be limited to, the following items:

i. Date and place of meeting;

ii. Names of members in attendance;

iii. Decisions reached and actions taken;

iv. Reports of committee meetings; and

v. Reports by ~~Executive Director~~ Artistic Director, Managing Director, and other staff

SECTION 27. Ex Officio Members. The use and implementation of Ex Officio members to the Board of Directors is available annually. These members will be nominated through the ~~Executive Committee~~ Board of Directors as "Roxy Ambassadors" of the Organization. Members will be determined through the service, commitment, area of expertise and other skill sets deemed necessary for the Board of Directors and/or specific projects and campaigns. Ex Officio members will be non-voting members at the Board level. Ex Officio members will serve a one (1) year voluntary term that can be shortened or extended by the ~~Executive Committee~~ Board of Directors.

SECTION 28. Board of Directors Annual Requirements.

1.) Director agrees to direct responsibility of the Organization and to the Board of Directors Chair.

2.) Director agrees to be actively involved in the approval and execution of Organization policy.

3.) Director agrees to review Annual Budgets prepared by the ~~Executive~~ Managing Director and Treasurer. Director agrees to reach a consensus and approval of Annual Budgets and help to maintain annual financial goals and objectives.

4.) Director agrees to annually contribute to the Financial Stability of the Organization with an annual contribution of no less than $1,000.00. Tickets, and donations both go towards this annual contribution, as well as service in-kind.

5.) Director agrees to attend ALL MONTHLY Board Meetings and SPECIAL CALLED Board Meetings. Director may communicate to Board Chair if any conflicts or issues are foreseen before the start of the new fiscal year (~~September 01~~ July 01). Special permission is only granted through the Executive Committee. If three meetings are missed, an agenda item will be created for the next scheduled meeting to discuss and consider removal of said Director.

6.) Directors are encouraged to be involved in at least one Special Called COMMITTEE. Each Committee Chair will communicate specific needs of the committee.

7.) Directors have been specifically chosen to represent and assist the Organization ~~and Executive Director~~ based on skill set, knowledge and/or experience. Directors commit to utilizing and sharing this expertise as a Director of the Organization.

8.) Director will actively work together to promote the Organization and its programs in the community in their own areas of work and involvement. Any specialized communication will be discussed with the Board Chair AND ~~Executive~~ Artistic/Managing Director.

9.) ~~Director agrees to sign and uphold the Organization Confidentiality Agreement annually~~. Director agrees to uphold the code of ethics, being held to a high standard of conduct and responsibility due to the nature of their duties and responsibilities.

10.) Director will possess an ability to work well with other Directors, Executive Director and Staff of the Organization.

11.) Director will complete and sign the City of Clarksville's Conflict of Interest Form.

12.) Director will sign an agreement with the organization of their commitment to perform and complete these requirements.

Annual Director review will be left to the Executive Committee, the Mayor of the City of Clarksville and ~~Executive~~ Artistic/Managing Director. Any requirements not being met will be discussed with the Director by the Board Chair and ~~Executive~~ Artistic/Managing Director. If requirements are not met on an annual basis, Director is subject to removal from the Organization.

ARTICLE V

OFFICERS

SECTION 1. Officers. The officers of the Organization shall consist of the Chair, Vice Chair, Immediate Past Chair, Secretary, Treasurer and other such officers the Board of Directors shall deem advisable. One Director may occupy several positions as long as the Chair and Treasurer are different positions. All Officers shall be elected from the Board of Directors. The specific duties of each Officer shall be defined by the Board of Directors from time to time.

SECTION 2. Election. Officers shall be elected annually by a majority of the Board members present at the annual August meeting.

SECTION 3. Vacancies. A vacancy in any office because of death, resignation, removal or otherwise shall be filled by the Board for the unexpired term of such office.

SECTION 4. Resignation or Removal of Officers. An Officer to the Organization may resign at any time by tendering his/her resignation in writing to the Chair or the Vice Chair. The resignation shall become effective immediately upon receipt. An Officer of the Organization may be removed at any time by the Board of Directors by a two-thirds (2/3) majority of the whole number of Directors of the Board, whenever the Board, in its judgment, believe such removal is in the best interest of the Organization.

Should the Chair be removed or resign, the Vice Chair will immediately assume the role of Chair for the remainder of the term. The Board of Directors will then elect a new Vice Chair for the remainder of the term. Should any other executive officer be removed or resign, the Board will elect a new Officer for the remainder of the term.

SECTION 5. Duties of Officers.

i. CHAIR. The Chair shall:

a. Preside over all meetings of the members and the Directors of the Organization.
b. Subject to the control of the Board of Directors, have general supervision of the affairs and business of the Organization.
c. Sign and execute all documents and instruments in the name of the Organization when authorized to do so by the Board of Directors or Executive Committee.
d. Perform such other duties as may be assigned from time to time by the Board of Directors.

ii. VICE-CHAIR. The Vice-Chair shall:

a. Discharge the duties of the Chair in the event of his/her absence or disability.
b. Perform such other duties as may be assigned from time to time by the Board of Directors.

iii. SECRETARY. The Secretary shall:

a. Keep true minutes of all meetings of the members and Board of Directors.
b. Keep all records for the Organization until such duties are delegated to an ~~Executive~~ Managing Director.
c. Perform such other duties as may be assigned from time to time by the Board of Directors.

iv. TREASURER. The Treasurer shall:

a. Keep account of all monies, credits and property of the Organization.
b. Keep accurate amounts of all monies received and expended.
c. Have custody of the funds and securities of the Organization.
d. Deposit such funds and securities in such financial institutions as the Board of Directors shall designate.
e. Submit a report of the accounts and the financial condition of the Organization at each Regular meeting.
f. Perform such other duties as may be assigned from time to time by the Board of Directors.

v. IMMEDIATE PAST PRESIDENT. The Immediate Past President shall:

a. Serve the purpose of tiebreaker and wise advisor in the Executive Committee.

ARTICLE VI

~~Executive~~ Managing Director

SECTION 1. Executive Director. An Executive Director may be appointed and employed by the Board of Directors and shall serve as the Chief Operating Officer (COO) of the Organization and run the day to day operations of the Organization on behalf of the Board of Directors. The Executive Director shall be responsible for the general direction of the affairs and the operation of the Organization in accordance with the policies adopted by the Board of Directors. The Board of Directors may compensate the Executive Director in a manner that is approved by the Board. The Executive Director shall make reports to the Board of Directors at Regular meetings. The Executive Director shall keep the records of the Organization, the Board of Directors and of the committees. The Executive Director shall hire, supervise and review any additional paid staff and/or employees of the Organization.

The Executive Director shall be considered an ex officio member of all committees. The Executive Director shall not be a member of the Board of Directors. The Executive Director does have the ability to vote the proxy or proxies of members who so designate him/her to do so.

ARTICLE VII

Committees

SECTION 1. Introduction. In the conduct of the Organization's business, the Board of Directors will generally function as a committee of the whole. In accordance with other provisions of these Bylaws, however, the Board may create standing committees and ad hoc committees. Creation of said committees will be adopted by resolution by a majority of the Board of Directors. At least two (2) Board Members must be appointed to serve on every committee and the Chair of every committee shall be a Board Member. Of the two (2) Board Members, one (1) must be a City of Clarksville appointed member and one (1) must be a Roxy Productions Inc. appointed member.

The Chair of each Committee shall administer the affairs of the committee to which they are assigned, under the direction of the Board of Directors Chair and/or the Executive Director.

The Board of Directors and/or the Board Chair in conjunction with the Articles of Incorporation and/or Bylaws, a committee may exercise limited authority of the Board of Directors. Notwithstanding the preceding, committees may not do the following:

i. Elect, appoint or remove Directors or fill vacancies on the Board of Directors or on a committee.
ii. Adopt, amend or repeal Article of Incorporation or Bylaws.

The creation of, delegation of authority to, or action by committee does not alone constitute compliance by any Director with the standards of conduct required under Tennessee law.

SECTION 2. Ad Hoc Committee. Special, time-limited Ad Hoc Committees may be designated by the Board of Directors and/or Executive Committee to fulfill specific purposes. At the time the Ad Hoc Committee is designated, its purpose and objectives will be specified in writing and the timelines for completion of its described task. The creation of the committee and the appointment of members to the committee must be approved by a majority of all the Board of Directors in office when the action is taken. At least two (2) Board Members must be appointed to serve.

SECTION 3. Executive Committee. While the number of Board Members remains less than 10, there shall be no need of a distinct Executive Committee. Rather, the whole Board of Directors will assume the specific functions of the Executive Committee.

The primary functions of the Executive Committee shall include:

i. Annual evaluation of the ~~Executive~~ Artistic and Managing Director's performance and execution of contract terms with regards to duration and compensation;
ii. Review and action on contracts, leases, legal documents and actions;
iii. Serving as the Nominating Committee, along with the Mayor of the City of Clarksville, for the filling of Board of Directors vacancies and appointing new members to the Board;
iv. Nomination of Board Members for election as Board Officers, and;
v. Such other items as may require action during the intervals between the Regular meetings of the Board of Directors.

When executing its responsibilities in filling board vacancies and acting as the Nominating Committee, the Executive Committee, the Mayor of the City of Clarksville, along with the Executive Director shall:

i. Assess the current and anticipated needs related to board composition, determining knowledge, skills, attributes, abilities and access to resources the Board will need to consider accomplishing future work of the Board.
ii. Develop a profile of the Board as it should evolve over time.
iii. Identify potential Board Member candidates and explore their interest and availability for Board service.
iv. Nominate individuals to be elected as members of the board.
v. Contact each Board Member eligible for re-election to assess his/her interest in continuing Board membership and work with each Board Member to identify what he/she might be able to contribute to the Organization.

vi. Seek input from current Board Members in identifying potential Board Member candidates.

ARTICLE VIII

CONTRACTS, CHECKS, DEPOSITORIES

SECTION 1. Financial Matters. The Board of Directors shall have complete authority and responsibility for the financial matters of the Organization.

SECTION 2. Reporting. The Organization will comply with necessary financial reporting to satisfy the needs and requirements of the Organization and the City of Clarksville. This includes, but is not limited to, financial monthly reporting, financial annual reporting, annual audits, etc.

SECTION 3. Contracts. The Board of Directors may authorize any officer or officers, agents or assigns to enter into contract and sign and deliver any instrument in the name of the Organization and on behalf of the Organization and such authority may be general or confined to specific instances.

SECTION 4. Financial Institutions, Checks, Drafts, Orders. The Board of Directors shall have the authority to open accounts in any bank or savings institution to maintain the accounts of the Organization. The Chair, Vice-Chair and Treasurer shall be authorized to sign checks, drafts and other orders in such manner as from time to time the Board of Directors authorizes them to do so by resolution.

SECTION 5. Gifts. The Board of Directors may accept or reject any donation, bequest or contribution, or property as a not-for-profit organization. The responsibility for the declaration by a donor for tax purposes is the sole responsibility of the donor and the Organization shall issue only a receipt for the money or property with a declaration of value unless specifically authorized to do so by the Board of Directors by appraisal or other valuation method to be paid for by the donor. The Board may waive this condition if the gift or bequest is in the best interest of the Organization.

SECTION 6. Advances. The Organization may advance money to its directors, officers, employees or agents to cover expenses that can reasonably be anticipated to be incurred by them in the performance of their duties and for which they would be entitled to reimbursement in the absence of an advance.

SECTION 7. Legal Obligations. The Organization may sue and be sued, and participate in legal, administrative, or arbitration proceeding, in its legal name.

SECTION 8. Real Property. The Organization may buy, lease, own, acquire, hold, improve, use and deal in and with, real or personal property, or an interest in property, wherever located.

SECTION 9. Mortgages. The Organization may sell, convey, mortgage, create a security interest in, lease, exchange, transfer, or dispose of all or a part of its real or personal property, or an interest in property, wherever located.

SECTION 10. Securities. The Organization may buy, subscribe for, acquire, own, hold, vote, use, employ, sell, exchange, mortgage, lend, create a security interest in, dispose of, use, and deal in and with, securities or other interests in, or obligations of, a person or direct or indirect obligations of a domestic or foreign government or instrumentality.

SECTION 11. Security Interests. The Organization may make contracts and incur liabilities, borrow money, issue its securities, and secure its obligations by mortgage of or creation of a security interest in its property, franchises, and income.

SECTION 12. Investments. The Organization may invest and reinvest its funds.

SECTION 13. Holding Property as Security. The Organization may take and hold real and personal property, whether or not of a kind sold or otherwise dealt in by the corporation, as security for the payment of money loaned, advanced, or invested.

SECTION 14. The Organization may make donations for religious, scientific, educational, or charitable purposes, and for other purposes consistent with law, that further the corporation’s interest.

SECTION 15. Compensations/Pensions. The Organization may pay pensions, retirement allowances, and compensation for past services and establish employee or incentive benefit plans, trusts, and provisions for the benefit of its officers, directors, employees, and agents and their families, dependents, and beneficiaries. It may indemnify and buy insurance for a fiduciary of an employee benefit and incentive plan, trust, or provision.

SECTION 16. Participation. The Organization may participate in the promotion, organization, management, and operation of an organization or in a transaction, undertaking, or arrangement that the participating corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control. The Organization may participate with others in a corporation, partnership, limited partnership, joint venture, trust, or other association of any kind that the participating corporation would have power to conduct by itself, whether or not the participation involves sharing or delegation of control.

SECTION 17. Life Insurance. The Organization may provide for its benefit life insurance and other insurance including liability insurance with respect to the services of its officers, directors, employees, and agents.

ARTICLE IX

BOOKS AND RECORDS

The Organization shall keep true and correct record of the accounts and shall keep minutes of the proceedings of Organizational meetings. Committees having authority of the Board of Directors shall keep, at the principal address of the Organization, the names and addresses of the Board members entitled to vote. All documents related to the Organization may be inspected by any Board Member or his/her agents or attorneys with reasonable notice. All documents related to the Organization may be inspected by any member of the public upon reasonable request made to the Executive Director and/or Executive Committee.

The Organization will follow the protocol required for annual audits as deemed appropriate for relative, applicable grants within the Organizations fiscal year. In the event that an annual audit is not completed or required, an annual review will be required by an accredited firm.

ARTICLE X

FISCAL YEAR

The fiscal year for the Organization shall be July 1 through June 30 of each year.

ARTICLE XI

DISSOLUTION

SECTION 1. Dissolution. The Organization may be dissolved by the incorporators, three quarters (3/4) majority of the Board of Directors, or by order of a court.

SECTION 2. Assets. In performing their duties under the direction of the board, or the officers acting under the direction of the board, shall distribute the assets of the corporation in the following order of priority: a). distribution of assets received and held for a special use or purpose; b). payment of costs and expenses of the dissolution proceedings, including attorney fees and disbursements; c). payment of debts, obligations, and liabilities of the Organization; d). distribution of assets pursuant to articles or bylaws of the dissolving Organization or the rules or canons of another organization; e). distribution of remaining assets to another not-for-profit organization with a similar purpose or pursuant by law.

SECTION 3. Asset Distribution. Assets of the Organization may not be diverted from the uses and purposes for which the assets have been received and held, or from the uses and purposes expressed or intended by the original donor. Where the articles or bylaws of the dissolving Organization, or the rules or canons of another organization by which the dissolving Organization is bound, provide for a particular distribution of the assets of the dissolving corporation, the assets must be distributed accordingly. The distribution of assets held for or devoted to a charitable or public use or purpose is subject to Tennessee law.

ARTICLE XII

PROHIBITED ACTIVITIES

The Organization is organized exclusively for charitable purposes as a 501(c)(3) nonprofit Organization, and its activities shall be conducted for the foregoing purposes in such manner that no part of its net earnings will inure to the benefit of any member, Director, Officer or individual, except that the Organization shall be authorized and empowered to pay reasonable compensation for services rendered and make payments and distributions in furtherance of the purposes set forth herein. No substantial part of these activities of the Organization shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Organization shall not participate in or intervene in (including publishing or distribution of statements) any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Organization shall not carry on any other activities not permitted to be carried on:

i. By an Organization exempt from federal income tax under Section 501 (c) (3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue law); or

ii. By an Organization contribution to which are deductible under Section 170 (c) (2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue law).

ARTICLE XIII

PARLIAMENTARY AUTHORITY

Generally, Democratic Rules of Order (Seventh Edition) shall govern all proceedings of this Organization not provided for in these Bylaws, the Articles of Incorporation, or the Tennessee General Nonprofit Rules.

ARTICLE XIV

STANDARD OF CARE

SECTION 1. A Director shall, based on the facts then known to the Director, discharge duties as a Director, including the Director's duties as a member of a committee, as follows:

i. In good faith.

ii. With the care an ordinarily prudent person in a like position would exercise under similar circumstances.

iii. In a manner the Director reasonably believes to be in the best interests of the Organization.

In discharging the Director's duties, a Director may rely on information, opinions, reports or statements, including financial statements and other financial data, if prepared by one (1) of the following:

i. An Officer or employee of the Organization whom the Director reasonably believes to be reliable and competent in the matters presented.
ii. Legal counsel, public accountants, or other persons as to matters the Director reasonably believes are within the person's professional or expert competence.
iii. A committee of the Board of Directors of which the Director is not a member if the Director reasonably believes the committee merits confidence.

A Director is not acting in good faith if the Director has knowledge concerning a matter in question that makes reliance otherwise permitted above unwarranted.
A Director is not liable for an action taken as a Director, or failure to take an action, unless the following conditions exist:

i. The Director has breached or failed to perform the duties of the Director's office in compliance with this article.
ii. The breach or failure to perform constitutes willful misconduct or recklessness.

A Director is not considered to be a trustee with respect to the Organization or with respect to any property held or administered by the Organization, including property that may be subject to restrictions imposed by the donor or transferor of the property.

ARTICLE XV

AMENDMENTS TO BYLAWS AND REVIEW

SECTION 1. Amendments to Bylaws. These bylaws may be modified, altered, amended or repealed by a majority vote of the Directors present at any regular or special meeting of the Board of Directors provided that the Directors have been notified in writing of the meeting and are provided in writing the test of any proposed amendments at least ten (10) days prior to the date of the meeting or within a reasonable time as deemed necessary by the Executive Committee.

Amendments may be proposed by any member of the Board of Directors by submission of a written proposal to the Secretary/Treasurer of the Board.

SECTION 2. Review of Bylaws. The Board of Directors shall review these bylaws at least every two years. A record denoting the date of the review shall be attached to the bylaws as an addendum.

APPENDIX I

Tennessee Open Meetings Act

TCA §8-44-101

8-44-101.Policy -- Construction.
(a) The general assembly hereby declares it to be the policy of this state that the formation of public policy and decisions is public business and shall not be conducted in secret.
(b) This part shall not be construed to limit any of the rights and privileges contained in article I,
§ 19 of the Constitution of Tennessee.

HISTORY: Acts 1974, ch. 442, §§ 1, 8; T.C.A., § 8-4401.

8-44-102. Open meetings -- "Governing body" defined -- "Meeting" defined.
(a)All meetings of any governing body are declared to be public meetings open to the public at all times, except as provided by the Constitution of Tennessee.
(b)(1)"Governing body" means:
(A)) The members of any public body which consists of two (2) or more members, with the authority to make decisions for or recommendations to a public body on policy or administration and also means a community action agency which administers community action programs under the provisions of 42 U.S.C. § 2790 [repealed]. Any governing body so defined by this section shall remain so defined, notwithstanding the fact that such governing body may have designated itself as a negotiation committee for collective bargaining purposes, and strategy sessions of a governing body under such circumstances shall be open to the public at all times;
(B) The board of directors of any nonprofit corporation which contracts with a state agency to receive community grant funds in consideration for rendering specified services to the public; provided, that community grant funds comprise at least thirty percent (30%) of the total annual income of such corporation. Except such meetings of the board of directors of such nonprofit corporation that are called solely to discuss matters involving confidential doctor-patient relationships, personnel matters or matters required to be kept confidential by federal or state law or by federal or state regulation shall not be covered under the provisions of this chapter, and no other matter shall be discussed at such meetings;
(C)The board of directors of any not-for-profit corporation authorized by the laws of Tennessee to act for the benefit or on behalf of any one (1) or more counties, cities, towns and local governments pursuant to the provisions of title 7, chapter 54 or 58. The provisions of this subdivision (b)(1)(C) shall not apply to any county with a metropolitan form of government and having a population of four hundred thousand (400,000) or more, according to the 1980 federal census or any subsequent federal census;
(D)The board of directors of any nonprofit corporation which through contract or otherwise provides a metropolitan form of government having a population in excess of five hundred thousand (500,000), according to the 1990 federal census or any subsequent federal census, with heat, steam or incineration of refuse;
(E)(i) The board of directors of any association or nonprofit corporation authorized by the laws of Tennessee that:

(a) Was established for the benefit of local government officials or counties, cities, towns or other local governments or as a municipal bond financing pool;
(b) Receives dues, service fees or any other income from local government officials or such local governments that constitute at least thirty percent (30%) of its total annual income; and
(c)Was authorized as of January 1, 1998, under state law to obtain coverage for its employees in the Tennessee consolidated retirement system.

(ii) The provisions of this subdivision (b)(1)(E) shall not be construed to require the disclosure of a trade secret or proprietary information held or used by an association or nonprofit corporation to which this chapter applies. In the event a trade secret or proprietary information is required to be discussed in an open meeting, the association or nonprofit corporation may conduct an executive session to discuss such trade secret or proprietary information; provided, that a notice of the executive session is included in the agenda for such meeting.

(iii) As used in this subdivision (b) (1) (E):
(a)"Proprietary information" means rating information, plans, or proposals; actuarial information; specifications for specific services provided; and any other similar commercial or financial information used in making or deliberating toward a decision by employees, agents or the board of directors of such association or corporation; and which if known to a person or entity outside the association or corporation would give such person or entity an advantage or an opportunity to gain an advantage over the association or corporation when providing or bidding to provide the same or similar services to local governments; and
(b)"Trade secret" means the whole or any portion or phrase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and of value. The trier of fact may infer a trade secret to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.
(2)"Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any on-site inspection of any project or program.
(c) Nothing in this section shall be construed as to require a chance meeting of two (2) or more members of a public body to be considered a public meeting. No such chance meetings, informal assemblages, or electronic communication shall be used to decide or deliberate public business in circumvention of the spirit or requirements of this part.
HISTORY: Acts 1974, ch. 442, § 2; 1979, ch. 411, §§ 1, 2; T.C.A., § 8-4402; Acts 1985, ch. 290, § 1, 2; 1986, ch. 594, § 1; 1988, ch. 908, §§ 3, 5; 1997, ch. 346, § 1; 1998, ch. 1102, §§ 1, 3.

8-44-103.Notice of public meetings.
(a) Notice of Regular Meetings. Any such governmental body which holds a meeting previously scheduled by statute, ordinance, or resolution shall give adequate public notice of such meeting.
(b) Notice of Special Meetings. Any such governmental body which holds a meeting not previously scheduled by statute, ordinance, or resolution, or for which notice is not already provided by law, shall give adequate public notice of such meeting.

(c) The notice requirements of this part are in addition to, and not in substitution of, any other notice required by law.
HISTORY: Acts 1974, ch. 442, § 3; T.C.A., § 8-4403.

8-44-104.Minutes recorded and open to public -- Secret votes prohibited. (a)The minutes of a meeting of any such governmental body shall be promptly and fully recorded, shall be open to public inspection, and shall include, but not be limited to, a record of persons present, all motions, proposals and resolutions offered, the results of any votes taken, and a record of individual votes in the event of roll call.

(b)All votes of any such governmental body shall be by public vote or public ballot or public roll call. No secret votes, or secret ballots, or secret roll calls shall be allowed. As used in this chapter, "public vote" means a vote in which the "aye" faction vocally expresses its will in unison and in which the "nay" faction, subsequently, vocally expresses its will in unison.
HISTORY: Acts 1974, ch. 442, § 4; T.C.A., § 8-4404; Acts 1980, ch. 800, § 1.

8-44-105.Action nullified -- Exception.

Any action taken at a meeting in violation of this part shall be void and of no effect; provided, that this nullification of actions taken at such meetings shall not apply to any commitment, otherwise legal, affecting the public debt of the entity concerned.
HISTORY: Acts 1974, ch. 442, § 5; T.C.A., § 8-4405.

8-44-106.Enforcement -- Jurisdiction.
(a) The circuit courts, chancery courts, and other courts which have equity jurisdiction, have jurisdiction to issue injunctions, impose penalties, and otherwise enforce the purposes of this part upon application of any citizen of this state.
(b) In each suit brought under this part, the court shall file written findings of fact and conclusions of law and final judgments, which shall also be recorded in the minutes of the body involved.
(c) The court shall permanently enjoin any person adjudged by it in violation of this part from further violation of this part. Each separate occurrence of such meetings not held in accordance with this part constitutes a separate violation.
(d) The final judgment or decree in each suit shall state that the court retains jurisdiction over the parties and subject matter for a period of one (1) year from date of entry, and the court shall order the defendants to report in writing semiannually to the court of their compliance with this part.
HISTORY: Acts 1974, ch. 442, § 6; T.C.A., § 8-4406.
8-44-107.Board of directors of Performing Arts Center Management Corporation.
The board of directors of the Tennessee Performing Arts Center Management Corporation shall be subject to, and shall in all respects comply with, all of the provisions made applicable to governing bodies by this chapter.
HISTORY: Acts 1981, ch. 375, § 1.

8-44-108.Participation by electronic or other means.
(a) As used in this section, unless the context otherwise requires:

(1)"Governing body" refers to boards, agencies and commissions of state government, including state debt issuers as defined in this section and municipal governing bodies. For the purpose of this section only, "municipal governing bodies" means only those municipal governing bodies organized under title 6, chapter 18, and having a city commission of three (3) members, and having a population of more than two thousand five hundred (2,500), according to the 2000 federal census or any subsequent federal census;

(2)"Meeting" has the same definition as defined in § 8-44-102;
(3)"Necessity" means that the matters to be considered by the governing body at that meeting require timely action by the body, that physical presence by a quorum of the members is not practical within the period of time requiring action, and that participation by a quorum of the members by electronic or other means of communication is necessary; and
(4)"State debt issuers" means the Tennessee state funding board, Tennessee local development authority, Tennessee housing development agency, and Tennessee state school bond authority, and any of their committees.
(b)(1)A governing body may, but is not required to, allow participation by electronic or other means of communication for the benefit of the public and the governing body in connection with any meeting authorized by law; provided, that a physical quorum is present at the location specified in the notice of the meeting as the location of the meeting.
(1) If a physical quorum is not present at the location of a meeting of a governing body, then in order for a quorum of members to participate by electronic or other means of communication, the governing body must make a determination that a necessity exists. Such determination, and a recitation of the facts and circumstances on which it was based, must be included in the minutes of the meeting.
(2) If a physical quorum is not present at the location of a meeting of a governing body other than a state debt issuer, the governing body other than a state debt issuer must file such determination of necessity, including the recitation of the facts and circumstances on which it was based, with the office of secretary of state no later than two (2) working days after the meeting. The secretary of state shall report, no less than annually, to the general assembly as to the filings of the determinations of necessity. This subdivision (b) (3) shall not apply to the board of regents, to the board of trustees of the University of Tennessee or to the Tennessee higher education commission.
(3) Nothing in this section shall prohibit a governing body from complying with § 8-44-109.
(c)(1)Any meeting held pursuant to the terms of this section shall comply with the requirements of the Open Meetings Law, codified in this part, and shall not circumvent the spirit or requirements of that law.
(2) Notices required by the Open Meetings Law, or any other notice required by law, shall state that the meeting will be conducted permitting participation by electronic or other means of communication.
(3) Each part of a meeting required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting. Any member participating in such fashion shall identify the persons present in the location from which the member is participating.

(4) Any member of a governing body not physically present at a meeting shall be provided, before the meeting, with any documents that will be discussed at the meeting, with substantially the same content as those documents actually presented.
(5) All votes taken during a meeting held pursuant to the terms of this section shall be by roll call vote.

(6)A member participating in a meeting by this means is deemed to be present in person at the meeting for purposes of voting, but not for purposes of determining per diem eligibility. However, a member may be reimbursed expenses of such electronic communication or other means of participation.

HISTORY: Acts 1990, ch. 815, § 1; 1999, ch. 490, § 1; 2005, ch. 82, § 1; 2008, ch. 923, § 1; 2012, ch. 1054, § 3.

8-44-109.Electronic communication

(a)A governing body may, but is not required to, allow electronic communication between members by means of a forum over the Internet only if the governing body:

(1) Ensures that the forum through which the electronic communications are conducted is available to the public at all times other than that necessary for technical maintenance or unforeseen technical limitations;

(2) Provides adequate public notice of the governing body's intended use of the electronic communication forum;

(3) Controls who may communicate through the forum;

(4) Controls the archiving of the electronic communications to ensure that the electronic communications are publicly available for at least one (1) year after the date of the communication; provided, that access to the archived electronic communications is user- friendly for the public; and

(5) Provides reasonable access for members of the public to view the forum at the local public library, the building where the governing body meets or other public building.

(b) Electronic communications posted to a forum shall not substitute for decision making by the governing body in a meeting held in accordance with this part. Communications between members of a governing body posted to a forum complying with this section shall be deemed to be in compliance with the open meetings laws compiled in this part.

(c) Prior to a governing body initially utilizing a forum to allow electronic communications by its members that meets the requirements of this section, including the public notice required in subsection (a), the governing body shall file a plan with the office of open records counsel. The plan shall describe how the governing body will ensure compliance with subsection (a). Within thirty (30) days of receipt of the plan, the office of open records counsel shall acknowledge receipt of the plan and shall report whether or not the plan and the proposed actions comply with subsection (a). If the office determines that compliance with subsection (a) has not been met, the office shall provide written comments regarding the plan to the governing body. Until such time as the governing body complies with the written comments provided by the office and the office issues a report of compliance, the governing body shall not be allowed to establish or utilize such forum. This subsection (c) shall not apply to any governing body that had established a forum pursuant to this section prior to May 7, 2009.

(d) No member participating in an electronic communication pursuant to this section is deemed to be eligible for per diem for such participation.

(e) As used in this section, "governing body" means the elected governing body of a county, city, metropolitan form of government or school board.

HISTORY: Acts 2008, ch. 923, § 2; 2009, ch. 175, § 2.

8-44-110. [Repealed.]

8-44-111.Open meetings -- Development of educational program required -- Materials. (a)The municipal technical advisory service (MTAS) for municipalities and the county technical assistance service (CTAS) for counties, in order to provide guidance and direction, shall develop a program for educating their respective public officials about the open meetings laws codified in this chapter, and how to remain in compliance with such laws.

(b) The Tennessee school board association shall develop a program for educating elected school board members about the open meetings laws and how to remain in compliance with such laws.

(c) The utility management review board shall develop a program for board members of water, wastewater and gas authorities created by private act or under the general law and of utility districts, in order to educate the board members about the open meetings laws and how to remain in compliance with such laws.

(d) The state emergency communications board created by § 7-86-302 shall develop a program for educating emergency communications district board members about the open meetings laws and how to remain in compliance with such laws.

(e)) The office of open records counsel established in chapter 4, part 6 of this title shall establish educational programs and materials regarding open meetings laws in this state, to be made available to the public and to public officials.

HISTORY: Acts 2008, ch. 1179, § 5.

UT Guidance Regarding Open Meetings Act Compliance

Guidance from UT- County Technical Assistance Service Compliance with Open Meetings Act (http://ctas-eli.ctas.tennessee.edu) 02/15/13 Reference Number: CTAS-889

In order to meet the requirements of the Sunshine Law, "adequate public notice" must be given before all meetings to which the act applies. T.C.A. § 8-44-103. The statute does not elaborate on the requirements for this notice. The Tennessee Supreme Court considered the phrase "adequate public notice" as contained in the statute and observed, "We think it is impossible to formulate a general rule in regard to what the phrase 'adequate public notice' means. However, adequate public notice means adequate public notice under the circumstances, or such notice based on the totality of the circumstances as would fairly inform the public. "Memphis Publishing Co. v. City of Memphis, 513 S.W.2d 511 (Tenn. 1974).

If the meeting is one that would not be expected to be of interest to the general public, the notice requirements may not be as stringent as if the issue is one that is expected to be of great public concern. For example, adequate public notice was found to have been given for a special meeting of a city council to hear the appeal of a police officer who had been dismissed, where the meeting had been advertised by posting notice inside city hall where water bills were paid and over the entrance to the police department and council room and on the bulletin board at the post office because this was a personnel matter involving one individual. Kinser v. Town of Oliver Springs, 80 S.W.2d 681 (Tenn. Ct. App. 1994). On the other hand, in Neese v. Paris Special School District, 813 S.W.2d 432 (Tenn. Ct. App. 1990), the court found that the issue of clustering students in the same grade at one school was of "pervasive importance" and "arguably the most important action taken by the Board in many years." The notice was held to have been inadequate under the circumstances because the public was not notified that clustering would be discussed. Even though Tennessee law does not require that notice of a regularly scheduled meeting include an agenda of the meeting, the court found that the importance of the clustering issue required that the public be advised that it would be discussed at the meeting.

When faced with determining whether notice of a special meeting fairly informed the public under the totality of the circumstances, the Tennessee Court of Appeals outlined a three-prong test for "adequate public notice" of special meetings under the Sunshine Law, which includes the following: (1) Notice must be posted in a location where a member of the community could become aware of the notice, (2) the contents of the notice must reasonably describe the purpose of the meeting or the action to be taken, and (3) the notice must be posted at a time sufficiently in advance of the meeting to give citizens an opportunity to become aware of the meeting and to attend. Englewood Citizens for Alternate B v. Town of Englewood, 1999 WL 419710 (Tenn. Ct. App. 1999). In Englewood, the court noted that the town could provide adequate public notice by simply choosing reasonable public locations and posting notices at these locations on a consistent basis.

The notice requirements of the Sunshine Law are in addition to, and not in substitution for, any other notice that may be required by law. T.C.A. § 8-44-103(c). Meetings of county legislative bodies, for example, are also governed by the provisions of T.C.A. §§ 5-5-104 and -105, under which regular meetings must be set by resolution of the county legislative body, and special called meetings require newspaper notice at least five days prior to the meeting that contains the agenda for the meeting.